



مؤتمر الحوار الوطني الشامل  
— بالحوار نضع المستقبل —

**Final Report for the Second Semester of the Working Groups**  
For the period from July 13- August 17, 2013

Submitted to the Final Plenary of the All-Inclusive National Dialogue Conference

**(Working Group on State Building and  
Constitution- Principles and Foundations)**



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To The Conference's Plenary

**Subject: Final Report of the Second Semester of the State Building Working Group**

Greetings...

The Working Group on **State Building, the Constitution- Principles and Foundations** wishes you all the best and sends you its high regards. The WG is happy to attach, herewith, the final report for the second term of the working groups which were conducted from July 13 - December, 2013.

The report consist of sixteen pages and contains seven decision finalized through direct voting by members of the working groups and three adopted by the Presidium of the Conference.

Therefore;

Kindly peruse the report and issue the legal action needed to finalize the inclusion of these decision in the final report of the Comprehensive National Dialogue Conference.

Best wishes

Khaled Awbali, Rapporteur

Dr. Mohamed Marem, Chair



## Introduction

- Throughout the period from July 13 – December, 2013, the State Building Working Group deliberated on all the issues assigned to the Working Group conforming to high standards of responsibility. These include all matters relevant to the foundations and principles of the new constitution to ensure that the hopes and ambitions of the Yemeni people are guaranteed during the course of establishment of an institutions-based modern, civic, democratic State.
- Throughout, serious and responsible discussions took place on all the visions and proposals presented to the Working Group. This led to a consensus on some decisions and recommendations, some were referred to the Consensus Committee, and others to the Chairman of the NDC.
- Based on the decisions and provisions of the Conference's Rule of Procedures, the constituencies represented in the State Building Working Group engaged in collective discussion, and, at times, meetings of sub-groups producing more than 13 decisions and recommendations. The Working Group faced difficulties on decisions regarding constitutional provisions, specifically the need to have a consensus amongst constituencies in the Conference on the main principles of the Constitution vis-a-vis identity of the State, shape and system of government.
- This report contains some of the issues and various visions that must be finalized by the Working Group before the establishment of the Constitutional Drafting Commission. The way forward is to reflect unbiased respect for the popular will, decisions of the Working Group and pragmatic and transparent diagnosis of existing challenges and priorities that can be readily seen in the content of this report and annexure.
- The Working Group had discussed at length criteria for the establishment of the Constitutional Drafting Commission to allow sufficient options for control and oversight over the outcomes of the work by the Commission. It should lead to a draft consensual Constitution that should attract the votes of the majority of voters in the referendum. The Working Group on State Building was able to contain emerging disputes over the principles of the Constitution by offering different options for solutions that accommodate the preferences of the Yemeni people.



- The Working Group on State Building would like to extend its appreciation to everyone who cooperated with the Group to facilitate its mission starting with the Presidium of the Conference, the General Secretariat and ending with the experts and facilitators as well as international partners who accompanied the Working Group throughout its work until the achievements of the outcomes contained in this report. The Working Group appreciates the efforts of members of the General Secretariat for their effort in coordinating and documenting the work of the Group to help in the achievement of the desired decisions and outcomes.

## **Objectives and Work Plan** (Please Refer to Annex 2):

According to the draft objectives and work plan of the State Building Working Group, These were determined as follows

### **Overall Objective:**

Development of a proposal for State building (Foundations and Principles of the Constitution)

### **Sub-objectives for the Second semester (for the period from July 13- December 23, 2013)**

1. Detailed identification of elements for each theme relevant to state buildings
2. In-depth discussion on visions presented by the working group on the seven themes in the light of the outcomes of the Midterm Plenary.
3. Arrive at a consensus on the various themes
4. Develop a matrix of the elements and matters that should be included in the Constitution

### **Decisions of the Working Group Presented to the Final Plenary Session:-**

The Working Group reached a consensus on the following decisions and recommendations and agreed to submit the same to the Final Plenary Session for approval and adoption by the Conference.



### **First: Preamble of the Constitution:-**

The preamble falls within the competence of the Constitution Drafting Commission. The Constitution should be drafted to reflect the principles based on the outcomes of the NDC. It shall contain the principles of equal citizenship, guarantee of the dignity and rights of the female and male citizens of Yemen, social justice and rule of law under a democratic, civic State in Yemen.

In the Definitions of the Constitution:

1. The term “citizen” shall be defined to mean: - every Yemeni citizen, male or female.

### **Second: Constitutional Guidelines: The Working Group adopted the following:-**

#### **Political Foundations:**

1. Constitutional Legitimacy, rule of law, foundation of the system of government in the State, it is unlawful to change the system in any other mean in contravention of the provisions of the Constitution. The State shall commit to ensure the enforcement of the rule of law on all citizens with no exceptions.
2. Realization of the principle of accountability for anyone who assumes a public office job including the President of the Republic, the Prime Minister and deputies, ministers and their deputies, heads of authorities, organizations, corporations, public bodies and their deputies. Immunity from accountability for any of those posts is prohibited. Anyone who holds such a post must submit a financial disclosure showing their assets, assets of their sons and wives during one month from their appointment and one month after leaving office.
3. The government is responsible for taking legislative and executive measures to ensure impartiality of the State’s civilian, military and security organizations



and to discriminate between the State's revenues and its resources and between the properties of the officials in the State, party, or ruling parties, public funds and properties. The use of States resources and those of the State's organizations shall be prohibited from whether for personal or partisan benefit.

4. It is unlawful to use of houses of worships for the dissemination of partisan ideas or call to achieve a political interest, incitement to hate, violence or seditions between the people.
5. The political system is a democratic system based on political and partisan pluralism with the aim of achieving a peaceful transfer of power. Political parties are the pillars of the democratic political process. Freedom to establish political parties is guaranteed without the need to obtain a license from any administrative body. With the existence of an independent body, it is sufficient to deposit documents pertinent to the party's establishment and launch with this body. The body shall issue a document as proof of deposit of such documents. Anyone who has suffered harm from the establishment of a political party shall resort to the judiciary. It is unlawful that political parties are dissolved or suspended unless by a final court judgement issued by a competent court. Change to the freedom given for the establishment or exercise of activity or interference in the affairs of a political party is prohibited. It is unlawful for any political party to be established on the basis of religious, ethnic, doctrinal or sectarian grounds or to have any military or paramilitary formations. Political party's article of associations and by laws shall be based on democracy. Political parties shall commit make public all their decisions, activities, accounts, resources, properties, investments and how it disposes and utilizes such assets. It is unlawful for a political party to receive foreign funding. It is unlawful for political parties to undermine the foundations of the democratic political system or work to abolish it or to threaten the entity of the State. This shall be considered a crime punishable by law.



6. Officials of the State, its organizations, any social dignitaries or any other individual or organizations are prohibited from receiving funds from a foreign state suspected of being a bribe or for subordination or for a political purpose whether periodic, on instalments, directly or indirectly.
7. The State shall adhere to respect of the UN Charter, the Arab League Charter, the Universal Declaration of Human Rights and international covenants and agreements which the legislative authority has ratified. It shall harmonise all legislations with these conventions.
8. Any act that compromises the freedom of thought and belief by whatever body is prohibited. Anyone who commits such an act shall be punished according to the law.
9. Insulting the religion of Islam or other divine religion or blasphemy of the messengers and prophets shall be criminalized and anyone who commits such an act shall be punished according to the law.
10. The legislative, executive and judicial authorities shall abide by constitutional and legal legitimacy of the democratic political state. Any act that compromise or weakens the foundations of such a system either through legislation or practice is prohibited. The Constitutional Court shall be responsible for protecting the foundations of this system by adjudicating on claims in this respect.
11. The rights of people to express their views and political choices, to express their will through civic action, such as processions, demonstrations, strikes, peaceful sit-ins without weapons and without inflicting any damage or harm to public and private property is guaranteed without the need for any prior permits. It is unlawful that such rights are undermined or detracted from in any form or manner. There should be legal provisions prescribing criminal penalties against anyone who contributes in detracting such rights.





12. All courts shall apply the provisions of laws in harmonization with the basic human rights of the citizens and in accordance with the letter and spirit of the Constitution. In all cases, courts shall apply the provisions of the Constitution relevant to basic human rights of citizens directly.
13. The State has the exclusive right to establish the armed forces which is a unified national institutions part of the Ministry of Defence. The armed forces shall be built on nationalistic foundations and shall have no regional affiliation. It shall have a doctrine that manifests values of national loyalty and clarity on the basic mission of the army. Appointment and promotions must be guaranteed to be based exclusively on legal and professional grounds. The armed forces shall be removed from political affairs. Its mission is to protect the Republic, territorial integrity and security. It is prohibited, for any individual, group, body, political party or organization, to established armed forces or military or paramilitary formations for any purpose or under any name.

The exploitation of the armed forces to serve the interest of a political party, individual, family or group is prohibited. The armed forces shall be protected from all forms of partisan, racial, sectarian, regionalism or tribal divisions to ensure its impartiality and to allow it to carry out its national mission in the best possible manner. Political affiliation or partisan or political activities are prohibited. It is unlawful for the military staff, during their term of service, to participate in the election process for two electoral terms. The law shall prohibit that any relative or in-law of the President of the Republic or the Prime Ministers, up to the fourth generation of family ties, from assuming command of the armed forces. Any violation of this provision shall be considered a serious crime punishable by law.

14. The police are a regular civilian body which performs its duties to serve the people and to ensure public tranquillity and security. It works to maintain law and order, public security, public ethics and enforces judicial orders. It is also responsible for carrying out obligations set forth in laws and regulations. It



must be reaffirmed that the building of the police organization and other security organization should be based on national foundations and not regionalism. It shall have a doctrine that manifests national loyalty in accordance with the basic mission of these organizations such as: realization of security for the citizens and the nation and to ensure public tranquillity. This shall be done through appropriate qualifications linked to the missions assigned to the police. It should also ensure that the police organizations respect human rights, maintains the dignity of citizens. It must be emphasized that appointments and promotions shall be based exclusively on professional grounds. The Police shall refrain from getting involved in political affairs. The police and all other security organizations should be part of the Ministry of Interior.

### **Economic Foundations:**

1. The State shall abide by freedom of economic activities in a manner that realizes social justice.
2. The State shall seek to monitor and strike economic balance between the interests of various social groups and in a manner that realized equitable distribution of wealth and balance between interests of individuals and the society.
3. The State shall promote creativity, individual and private initiative and economic enterprise.
4. The State shall promote legitimate competition between the various economic sectors. It should play the leading role in the establishment of major strategic projects. The State shall ensure prevention of monopoly, smuggling, fraud, forgery and the spread of products that are harmful to health and environment.
5. The State's economic policy shall be based on scientific economic planning. It shall ensure the best utilization of all resources, development and advancement of capacities in all economic sectors and all economic and social development areas within the State's general plan and, in a manner, that serves public interest and the



national economy, improves the living standards of the citizens, provide basic needs and achieves social justice.

6. The State shall guarantee the freedom of movement of people and goods, trade, investment and funds between all parts of the State and shall promote private investment in all areas.
7. All types of natural resources and sources of energy underground or on the surface, in territorial waters or regional waters, in the exclusive economic zone or in the continental shelf is the property of the State. The State shall ensure exploration thereof to serve the public interest. Revenues from such resource shall be distributed fairly and equitably to all parts of the country and shall be regulated by law.
8. The State is responsible for addressing cases of financial and management corruption and illegal gains. It shall take all legal measures to recover funds gained from corruption whether such funds are public or private. Anyone with an interest has the right to submit a claim on this respect. Rights for recovery or claim shall not be forfeited or subject to a statute of limitation.
9. Public Funds shall consist of real estate, cash and others inside and outside the country and shall be defined by law.
10. The State shall provide a climate and foundations for free competition in trade and investment in a manner that serves the national economy. Legislations guaranteeing protection for producer and consumers alike shall be enacted and basic commodities shall be provided to the citizens. Monopoly should be prevented and an attractive climate should be created to promote competition and use of private funds in development and investment in various areas of economic and social development in accordance with the law.
11. The law shall regulate the official currency of the State, the fiscal system and the banking system and shall define standards, measurements and weights.
12. Due consideration shall be made to public and society's interest and the achievement of social justice between citizens when imposing taxes and public duties. Taxes shall be incremental based on income so that when income increases taxes increase.



13. A certain percentage of taxes should be allocated for the establishment of social services institutions and services such as health and social insurance, social welfare fund, pension's funds and combating and treatment of incurable diseases.
14. The creation of public taxations, adjustment or nullifications shall be by law. No one should be exempted from payment of taxes, in whole or in part, unless in cases specified by law. It is unlawful to impose any other taxes, fees or other levies on an individual unless by law.
15. Establishment of fees and collection thereof, and ways means of spending, adjustment and exemptions shall be by law.
16. The State shall encourage cooperation and saving and shall ensure, foster and promote the establishment of all types of cooperative enterprises.
17. The law shall define the granting of salaries, wages, compensations, assistant and bonuses to be paid by the State treasury. The Minimum wage should meet the needs for a decent life and the State shall define the maximum wage.
18. Concessions for exploitation of natural resources and public facilities shall be by a law.
19. Public funds and properties have sanctity. The State and all individuals in society shall maintain and protect it. Any wasting or abuse of public funds shall be considered an act of sabotage and an attack on society. Everyone violating such sanctity shall be punished in accordance with the law. The sale and privatization of public real estate or disposal of such properties gratis is prohibited. It is permissible to determine the right of use for individuals and institutions through leasing for specific period and through transparent legal procedures.
20. Private property has sanctity. It is unlawful to compromise that unless for a public benefit and when necessary in lieu of a fair compensation. Public confiscation of properties is prohibited. Confiscation of private property shall only be through a court judgement.
21. The State, through an independent body shall be responsible to collect Zakat and to spend it on Shariya'ah prescribed purposes in accordance with the law.



22. Endowments have sanctity. An autonomous body shall be established to improve and develop resources and disposal therefore, in a manner that ensures realizations of objectives and legitimate intents. Any official who disposes an endowment for a purpose other than legitimate intent shall be punished in accordance with the law. Crimes of this type shall not be subject to the statute of limitation.

23. Right of inheritance is guaranteed in accordance with the Islamic Shariya'ah and shall be enacted by law.

### **Social Foundations:-**

1. The State shall ensure equality and equal opportunities for all citizens in political, economic, social and cultural areas and laws shall be enacted to realize that.
2. Society shall be based on social solidarity based on justice, freedom and equality in accordance with the law.
3. The State shall foster motherhood and childhood, adolescents and youth and shall protect them from economic and social exploitation.
4. The family is the basic unit of society based on religion, morals, human values and respect for mankind and the nation. The law shall maintain this entity and relationship.
5. The State shall take legal measures to empower women to exercise their political rights and positive participation in public life in accordance with the provisions of the Constitution.
6. Every child has a right in: A name and a nationality at birth, family care and alternative care when deprived of family care, basic feeding and shelter, basic healthcare services, education, social services, protection from maltreatment, neglect or exploitation and protection from exploitative work practices. The child shouldn't be asked nor allowed to perform work that provide services inappropriate for their age or harm the child's interest, education, physical and psychological health or puts the child's intellectual and social growth at risk. The child should have a legal aid appointed by the State, at its expense, in civil procedures that affects the child if there is a potential that the child would be subject to injustice without it. The child shouldn't be used, either directly or indirectly in an armed conflict and shall enjoy protection at all times during the conflict.



7. A public service is a duty and an honour where those who assume this function target the public interest and serve the people. The law shall specify terms and conditions for the public service and the rights and obligations of those who perform it.
8. Guarantee of the principle of equality between all citizens in assuming public service jobs on the basis of clear criteria in qualification and capacity and to ensure that promotion is based on clear, transparent, open and equitable procedures. The minimum wage should be defined and should be sufficient to provide a decent life for employees and pensioners. It should be reviewed periodically to achieve this objective.
9. All citizens have the right to organize themselves politically, professionally and in unions and have the right in establishing scientific, cultural, social, charitable organizations as well as federations, professional and creative unions. The State shall guarantee this right and shall take necessary measures to enable the people to practice it. It shall guarantee the freedom of institutions, political, labour, cultural, scientific and social organizations.
10. Every citizen has the right to choose the appropriate work. A citizen has the right to establish, associate in a representative union and shall freely participate in the activities and events of that union including the right to strike. Anyone who has been affected by administrative procedure has the right to obtain a written explanation of such action and has the right of resort to the judiciary to challenge any damaging actions.
11. Public management organizations should adhere to the principle of transparency in their functions and should give this right to individual, bodies and stakeholders. Various media organizations have the right to access activities of the management and obtain copies of relevant documents. This should be considered an obligation of management; where an employee who fails to perform this duty should be penalized appropriately, provided that this doesn't contravene the supreme interest of the State. Every person, pursuant to a court order, has the right to access information or



document in possession of another person necessary for the practice or protection of the person's rights.

12. The State guarantees the right to education and shall guide the achievement of the overall objective in sound upbringing of an individual and good scientific qualification in a manner that achieves a link between the outcomes of education with the needs of society and requirements of development and labour market competition. The State shall commit to providing free education and improvement of quality in the multiple primary and tertiary educational levels. This is a right guaranteed by the State through the establishment of various schools, institutes, universities, cultural and educational institutions, good training of teachers and the provision of teaching aids for the educational process. Education in the basic level shall be compulsory. The State shall work to eradicate illiteracy and pay attention to expansion of technical and vocational education; specifically, it shall pay attention to foster adolescents and protects them from delinquency, provide them with religious, intellectual and physical upbringing and creates suitable conditions for the development of their talents in all fields.
13. Water is a sovereign national wealth. The law shall regulate means of preservation and rationalization of consumption. It is a basic human rights. Every citizen has the right to access clean and sufficient volume of water at an appropriate price for drinking and other biological needs. A water and food security policy should be adopted and the State shall guarantee that.
14. Every citizen has the right to an environment that doesn't harm their health or well-being. The State shall protect the environment for the interest of current and future generations through legal measures and other means and, in a manner, which ensures limiting environmental pollution, preservation of environmental resources, development of natural resources and the potential for sustainable use in a manner that realizes sound economic and social development.



15. Every person has the right to access suitable housing. The State shall take all legal measures and other means to realize that. It is unlawful to force a person out of their home or demolish a house unless by a final court judgement.
16. The State shall guarantee freedom of scientific research, literary, artistic and cultural creativity and shall promote and provide all means to realize that. It shall encourage scientific, technical and artistic creativity and shall protect patents in these areas.
17. Healthcare is a right for all citizens. The State shall guarantee this right by establishing hospitals, health institutions and expansion thereof.
18. The State shall work to provide social security for citizens in case of terminal illness, incapacitation, unemployment, old age or loss of a provider. It shall take legislative and administrative measures to realize that; it shall specifically ensure that for the families of martyrs.
19. The State shall care for persons with disabilities, ensure their rehabilitation in a manner that would lead to their integration in society and secures a decent life for them.
20. The State shall ensure absorption of costs of a national disaster or public adversity.
21. The State shall protect and maintains antiquities and historic structures. Any vandalism or attack shall be considered a work of sabotage and an offence against society. Anyone who abuses or sell them shall be punished according to law. The society should contribute to the preservation thereof.
22. The State shall guarantee welfare for Yemeni citizens abroad, in a manner that ensures the preservation of their identity, protection of their interest in the country they reside in or in their homeland and shall ensure their rights in political participations, specifically participation in general elections.
23. A religious discourse in politics shall be prohibited. Any statement or action that accuses a Muslim or group, or political, religious or intellectual orientation of infidelity shall be considered a crime punishable by law.





### **Third: Decisions Relevant to the States Identity.**

The Working Group adopted the following decisions:-

#### **1- Name of the State:-**

- Republic of Yemen – If the States remains unitary
- The Federal Republic of Yemen - If the form of the State changes into a federal system

(Pending decisions by the Working Groups on the Southern Question)

#### **1. Official Language of the State:**

- Arabic, with attention to develop the Mahari and Socotran languages.

#### **2. Arab and Islamic Association:**

- Yemen is an independent and sovereign Arab and Islamic State. It is an integral unit, and is unlawful to concede any part of it. The people of Yemen are part of the two Arab and Islamic nations.

#### **3. Equal Citizenship:**

- Citizens are equal in rights and obligations without any discrimination due to sex, ethnicity, ancestry, colour, religion, doctrine, creed, opinion, or economic and social status.

#### **4. International Agreements:**

- The State shall adhere to respect of the UN Charter, the Universal Declaration of Human Rights and international covenants and agreements which the legislative authority in Yemen has ratified as well as the Arab League Charter and principles of international law.

#### **5. Source of Power:**



- The people are the holders and source of power, and shall exercise it directly through referendums and general elections and, indirectly, through the legislative, executive and judicial bodies.

#### **6. Political Pluralism**

- The political system of the State shall be based on political pluralism and partisanship with the objective of peaceful transfer of power. A change of the political system is criminalized so is any act to realize political, economic, social or cultural aims through violence, a military force or military coup.

#### **7. Principle of Separation of Powers:**

- The political system of the State shall be based on the principle of separation of powers.

#### **8. Source of Legislation:**

- The Islamic Shariya'ah is the source of legislation, jurisprudence in the legislation of the Shariya'ah is guaranteed exclusively for the legislative authority.

#### **9. The States Religion:**

- Islam is the Religion of the State and the official language is Arabic.
- Yemen is a federal, civic, democratic, independent and sovereign State, established on the basis of equal citizenship, popular will, rule of law and forms part of the Arab and Islamic nation.

#### **Fourth: Decisions Relevant to the Shape (form) of the State:-**

#### **Fifth: Decisions Relevant to the System of Governance:**



The system of governance is presidential. The system should be re-examined after two consecutive elections terms to study the need for a switch to a parliamentary system based on a constitutional amendment.

### **Sixth: Decisions Relevant to the Electoral System:**

The Working Group determined the following:-

- 1- The electoral system is (the closed proportional list) system
- 2- Political constituencies shall adhere by arranging their electoral lists to ensure access for at least 30% of women to the elected councils. The order of male and female candidates in the list shall be as follows: At least one woman for every thirty male candidates. Lists by political constituencies shall not be accepted if they are in contravention of the law.

### **3- National legislative elections system:**

- a. The legislative elections (parliamentary) shall be conducted on the basis of the closed proportional lists system. The law shall define the electoral constituencies.
- b. Women shall be represented in all competing lists for the seats of the legislative body by at least 30%.
- c. Independents have the right to run in the elections by forming special lists supported by signatures of at least five-thousand registered voters in that specific constituency.
- d. Every male and female citizen who has reached the age of seventeen has the right to vote.

### **Seventh: Decisions Relevant to the Legislative Authority:**

The Legislative Authority shall consist of the following:-

- 1- The Parliament

2- The Federal Council

3- The National Assembly

### **First: The Parliament**

The Parliament shall consist of (...) representatives to be elected through direct secret ballots based on closed proportional lists.

#### **The Parliament shall be mandated to carry out the following functions:**

- 1- Proposal, discussion and adoption of legislations. (Due attention should be given to legislations needing joint approval with the Federal Council).
- 2- Granting of confidence to the government and withdrawal thereof
- 3- Approval of the State's Public Budget and subsidiary budgets, following discussion and voting on the budget chapter by chapter. The parliament can discuss making adjustments to the budget to ensure equitable distribution of projects, scientific determination of priorities, and protection of national resources.
- 4- Discussions and approval of the final accounts of the State's Public Budget for previous years. Voting should be conducted chapter by chapter.
- 5- Discussions and initial approval of legislations relevant to the organization of the State's authorities or fundamental rights of citizens, specifically the following legislations: The Judicial Authority Law, The Council of Ministers Law, The Elections Law and the Press Law.
- 6- Monitors performance of the Executive Authority. The Parliament shall have the power to enact binding decisions on public affairs.
- 7- Selections of the Chairman of the Central Audits and Controls Organization.
- 8- Suggestion of Constitutional amendments.

### **Second: The Federal Council:**



The Federal Council consist of a number of members which shall not exceed half of the membership of the Parliament. Members in the Council are all elected through free direct and secret balloting on the basis of the proportional list system at the level of each region. The membership should reflect equal representation for all regions.

**The Federal Council should have the following functions:-**

- 1- Second reading and final adoption of legislations related to the States authorities or those relevant to fundamental human rights of the citizens, specifically the following legislations: The Judicial Authority Law, The Council of Ministers Law, The Elections Law and the Press Law.
- 2- Confirmation of the elections of the High Judicial Council- the Constitutional Court.
- 3- Selection of the chair and members of independent bodies.
- 4- Approval of the appointments of the following civilian and military appointments: The Governor of the Central Bank, The General Commander of the Armed Forces, deputies and assistants, The Chair of the General Authority of the Civil Service and the Attorney General.
- 5- Approval of the appointment of ambassadors to other countries and representatives to international and regional organizations.
- 6- Suggestions of constitutional amendments.

**Third: The National Assembly:**

The National Assembly shall consist of the joint meeting of the Parliament and the Federal Council and shall have the following functions:

- 1- Confirmation of the general policy of the State.
- 2- Discussion and confirmation of the general development plan
- 3- Approval of agreements that will have an impact on adjustment of the borders of the State or unification with another state, alliances, defence, settlement or peace.



- 4- Approval of declaration of war and state of emergency
- 5- Approval of general amnesty decisions
- 6- Election of the President of the Republic if a parliamentary system of government is adopted.
- 7- Discussion and confirmation of the proposals for constitutional amendments before being offered in a referendum to the public.

**Conditions for nomination to the membership of the Parliament and the Federal Council:**

- 1- Shall be a Yemeni citizen.
- 2- Shall be of an age not less than 25 for the Parliament and 30 years old for the Federal Council.
- 3- Shall have a minimum educational level of the general secondary school or equivalent.
- 4- Shall be of good character and standing, shall not have been convicted in any final court judgement on a case violating honour and preach of trust unless exonerated.

**Some Principles Relevant to the Legislative Authority**

- 1- The terms for both the Parliament and the Federal Council shall be four years.
- 2- The appointment of members of the Parliament or the Federal Council in an executive position is prohibited, except for the position of the Prime Minister or a cabinet minister. All of them shall be prohibited from combining membership in the legislative authority and membership in the regional council or local councils in the Governorates or any position in the region or the local authority.
- 3- Women shall have at least 30% of the membership of the elected legislative councils.



- 4- Each legislative authority council shall have special rules of procedures to organize their activities. This shall be discussed and approved by the concerned council and shall be enacted into law.

### **Eight: Decisions Relevant to the Judicial Authority:-**

- 1- Establishment of a high judicial council capable of reforming the various situations in the judicial authority and carry out its functions in full independence.
- 2- Establishment of a constitutional court as a special entity capable of fulfilling its tasks.
- 3- Establishment of an administrative judiciary as a judicial body independent from the ordinary judiciary and capable to protect the principle of legitimacy.
- 4- All extra-ordinary courts shall be prohibited.
- 5- The Constitution shall provide for the independence of the judges and that there is no dominion over them in their judgements except for the law. It is unlawful to dismiss them from their posts or remove them temporarily or permanently or transfer them to another post or send them to retirement before the end of their service unless by a justified court's decision and in accordance with procedures to be defined by the laws.
- 6- Provision to criminalize political affiliation of sitting judges or bias in the performance of their judicial function towards political parties, sectarian or factional groups.
- 7- Provision for adoption of the system of investigative judges and to confine the role of the Public Prosecutor to prosecution only.

### **Detailed Decisions on the Judicial Authority:**

#### **First: Decisions Relevant to the High Judicial Council:**

- 1- A supreme Judicial Council shall be established with full powers to manage the affairs of the Judicial Authority. The selection of its members shall be through a mechanism that reflects the will of society and the orientation of the Judicial Authority. It shall include the selection of suitable competencies to the membership of the council who have the capacity to reform the disorders in the situation of the judiciary. This shall be realized through the following mechanism:-



The members of the Supreme Judicial Council shall be elected from among the senior judges, lawyers and university professors according to the following mechanism:-

- a) The general assembly of judges elects 70% of the members of the Council.
- b) The Bar Association elects 15 members of the Council from among senior lawyers on condition they leave their previous job.
- c) A joint meeting of the councils of faculties of shariya'ah and law in government universities elects 15% from among university professors with at least associate professorship status on condition they leave their previous jobs.
- d) The legislative authority shall examine the files of candidate and confirms their appointment.
- e) The President of the Republic issues a Republican Decree to appoint them.
- f) The members of the Council shall be selected from among judges with qualifications, integrity, senior lawyers and law professors and in accordance with the provisions of the Judicial Authority's Law.
- g) The Attorney General shall be an ex-officio member.
- h) All investigative and evidence collection authorities shall be attached to the Attorney General's Office pursuant to the provisions of the Criminal Procedures Law.
- i) The Council shall have a secretary general to administer management and financial affairs of the Council.

**The Supreme Judicial Council shall have the following functions:-**

- a. Develop plans and policies for the reform and development of the performance of the Judicial Authority.
- b. Propose and study legislations related to the Judicial Authority.
- c. Appointment of judges and members of the Public Prosecution, promotion, transfer, delegations, secondment, retirement, acceptance of their resignation, suspension from work, and disciplinary actions. In general, the Council shall





be responsible for all functions relevant to the functional affairs - administrative and financial - of judges and members of the Public Prosecution.

- d. Examination of the results of the periodic inspection on the work of judges and members of the public prosecution, verify complaints presented against them and take the required legal action.
- e. Examination of the requests and grievances presented against judges and members of the Public Prosecution in any matter related to the affairs of their jobs.
- f. Prepare a proposed budget for the Judicial Authority and oversee its implementation.

## **Second: The Constitutional Court**

1. An independent constitutional court shall be established.
2. The Constitutional Court shall be elected from among senior judges, lawyers and law professors in universities in accordance with the following mechanism:-
  - a. The general assembly of judges shall elect 70% of members of the Constitutional Court.
  - b. The Bar Association elects 15% of members of the Constitutional Court from among senior lawyers provided they leave their previous jobs.
  - c. A joint meeting of the Councils of faculties of shariya'ah and law in government universities elects 15% from among university professors with at least associate professorship status on condition they leave their previous job.
  - d. The legislative authority shall examine the files of candidate and confirms their appointment.
  - e. The President of the Republic issues a Republican decree to appoint them.

**The Constitutional Court shall be responsible for the following:**



- a. Monitor the Constitution, laws, regulations and decrees.
- b. Adjudication on disputes over mandates of the judicial bodies.
- c. Adjudication on disputes arising out of two conflicting final judgements by two different judicial bodies.
- d. Adjudicating on disputes over jurisdictions between central/federal and decentralized bodies.
- e. Interpretation of the Constitutions and legal provisions in laws and regulations.
- f. Determination of the constitutionality of draft laws relevant to elections and fundamental human rights of citizens before enactment.

**Third: Decisions Relevant to the Establishment of the Administrative Judiciary and Mandate:**

An administrative judiciary should be established independent from the ordinary judiciary and shall assume the adjudication in administrative disputes. Its member shall be highly qualified with sufficient experience to enable them to perform their task. They shall be qualified to carry out this task to enable them to perform their duties in the best possible manner. The Judicial Authority Law shall regulate the structures and functions of the administrative judiciary.

**Nine: Decisions Relevant to the Management System:-**

- 1- Decentralization of the management and fiscal system and adoption of principles and foundations of good governance.
- 2- Foundations of management regulations in the federal government:

**First: At the Federal Level:**

The Federal government shall carry out its management function through a central management system to be used for the management of all federal functions starting with guidance to planning, monitoring and control and coordination. It shall have branches or offices to facilitate the work as needed.

**Second: At the Regional Level:**



The regional authorities of the federal government shall adopt a decentralized management system with two main components: Regional decentralization and decentralization of facilities in the management of the affairs of the region.

**a. Regional Decentralization:**

- 1- As required by the provisions of the Constitution, the regional territories should be divided into local administrative units to be called governorates, municipalities, cities or districts which shall enjoy legal personality.
- 2- The administrative units shall have elected councils that will assume supervision and management of the unit's affairs in guidance, planning, monitoring in full independence in the fiscal and management decision-making. It shall be subject to the control of the regional government.
- 3- The regional law shall elaborate the manner in which the president and members of the council are to be elected in all units and shall define their mandates as well as the concurrent responsibilities of the regional and local governments.

**B- Decentralization of Facilities**

The regional law shall give some of the vital public facilities and authorities a legal personality and fiscal and management independence.

**Tenth: The Constitutional Drafting Commission:**

- a. The prerequisite general conditions for membership of the Constitutional Drafting Commission shall be:-

All conditions apply to both males and females.

- 1- Shall be a Yemeni citizen.



- 2- Shall have at least a university education in the following disciplines:- Law or Shariya'ah and law, political science or the humanities with at least ten years of experience in the field.
- 3- Should be fully competent and should not have been convicted by any final court judgement in a case which violate honour or preach of trust unless exonerated.
- 4- Representations shall be the same representation implemented in the NDC with respect to the South, women and youth.

**Functions of the Constitutional Drafting Commission:**

- 1- The Commission shall be comprised of 30 members
- 2- The Commission shall formulate the new draft constitution in accordance with the outcomes of the NDC.
- 3- The Constitutional Drafting Commission shall abide by the constitutional principles adopted by the NDC.

**Recommendations:**

- In the Judiciary:- Specialized courts can be established such as family courts.
- In the Electoral system:- The share of each list in the legislative body shall be calculated using the highest average method.
- In the electoral system:- Calculation of an allowance ratio that allows the entry of smaller political parties and independent lists to the council taking into account the system of government agreed upon and the result of a scientific study.



## **Annexes**

- Names of members of the Working Group
- Names of the members of the Secretariat of the Working Group