TRANSITIONAL GOVERNMENT IN POST-CONFLICT YEMEN

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EXECUTIVE SUMMARY

This policy brief offers recommendations to maximize the effectiveness of governance in post-conflict Yemen – whatever the composition or structure of the government. It presents three case studies on government models previously introduced in Yemen, Tunisia and Lebanon after periods of instability. These case studies offer useful lessons on the challenges, risks and opportunities of forming transitional governments in post-conflict contexts.

The two most apparent options for the composition of an immediate post-conflict government to lead a transitional period in Yemen are a consensus government with cabinet seats divided among the key Yemeni political factions, or a technocratic caretaker government appointed by a consensus prime minister. The case studies in Yemen and Lebanon illustrate that while power sharing agreements can result in relative peace and stability in the short-term, if they are not designed properly and followed-up by further reforms they can lead to a failed transition (as in Yemen post-2011), or create entrenched patronage networks and political deadlock in the long term (as in Lebanon). The Tunisian case study illustrates how a caretaker technocratic government was able to govern relatively efficiently while allowing space for political negotiations to progress.

The authors recommend building a consensus around a clear mandate for the post-conflict governing body, prior to its formation; empowering the private sector to support Yemen’s development, reconstruction and socio-economic stability post-conflict; and empowering local government by devolving greater authority to local government bodies.
INTRODUCTION

The current UN-sponsored peace process is limited to the internationally recognized Yemeni government and the armed Houthi movement, and has a narrow agenda to end the current conflict. In the transitional period that will likely follow a peace agreement, a more inclusive political dialogue must take place among Yemenis, with a broader agenda. This paper focuses on the government that will administer Yemen immediately after a peace agreement is reached and during this transitional period. This government will play a critical role in stabilizing Yemen and delivering peace dividends to Yemenis.

To inform planning for this government, this policy brief outlines three different modes of governance previously introduced in Yemen, Tunisia, and Lebanon following periods of instability. Each case study highlights lessons that can be learned from these contexts to inform discussions about the formation of the post-conflict government in Yemen.

Lebanon

Lebanon’s governing model distributes executive posts, cabinet ministers, and parliament seats among the country’s 18 officially recognized religious communities. The National Pact of 1943 is an unwritten agreement that laid the foundations for this confessional system of governance. It was agreed that the president would be a Maronite Christian, the prime minister a Sunni Muslim, and the speaker of Parliament a Shia Muslim. A 6:5 ratio of Christian to Muslim representation, based on the country’s 1932 census, was enshrined throughout government, including in parliament and within the Council of Ministers. This power sharing arrangement helped sow the seeds of discontent that would follow.\(^1\)

In the lead up to the 1975-1990 civil war, the dominant role granted to the country’s Maronite Christian community was increasingly challenged. Many internal and external factors contributed to the outbreak of communal violence in 1975, including economic grievances, issues of state sovereignty following the arrival of Palestinian Liberation Organization militants, disagreements over Lebanese identity, and regional tensions. Overall, however, Lebanon’s civil war was at least partly an attempt by leftist and Muslim groups in the country to revise the power-sharing arrangement within the confessional system.

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\(^1\) Before the 1975-1990 civil war, the president governed as the ultimate executive authority, given the sole power to appoint and dismiss a prime minister and to form a government (the Council of Ministers), without any mechanism for oversight. In addition, Maronite Christians were granted the prominent posts of army chief, governor of the central bank, the highest judicial position, and headed the country’s intelligence services. See: Hassan Krayem, “The Lebanese Civil War and the Taif Agreement,” American University of Beirut, http://ddc.aub.edu.lb/projects/pspa/conflict-resolution.html. Accessed March 22, 2019.
The Taif Accord of 1989, agreed upon by deputies, political leaders and warring militias, provided the basis to end the civil war and return political normalcy to Lebanon. The agreement can be viewed as an update to the National Pact. Presidential prerogatives were transferred to the Council of Ministers, the office of the Prime Minister was strengthened as the main executive authority and decision-maker, and a 1:1 ratio of Christians to Muslims was instituted throughout government. In addition, the accord identified the abolition of the sectarian system as a national priority, although this has never been fully implemented.\(^2\)

While the Taif Accord succeeded in redistributing power among Lebanon’s sects more equitably, it failed to address fundamental deficiencies within the governing system. The distribution of government posts along sectarian lines is still in place today, resulting in real power being concentrated among a handful of communal chieftains, or *zaims*. Individual ministries are often treated as fiefdoms of control which leaders use to reinforce their patronage networks within their sects, while major government decisions cannot be made without buy-in from all of Lebanon’s major sectarian community leaders, hampering effective governance. Recently, Lebanon has also experienced long delays in the appointment of a new president and agreement on the composition of a new cabinet, with the effect of delaying much-needed legislation and government action on national priorities.\(^3\) The continuation of the confessional formula also serves to elevate religious identity above all in politics and life in general, with the result that the potential for future inter-communal violence and mobilization along sectarian lines remains strong.\(^4\)

**Yemen**

In November 2011, following the Arab Spring uprising in Yemen, the country’s long-serving president Ali Abdullah Saleh signed a power-transfer initiative brokered by Gulf Cooperation Council (GCC) states that sought to contain the rising levels of violence that had left Yemen on the brink of civil war.\(^5\) The GCC Initiative and its Implementation Mechanism laid out the terms and conditions for the transfer of power and a two-year transitional roadmap that was meant to culminate in parliamentary and presidential elections in February 2014.\(^6\)


\(^4\) Krayam, "Civil War."


\(^6\) Ibid.
Upon the signing of the GCC Initiative, a transitional government was formed with immediate effect. The seats of the transitional government were evenly divided between the ruling General People’s Congress (GPC) party, which continued to be headed by Saleh, and the Joint Meeting Parties (JMP) – a now defunct coalition that consisted of Yemen’s main opposition parties at the time, led by the Yemeni Congregation for Reform, more commonly known as Islah. The GCC Initiative also granted Saleh and his family immunity from prosecution in exchange for handing over the presidency to his deputy, Abdo Rabbu Mansour Hadi, in February 2012. The National Dialogue Conference (NDC) convened Yemeni political actors to resolve the country’s grievances from March 18, 2013 to January 25, 2014.

The new coalition government that assumed office in December 2011 proved itself to be wholly inefficient and unable to take Yemen forward. The slow pace of decision making and implementation was a pivotal factor that contributed to the unravelling of the scheduled transition. In July 2012, the government finally announced its Transitional Program for Stabilisation and Development (TPSD), but it took until the end of 2013 to finally set up the Executive Bureau – the institution meant to lead the coordination of policy reforms and aid absorption related to the TPSD. The Executive Bureau had only begun to orient itself and start functioning when Houthi forces – aided by Yemeni army units loyal to Saleh – entered Sana’a in September 2014 on a wave of public anger over the removal of fuel subsidies, deteriorating basic services and continued corruption. The absence of governance and visible output helped consign the transition to failure. Yemeni citizens are unlikely to tolerate such delays in any upcoming transition.

The transitional government was hampered by internal wrangling. Cabinet members focused on placating their own supporters and blaming their coalition partners for their collective failures. Political parties distributed public sector jobs to their supporters

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9) The NDC gave 565 delegates drawn from many of Yemen’s major political parties and diverse social groups the opportunity to have their say in the reformulation of the country through consultations that aimed to tackle a number of significant and unresolved issues, including: marriage laws, state religion, and political reform; as well as transitional justice, and, perhaps most importantly, state structure and form of governance with federalism identified as a leading option in this regard. See: “Yemen National Dialogue Conference Participants,” The National, March 18, 2013, https://www.thenational.ae/world/mena/yemen-national-dialogue-conference-participants-1.292425. Accessed March 22, 2019. The NDC also notably attempted to address significant grievances held by the Houthis – both prior to and after the six-wars they fought from 2004 until 2010 against Saleh and the Yemeni government forces he controlled at the time – and southerners, which stemmed from the troubled unification experiment. These issues and grievances, among others, were discussed within the framework of nine separate working groups, which were as follows: Southern Issue; Sa’ada Issue; National Issues and Transitional Justice; State-Building; Good Governance; Military and Security; Independence of Special Entities; Rights and Freedoms; and, Development working group.
to enhance their standing in government.\(^{(13)}\) An estimated 60,000 civil servants were hired with the accelerated growth of patronage networks, draining government revenues.\(^{(14)}\) This was enabled by a lack of transparency and accountability.

Over the course of the transition, the international community’s focus largely rested on the political track, including the NDC, rather than on pressuring the government to deliver tangible progress to people’s everyday lives. Both the government and the international community’s lack of attention to the provision of basic public services led to a groundswell of discontent.

**Tunisia**

Tunisia was the first country struck by the wave of Arab uprisings in 2011 and the first to attempt a transition from authoritarian rule to democratic governance.\(^{(15)}\) Tunisia held the first free elections in the country’s history in October that year, nominating members for the Constituent Assembly charged with rewriting the country’s constitution, which the recently-legalized Islamist Ennadha party won.\(^{(16)}\) However, tensions began to grow between the governing Islamists and the secular-left opposition, particularly after the assassinations of two prominent secular politicians in 2013.\(^{(17)}\)

With Tunisia experiencing increased violence, opposition protests, and a non-functioning Constituent Assembly, civil society stepped in to calm rising tensions. The Tunisian National Dialogue Quartet was formed in the summer of 2013 with the goal of facilitating negotiations between the governing and opposition parties.\(^{(18)}\)

As a prerequisite for negotiations, the Quartet presented a roadmap that all parties had to agree to before a national dialogue could commence. The roadmap required the resignation of the current government and its replacement with an independent technocratic government, fixed deadlines for holding parliamentary and presidential elections, and terms for negotiating and approving a new constitution.\(^{(19)}\)

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13) Ibid.
14) Ibid.
15) The immolation of Mohamed Bouazizi, in protest of the country’s dire economic conditions, and subsequent popular demonstrations led to the fall of the Zine El Abidine Ben Ali regime in January 2011.
In December, ruling parties and the opposition accepted the appointment of engineer and Minister of Energy Mehdi Jomaa(20) to lead the technocratic government, which after its formation in January 2014 would go on to supervise the country’s first democratic parliamentary and presidential elections in October 2014.(21) Jomaa headed a cabinet that consisted of 21 ministers and seven secretaries of state. Cabinet members, including those who assumed the more sensitive ministerial posts (e.g. ministers of foreign affairs, defense, interior, and justice), were all independent officials with no affiliation to any political party. The technocratic government was dissolved in February 2015 after elections were held and Tunisia’s parliament approved a new unity government.

The naming of an independent, technocratic government for a one-year period gave the different stakeholders the space to continue their political negotiations and reach a point where they could agree on the road ahead.(22) Jomaa’s nonpolitical, caretaker administration ran Tunisia in a competent and coherent fashion that enabled the country to function and thus provided the necessary environment for a safe passage of the planned transition. The quartet and the technocratic government’s contribution in Tunisia’s march to democratic governance serves as a model for how civil society organizations and technocrats can combine as neutral arbitrators to bridge the gap between opposing political forces during times of political upheaval.(23)

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22) Save for one party, ruling and opposition forces agreed to the roadmap and a national dialogue commenced in October 2013. The Quartet played a highly active role as mediator and sponsor of the talks and succeeded in giving the space necessary for negotiations to defuse political tensions in the country.
23) The success of the Quartet owed greatly to the credibility it enjoyed in the eyes of most Tunisians. The organizations, particularly the UGTT and UTICA labor unions, were influential even under authoritarian rule in Tunisia and their participation in the revolution of 2011 played a decisive role in the fall of Ben Ali’s government.
CHALLENGES OF POST-CONFLICT GOVERNMENT FORMATION

As the above case studies illustrate, there are a number of challenges that may be faced in forming a government after a period of conflict or instability. A key challenge is keeping the main political and military actors engaged in the process, thus preventing them from becoming spoilers of the peace process. This engagement can be secured by handing the main political and military actors decision-making authority over who is appointed to the new government, or by mandating them with selecting a consensus candidate to form a temporary, technocratic government while political negotiations continue.

Another challenge is the reaching of consensus on the mandate of the new transitional government, the question of how long it will govern and the transfer of power at the end of the transitional period.

The post-conflict government’s role in the political process and national reconciliation must also be addressed. There should be a consensus on whether this government will be involved in the political process and national reconciliation, or whether it should hold a caretaker role, responsible only for delivering public services, with less political authority over the future direction of Yemen.

In the latter scenario, political authority could be vested in another body, for example the National Authority for the Control of the Implementation of the Dialogue Outcomes, a newly-formed Presidential Council, or the combination of a reformed Parliament and Shura Council.

Options for Post-Conflict Governance in Yemen

There are multiple options for the governance of Yemen once a political settlement is reached. Ultimately, the composition of the post-conflict government will depend in part on the process by which the war ends and the outcomes of the political settlement. Given the current dynamics of the conflict, the two most obvious options are a cabinet divided among the key political factions, or a technocratic government appointed by a consensus prime minister.

Dividing cabinet seats between the main parties to the conflict might lessen the risk of any acting as spoilers to the peace process. However, this model could also give the cabinet members excessive authority over state institutions and state resources. This would create a similar context to the one in which the previous transitional government took office, which led to intra-ministry rivalries over authority and parties abusing the institutions under their control to strengthen their patronage networks.
The case studies presented above indicate that power-sharing agreements between rival political powers led to a failed transition in Yemen post-2011, and political deadlock and the entrenchment of patronage networks in Lebanon. Meanwhile, as the example from Tunisia demonstrates, a technocratic government could operate more efficiently while providing space for political rivalries to be resolved. Functioning ministries and public services would also help secure the public’s buy-in for the transition process.

In post-conflict Yemen, a technocratic government formed by a consensus prime minister could avoid politically-charged ministerial turf wars, in which ministers from opposing parties seek to score political advantages over their rivals. It would also reduce ministers’ use of their positions to advance party patronage networks. Instead, a technocratic government could focus on governing and delivering basic services rather than political infighting. This option would help protect state resources from capture by political groups. It would also have a stronger chance of securing buy-in from the South, which a consensus government would struggle to achieve. While the technocratic government would have the best chance of functioning without overbearing political influence, it would depend on continual cross-party support, which it may not receive. Continued international attention to and pressure on all parties throughout the transition process would therefore be critical.
RECOMMENDATIONS

While a technocratic government seems to offer the greatest chance of stability and efficiency in post-conflict Yemen, the following recommendations are presented to maximize the effectiveness of governance regardless of the model chosen. These recommendations focus on: the mandate of the postconflict government; the development of the private sector; and the empowerment of local government.

1. Build consensus around a clear mandate for the post-conflict governing body

A clear mandate for the transition government must be agreed during negotiations, prior to the formation of the government. All parties should commit to non-interference in the governing body’s work.

- The transitional government should operate in parallel to continued wider political negotiations inclusive of other local actors, including Southern factions, the GPC, and emerging governorate-level leadership, among others. The political negotiations must incorporate a wider agenda related to Yemen’s future.
- A fixed term should be agreed for the mandate of the transitional government, with clear timeframes for the transfer of governing authority.
- Irrespective of the chosen model, military and security issues should be handled by a joint security/military committee, as previously discussed at the UN-sponsored peace talks in Kuwait, allowing the transitional government to focus on less sensitive issues and on governing the country on a day-to-day basis.
- The government should prioritize the delivery of basic services, a new budget, and job creation, and work to restore the Central Bank of Yemen as a unified entity with the capacity to stabilize the national currency and regulate the country’s financial sector.
- The prime minister selected to lead the transitional government must be a figure who is able to build consensus over government decisions, including cabinet appointments, and who has strong, positive relationships with all stakeholders.
- An independent monitoring entity should be formed to regularly evaluate the performance of the transitional government. This entity should monitor performance indicators for the government and for individual cabinet ministers. The results of these evaluations should be made public to ensure transparency and accountability.
2. Empower the private sector to support development, reconstruction and socio-economic stability post-conflict

The transitional government should focus immediately on developing the private sector to create jobs, rebuild infrastructure, restore financial flows back to the formal economy and boost stability to improve prospects for a sustainable peace.

- The government should build local business capacities to create jobs and implement programs, and ensure that local businesses have the tools and skills to benefit from international interventions.

- The government should ensure private sector access to finance and target SMEs and entrepreneurs. The government and international donors should assist private sector actors in developing joint financial mechanisms to finance small and medium enterprises (SMEs) and business incubators.

- Government policies should target Yemen’s experienced microfinance institutions to drive broader financial inclusion across Yemen. Microfinance banks and companies should be empowered to offer financial services for individuals and cash management services for small businesses. Moreover, mobile banking in Yemen should be enhanced to expand access for low-income borrowers.

- The government should reform the business environment by:
  - Establishing a taxation system that promotes small business growth, offers tax incentives for profitable medium and large enterprises to make capital investments, while raising taxes on held profits;
  - Empowering anti-corruption institutions;
  - Encouraging investments by easing some regulations that restrict foreign investments and discourage business startups.

- The government should prioritize “quick-wins,” such as economic reforms that can bring about immediate results. These could include reforms to build the capacity of commercial courts to deal with business disputes.

For more details on how the private sector could play a positive role in short and long-term stabilization efforts, see the Development Champions’ White Paper: “Private Sector Engagement in Post-Conflict Yemen.”(24)

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3. **Empower local government by devolving greater authority to local government bodies:**

The transitional government should facilitate the devolution of responsibility to local authorities. The government should put in place mechanisms to evaluate and hold accountable local authorities for their performance and service provision.

- The transitional government should conduct a comprehensive assessment to identify groups and individuals in control at the governorate and district levels and evaluate their local support base and capacity to provide public services. This assessment should inform the decentralization process. The government should also utilize local government’s in-depth knowledge of local contexts and dynamics in this process.

- The caretaker government should issue temporary regulatory instructions to officially devolve more powers to the governorate and district level. These temporary instructions should:
  - Authorize local councils to access and develop sustainable resources at the local level and spend the associated revenues on their needs;
  - Allocate a share of the central resources to each governorate based on transparent financing criteria;
  - Ensure local councils have sufficient administrative powers to supervise service provision, govern effectively and deter the use or growth of local patronage networks;
  - Prioritize independent oversight and accountability.

For more details on the importance of local governance in Yemen following the escalation of conflict in March 2015 and the retraction of the central government, see the Development Champions’ White Paper: “Local Governance in Yemen Amid Conflict and Instability.”

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ABOUT THE “RETHINKING YEMEN’S ECONOMY” INITIATIVE

This two-year project, which was launched in March 2017, is an initiative to identify Yemen’s economic, humanitarian, social and developmental priorities in light of the ongoing conflict in Yemen and to prepare for the post-conflict recovery period. The project aims to build consensus in crucial policy areas through engaging and promoting informed Yemeni voices in the public discourse, and to positively influence local, regional and international development agendas.

The project has four components: (1) in the Development Champions Forums, Yemeni experts and professionals in social and economic development will identify key issues for intervention and provide recommendations towards tackling these issues; (2) in the Research Hive, the project consortium will – based on the issues and recommendations of the Development Champions – conduct research and identify best practices and lessons learned from international experiences to create knowledge capital for the Rethinking Yemen’s Economy initiative; (3) in the public outreach component, the consortium will implement consultation workshops with local stakeholders, including the private sector, youth and civil society organizations; moreover, campaigns through both traditional and social media outlets will be conducted to engage the wider Yemeni public; (4) and through regional and international engagement the consortium will inform stakeholders of project outcomes and aim to motivate and guide the international community’s policy interventions to the greatest benefit of the people of Yemen.

For more information and previous publications: www.devchampions.org

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