



UNITED STATES INSTITUTE OF PEACE www.usip.org

SPECIAL REPORT

2301 Constitution Ave., NW • Washington, DC 20037 • 202.457.1700 • fax 202.429.6063

ABOUT THE REPORT

This report is part of a United States Institute of Peace (USIP) effort to explore how transition processes in Yemen affect the country's rule of law, justice, and security. Because USIP is also engaged in other countries undergoing transition, the report also supports the related goal of developing comparative lessons about processes that create opportunities for conflict resolution and peacebuilding during periods of transition.

ABOUT THE AUTHOR

Erica Gaston is a senior USIP program officer working on rule of law in Yemen and Afghanistan. Her background is in human rights, laws of war, and justice issues in conflict and postconflict states. Her previous publications on Yemen have focused on local justice and security dilemmas and the impact of transition on justice institutions.

Erica Gaston

Process Lessons Learned in Yemen's National Dialogue

Summary

- On January 25, Yemen's National Dialogue Conference (NDC) closed after more than ten months of deliberation. The flagship process within Yemen's post-Arab Spring transition, the NDC has been lauded as a positive model of inclusive and constructive negotiation. In Tunisia, Libya, Bahrain, and Sudan, similar national dialogue processes have been mooted or are under way.
- The NDC made significant progress on a daunting range of governance, structural, and social contract issues. It broke through political and social barriers to engage a broader scope of political parties, actors, and civil society—a precedent that will be difficult to roll back.
- Despite these achievements, the NDC missed its concluding deadline because of a deadlock over the fundamental dilemma: the future status for southern Yemen and the structure of the Yemeni state. A partial solution was brokered, but only by extending the transition process and leaving tough issues to be resolved later.
- Meanwhile, other challenges, from unemployment to serious humanitarian shortfalls to rampant insecurity, also remain unresolved. The public has grown increasingly skeptical that either the NDC or the transition process will result in a government that responds to their needs.
- The verdict is out on the ultimate legacy of the NDC. Even at this early stage, however, the hurdles the NDC has faced may provide lessons for other countries considering such processes. At a minimum, exploring how certain process elements may have contributed to achieving the NDC's goals or not might suggest further areas for research, reflection, or continued engagement in the next stages of transition.
- Other countries considering a national dialogue should streamline the agenda to the extent possible, weighing carefully which political issues do or do not lend themselves to a large-scale public forum, and ensure an appropriate balance between the national dialogue and other transitional processes.

© 2014 by the United States Institute of Peace.
All rights reserved.

SPECIAL REPORT 342

FEBRUARY 2014

CONTENTS

Post-Arab Spring Transition	2
National Dialogue Conference and Roadblocks	3
Final Verdict?	9
Policy Recommendations	11
Appendix: Conference Topics	13

ABOUT THE INSTITUTE

The United States Institute of Peace is an independent, nonpartisan institution established and funded by Congress. Its goals are to help prevent and resolve violent conflicts, promote postconflict peacebuilding, and increase conflict management tools, capacity, and intellectual capital worldwide. The Institute does this by empowering others with knowledge, skills, and resources, as well as by its direct involvement in conflict zones around the globe.

BOARD OF DIRECTORS

Stephen J. Hadley (Chair), Principal, RiceHadleyGates, LLC, Washington, DC • **George E. Moose** (Vice Chair), Adjunct Professor of Practice, The George Washington University, Washington, DC • **Judy Ansley**, Former Assistant to the President and Deputy National Security Advisor under George W. Bush, Washington, DC • **Eric Edelman**, Hertog Distinguished Practitioner in Residence, Johns Hopkins School of Advanced International Studies, Washington, DC • **Joseph Eldridge**, University Chaplain and Senior Adjunct Professorial Lecturer, School of International Service, American University, Washington, DC • **Kerry Kennedy**, President, Robert F. Kennedy Center for Justice and Human Rights, Washington, DC • **Ikram U. Khan**, President, Quality Care Consultants, LLC., Las Vegas, NV • **Stephen D. Krasner**, Graham H. Stuart Professor of International Relations at Stanford University, Palo Alto, CA • **John A. Lancaster**, Former Executive Director, International Council on Independent Living, Potsdam, NY • **Jeremy A. Rabkin**, Professor of Law, George Mason University, Fairfax, VA • **J. Robinson West**, Chairman, PFC Energy, Washington, DC • **Nancy Zirkin**, Executive Vice President, Leadership Conference on Civil and Human Rights, Washington, DC

MEMBERS EX OFFICIO

John Kerry, Secretary of State • **Chuck Hagel**, Secretary of Defense • **Gregg F. Martin**, Major General, U.S. Army; President, National Defense University • **Kristin Lord**, Acting President, United States Institute of Peace (nonvoting)

The views expressed in this report do not necessarily reflect the views of the United States Institute of Peace, which does not advocate specific policy positions.

To request permission to photocopy or reprint materials, e-mail: permissions@usip.org

Post-Arab Spring Transition

The Arab Spring revolutions did not so much light a match in Yemen as add fuel to a simmering situation. Shortly after the protests broke out in Tunisia and then Egypt in early 2011, protestors took to Yemeni streets in large numbers in urban areas across the country. Many of the youth and civil society who led the initial protests were driven by years of dissatisfaction with the regime of former president Ali Abdullah Saleh.¹ Central grievances included long-standing frustration over the lack of economic opportunities and unemployment, flagrant corruption, government malfeasance, and food security, health, and education, which are among the lowest levels in the region. For many years, the weakness of the Yemeni state prevented it from providing basic services and from tackling enormous long-term challenges—from the moribund economic situation to declining water resources to transnational terrorist groups.

In addition to popular disenchantment with politics as usual, other simmering political power rivalries and regional tensions within Yemen had long presented a threat to stability. More of an umbrella group than a uniform entity, al-Hiraak—a vocal (and sometimes violent) political movement—has been leading calls for a reconsideration of the political status of southern Yemen.² It began as a rights-based social movement demanding equitable employment, access to services, greater autonomy, and resolution of other grievances, but by 2009, elements within the diverse movement began demanding a separate South Yemen, which had been an independent state prior to unification in 1990.³ In the north of the country, since 2004, the state has been battling Houthi rebels, a Zaydi Shia group that complains of political marginalization and repression under Saleh. The Houthi rebellion has involved no fewer than six major (and costly) military campaigns, has led to widespread destruction in vast areas of northern Yemen, and is a source of instability (given that reprisals have extended as far as Sanaa).⁴ Even the central core of Yemeni politics was cracking. Saleh's three-decade balancing act of using state resources to alternately co-opt, manipulate, and undermine potential political rivals had reached its limits. When protestors took to the streets, a number of key political parties, power brokers, and tribal actors soon defected and joined the protest movement, though this opportunistic side swapping was not welcomed by many elements of the movement.

This volatile mix of grievances and the engagement not only of youth and civil society-dominated protestors but also of other key power brokers pushed Yemen closer to the brink of becoming a failed state. In November 2011, after months of negotiations amid dangerously escalating armed conflict, the country's main political parties signed the Gulf Cooperation Council (GCC) agreement, which established a two-year period for political transition.⁵ Saleh agreed to step down from power in exchange for immunity. Former vice president Abd Rabbuh Mansur Hadi was confirmed as interim president in a referendum that put a formal end to the Saleh era and set in motion the agreed transition process and benchmarks, including a government of national unity between the General People's Congress and the opposition parties under the opposition coalition, the Joint Meeting Parties.

The challenges facing Yemen in 2011 seemed likely to hobble even the best-designed transition process: It is the poorest country in the Middle East, lacks state control and rule of law in vast areas, is burdened with broken institutions, has deeply divided internal politics, and faces a significant transnational terrorist problem. The GCC agreement enabled an immediate end to the fighting but did not even pretend to offer an answer to the political challenges and structural problems that fed the 2011 protests and continue to threaten Yemen's stability. To its credit, the agreement effectively allowed the main political parties and power brokers to agree to disagree temporarily and designed a political transition process that would provide enough time to continue to work through outstanding issues.

Perhaps for this reason, the agreement laid out a political transition period that was longer, more gradual, and more specific than those in other post-Arab Spring states. For example, in Tunisia, within the same year that former president Ben Ali fled, parliamentary and presidential elections were held, and a new constitution drafting process was launched. In Egypt, constitutional reforms were adopted as early as a month after Hosni Mubarak stepped down as president, and a new government was in place just over a year later (only to fall in a popular coup a year after that). In Yemen, by contrast, the transitional period was slated to last for two years. The transition benchmarks of drafting a new constitution, a referendum on the constitution, and elections leading to a new national government would take place only after an NDC.

The agreement laid out a political transition period that was longer, more gradual, and more specific than those in other post-Arab Spring states.

National Dialogue Conference and Roadblocks

The NDC has been viewed as the core of Yemen's transition process. From the beginning, expectations were high, and the agenda was enormous. It was expected to provide a forum for larger political negotiations to take place—from the southern and Houthi issues to questions of political balance and power sharing between main parties—as well as provide guidance on a number of institutional reforms, social justice concerns, and other policy issues. These included gaps in rule of law and basic rights protection; weak government institutions and poor governance; widespread corruption; the deep political patronage networks and co-optation of state institutions, particularly among the security services; questions of judicial independence and competence; and other social and rights issues. Many civil society actors, elements of the protest movement, and certain political factions also expected the NDC to launch some form of transitional justice process.

Beginning March 18, 2013, 565 delegates, including an unprecedented number of youth, women, and civil society activists, took part in the NDC. The NDC work was divided according to nine wide-ranging thematic working groups that ran the gamut of political, institutional, and social issues facing the country: the southern issue, the Saada (Houthi) issue, transitional justice, statebuilding, good governance, military and security, independence of special entities (focusing on rights of minorities, vulnerable, and marginalized groups), rights and freedoms, and development. (A full list of the topics for discussion within each of these working groups is included in the appendix.)

The sheer logistical and organizational, not to mention sociocultural, feat of managing a conference body of this breadth and diversity was itself a significant accomplishment. Delegates were required to engage in significant public outreach efforts, to seek input not only in the capital Sanaa, where the NDC took place, but also in governorates. Given the difficulty of the underlying issues, and the enormity of the negotiation and outreach tasks, the NDC was remarkably successful on many levels. Most of the nine working groups successfully completed their mandate by the six-month deadline, drafting hundreds of provisions or recommendations ranging from a quota for female representation in public offices to environmental indemnities from oil companies to proposals for universal health care.

Nonetheless, in its final month, the NDC missed its six-month deadline, having failed to make enough progress on the make-or-break southern question, among other issues.⁶ In early August 2013, southern representatives within the NDC boycotted the remaining sessions unless their demands over the southern issue were met—a serious threat given that they had enough representatives to halt any outcomes of the NDC. Because the issue was deadlocked within the existing NDC structure (and in particular within the southern issue working group), in September, a small sixteen-person subcommittee of representatives from the main political parties and al-Hiraak, known as the 8+8 or the North-South committee,

was formed to develop solutions for the southern issue. After months of extended negotiation, this committee, together with the NDC leadership and President Hadi, was able to broker a compromise that avoided southern secession (at least for the time being) by agreeing that Yemen would become a federal state with greater local autonomy and control devolved to regions, including the south. On December 23, 2013, seventeen political parties and civil society groups publicly pledged to a “just solution” document cementing that agreement. Yet although they reached consensus on a federal state, they were not able to reach agreement over the equally sensitive issue of how financial, administrative, and political competencies would be devolved. Would the new federal system be divided at a subnational level into two regions (north and south) as southern representatives wanted or into some other multiregional composition of four, five, or six regions, which the two main political parties and other regional interests preferred? Even more delicate, how would the power and resources be divided between the national and regional levels, a question that triggers the core political and economic interests of many different groups and power brokers beyond the north-south fault line. The bargain was struck, but because these questions were left unanswered, support for the compromise was thin. Within days of the “just solution” document being signed, several major political actors and parties rejected the document or raised concerns, including those that had originally signed it.

Despite that this compromise was only a partial solution—and a contested one at that—there was strong sentiment that the NDC needed to draw the line on the progress it had made and save the outstanding issues for another mechanism or stage in the transition process. The NDC was already three months overdue, and time was running out to complete the next transition steps: the drafting of a new constitution, a constitutional referendum, and new elections, which were originally all to be completed by February 2014, according to the GCC agreement.

On January 21, 2014, the final NDC document, including nearly 1,800 recommendations, was accepted in the plenary of the NDC. NDC representatives also approved a so-called “guarantee document” that extends the transition process for at least one more year under a rationale of time needed to “implement” the NDC outcomes. Under this new “implementation” phase of the transition, President Hadi would remain in office until a new president is elected, and the constitution drafting, referendum, and elections deadlines originally envisioned in the GCC have been extended. The guarantee document extended the mandate of the “consensus committee,” which played a pivotal role as a tiebreaker and vetting committee in the NDC. An expanded consensus committee would be responsible for overseeing the implementation of the NDC recommendations, both in the constitution drafting phase and through other measures.⁷

The compromise that originated in the 8+8 committee was not revisited and approved through the regular NDC processes but was simply accepted as one of the final NDC outcomes, with disagreements over the number of regions and the power and resource-sharing questions still undecided at the time the NDC closed. Two weeks later, on February 3, 2014, a special committee hand selected and led by President Hadi announced that they had agreed upon six regions, two in the south and four in the north. A proposal to have six regions was mooted in the 8+8 committee and the NDC but ultimately was not accepted. For this reason, the announcement of a six-region solution so soon after the NDC negotiating processes had failed to agree on that option, and by a small, fairly unrepresentative committee, was surprising. It was immediately rejected by some key Southern leaders, and at the time of writing it was not clear whether it would spark further conflict and protests or would ultimately be accepted.

While the NDC worked through some difficult challenges, many expect the real test is yet to come. The NDC succeeded in part by kicking the most difficult questions further down

***While the NDC worked through
some difficult challenges,
many expect the real test is
yet to come.***

the road through processes that were neither clear nor accepted by all sides when the NDC closed. Implementing the NDC recommendations will be even more difficult than making them. The 8+8 committee found a compromise that southern representatives within the NDC would accept, but this compromise would likely not have been acceptable to other factions in al-Hiraak who were not represented in the NDC.

As a September 2013 report by the International Crisis Group on the southern issue observed,

Most Hiraak members bank on the negotiations' failure, due to inability to reach a substantive compromise or, if it comes to it, lack of implementation on the ground. They vow to escalate protests and a civil disobedience campaign, regardless of NDC decisions, until they achieve independence. A constitutional referendum would provide a focal point for their opposition, triggering a boycott and likely violence.⁸

Postponing the constitutional referendum buys more time to earn public buy-in and potentially assuage discontented parties, but doing so requires making tangible improvements and meaningfully implementing confidence-building measures in the south. So far, the weak and fractured transitional government has not shown a capacity to implement those types of changes.

The southern issue was not the only stumbling block for the NDC. By late fall 2013, the Houthi issue had arisen again, and significant armed clashes emerged between Houthis and Salafis in Saada. On the day of the final plenary session, one of the most prominent Houthi leaders was assassinated on the way to the NDC, and the political fallout was not yet clear at the time the NDC closed. Even if the Houthis accept the next stages of the transition, there are fears that greater devolvement of power will not address the underlying tensions between the national government and the Houthis alone. Other issues also proved contentious within the working groups. The transitional justice working group, for example, did not reach a consensus on all questions and appealed to President Hadi for resolution of the deadlocked issues.⁹ Rather than being successfully closed, issues like transitional justice are vulnerable to being re-litigated in the subsequent constitution drafting and implementation phases.

Beyond these roadblocks, the longer the NDC continued, the more the Yemeni public became disenchanted with it and the transition process as a whole. Many criticized the NDC as an internationally and elite-driven process that did not necessarily advance Yemeni interests. For much of the population, the NDC has seemed remote from their daily struggles, as security, economic opportunities, and basic services continued to worsen.

Given these outstanding issues, did the NDC live up to expectations, and were they reasonable expectations to begin with? Are there lessons for other countries as they engage in similar processes?

Forum for Political Negotiation

One of the key expectations of the NDC was that it could work through the major political roadblocks facing the country. Most important of these roadblocks are the southern issue, the Houthi issue, and the balance of power between Yemen's diverse political parties and stakeholders. Although less overtly discussed than North-South negotiations, striking a more sustainable power-sharing agreement between Yemen's diverse political parties and stakeholders is critical. With Saleh gone (though many in his government remain in power), the fragile balance between Yemen's main political parties, tribal entities and leaders, and other regional power brokers was broken. Given that all sides are armed and relatively well matched, Yemen risks further protracted violence if this transition period does not end with a sustainable balance of power. In the meantime, absent a more functional and stable governing structure, no Yemeni administration can effectively tackle the enormous challenges the country faces.

Most important of these roadblocks are the southern issue, the Houthi issue, and the balance of power between Yemen's diverse political parties and stakeholders.

Although these political negotiations were perceived as one of the main objectives for the NDC, in reality, the NDC was likely never going to be the main forum of political negotiation—for reasons largely not its fault. The issues were complex and likely would have required a longer timeline than the six months allotted, as the extension of the NDC and the post-NDC implementation phase proved to be the case. They also likely needed different participants or type of negotiating forum.

First, to reconcile deep political divisions, the right people need to be in the room, which the NDC arguably did not have, most critically on the make-or-break southern issue. Despite significant efforts to be inclusive and mandating that half of the delegates come from the South, most of the al-Hiraak leadership abstained from the NDC from the beginning, particularly the hard-line, secessionist elements. Those who did join lacked the sort of grassroots influence that would be necessary to obtain buy-in for any resolutions that would come from the NDC.¹⁰ The lack of a significantly representative southern contingent made it impossible for the NDC to be the place where the southern issue could be decided, at least with any permanence. Although a partial solution to the southern issue was reached in the NDC, it likely will not eliminate tensions in the south and calls for secession because those who signed onto the compromise are not sufficiently representative to enforce it in the south.

Second, the all-inclusive nature of the NDC may have made it difficult for it to be the main forum for political negotiation. Some elements of the main political parties and key political actors have resisted entering into meaningful negotiations with “all these women and civil society around,” as one NDC delegate phrased it.¹¹ Although not a positive factor and certainly not a reason to be less inclusive, this has stalled binding discussion or negotiation within the NDC framework and so must be taken into account in evaluating whether the NDC was the right mechanism for working through political deadlock.

Third, beyond the question of representation—who was in the room—the NDC may simply not have been the appropriate forum for working through such political negotiations because of its size—how many people were in the room. In the final month, the focal point of decision making and negotiation shifted from the broad-based, inclusive, collective discussion of the entire conference to a number of smaller committees or groupings. The North-South or 8+8 committee noted earlier took charge of the most critical roadblock, the southern issue. The small committee led by President Hadi that was created at the closing of the NDC would decide the unresolved parts of that compromise: how to divide the subunits and the competencies between the federal and local levels.¹² Also in the final month, it became clear that the NDC would not offer direction on more fundamental political power-sharing issues. As a result, President Hadi and key leaders of the political parties began in August to work through these issues outside the NDC. These extra-NDC discussions are credited with the development of the new transition framework announced in the guarantee document: the extension of the transitional period another year and the new “implementing” mandate and structures. Much of the rest of the final decision making and final resolutions of the NDC working groups were resolved and finalized by the consensus committee, a small group of delegates handpicked by President Hadi.¹³ The consensus committee had the primary responsibility for developing the final resolutions and conclusions, including not only vetting for feasibility but also channelling these diverse findings into the appropriate implementation vehicle (via the constitution-drafting process or through other legislative or executive branch actions).¹⁴ It will also outlive the NDC. An expanded consensus committee is one of the primary mechanisms in the implementation phase. It will oversee the constitution-drafting process and the implementation of other NDC outcomes.

In some respects, that final decision making and recommendations would be taken on by a smaller grouping of individuals is not especially surprising or substantively concerning.

The NDC may simply not have been the appropriate forum for working through such political negotiations because of its size.

On a purely procedural level, for a conference this size, some final decision making would likely automatically have to be processed by a smaller group. In the case of the consensus committee, its final vetting and tiebreaker role was envisioned as part of the NDC structure from the beginning. In addition, the procedural rules required a high level of agreement at the committee and all-conference level before resolutions even reached the consensus committee.

Nonetheless, the southern issue and the future political framework negotiations were supposed to be resolved within the NDC. Their diversion to smaller groups and to a new negotiation process outliving the NDC raises more serious questions. Is altering the negotiating unit and potentially extending it an admission that the NDC failed in its mission or simply an example of the type of flexibility needed in these sorts of processes? One might argue that the NDC did make some headway with the agreement on a federal state (immediate political pushback and buy-in aside). Was resolution of the southern issue and future state structure helped or hindered by beginning the negotiations through this large-scale public forum? Would the same outcome have been reached, or have been reached more quickly or with greater buy-in, if a different negotiating mechanism had been chosen for these issues from the start? The full answers to these questions will likely not be ascertainable until the fallout from the NDC can be assessed, but they are worth flagging and considering as we assess other objectives and lessons learned from the NDC process.

Mechanism for Greater Inclusion

Negotiating the big political questions was not the only objective. The NDC had a valuable role to play in broadening the parameters of discussion. It enabled greater inclusion of smaller political parties, youth, women, and other groups beyond the traditional power centers. Even if the actual decisions might eventually be made by political elites, including these other voices in the process might arguably shift the agenda, or the tenor of discussion, and potentially facilitate greater popular buy-in. Within the NDC, inclusiveness and engagement of new actors was significant. These new actors included the youth who formed an active part of the protest movement as well as other members of civil society and a larger portion of women, who had traditionally been excluded from political decision making. It also included the political parties or regional representatives who had never before been allowed to engage in the main political discussions in this way, namely, the Houthis and elements of al-Hiraak. These new actors engaged on equal footing with the main political parties, tribal leaders, and other political heavyweights despite significant pushback and efforts to either buy them off or exclude them by some of these traditional power centers behind closed doors.

The movement of major decision making to a small coterie of committees and political groupings handpicked by the president and dominated by major parties somewhat undercuts the value of this inclusivity, or at least affects the perception of it. It appears as if all was for show and that the ultimate decisions are still made by the usual suspects.

Although the counterfactual will never be known, it is possible that the more inclusive NDC membership shifted the agenda or the discussion points of these smaller committees or bodies by being engaged in the process leading up to the negotiations.

The inclusivity may also have an important long-term legacy for Yemeni political processes. If these new faces are encouraged and permitted to continue to engage in greater levels of political participation after the NDC, that in itself would be a significant achievement. Only time will tell whether the more inclusive representation was something unique to the NDC or will create an enduring precedent in Yemeni public participation. There are some positive signs on this front. The expanded consensus committee must have not only 50

Inclusivity may also have an important long-term legacy for Yemeni political processes.

percent of its members from the south, but 30 percent women, and 20 percent youth. While quotas are never perfect systems for achieving fair representation, it is at least a sign that the slight widening of the political tent may become a permanent shift in Yemeni politics.

Finally, although the overall political bargain was largely negotiated by a narrow group of political actors, the more inclusive NDC body may yet influence political decision making and transition in other ways. The NDC issued nearly 1,800 recommendations ranging from maintaining a 30 percent quota for women in all government positions to communications privacy rights to restructuring aspects of the military and security apparatus. Although no one of these issues is as significant as the overall grand bargain, as a whole they would go a long way toward meeting popular demands and implementing the aspirations of the GCC agreement. Many would feed directly into the constitution-drafting process. Others are designed for implementation as laws or policies and are indicated as such in the final NDC document.¹⁵

Eliciting Public Buy-In

Finally, the NDC included an important public process and national reconciliation element. Many in the population, led by vocal youth and civil society groups, had in 2011 demanded something other than politics as usual—something that would bring about meaningful change. The expectation was that even if the NDC could not solve or provide detailed guidance on all of the many issues on its agenda, it would at least enable a broader consensus and degree of buy-in on the way forward.

Significant efforts have been made to communicate the processes and outcomes of the NDC to the public and to incorporate broader public consultation on key issues, a mammoth task given the relative isolation of Yemen's population (only 30 percent of which is urban) and the number and complexity of the issues and processes to be communicated. These efforts included a regularly updated NDC website and a blitz of television and radio programming. Scheduled outreach, dialogues, and other public activities related to public reform processes took place across Yemen. During the third and fourth months of the NDC, delegates were required to make outreach tours outside of Sanaa to solicit views. Within major cities, a number of discussion forums were held both under NDC auspices and outside it to discuss key NDC issues, solicit input, and encourage broader debate.

Despite these immense efforts, most people on the street had little knowledge, understanding, or ownership of the NDC. Awareness of the NDC processes and key issues outside Sanaa has been minimal. Even in Sanaa, the NDC has come to be viewed as an external process driven by the international community rather than as a Yemeni political process. The rejection of the NDC has been most extreme in the South, where the sense of disconnect from NDC outcomes and the fear that a series of decisions will yet again be forced on the South have, if anything, possibly aggravated secessionist sentiment in southern popular opinion.

This disconnect has been exacerbated by the overall lack of service delivery and progress over the last year. As political elites focused on the success of the NDC, the population faced a worsening situation nationwide, including extreme shortages in electricity, a sclerotic economy, and a lack of basic security and rule of law across much of the country. Public resentment over the amount each delegate received per day, rumored at \$125 to \$200 including per diem, is widespread. The longer the NDC continued, the more divorced it appeared from this reality. To its worst critics, the NDC has been a costly political sideshow that has distracted political energy and attention at a critical period in Yemen's transition.

Thus, the public process aspects appear to be the worst takeaway from the NDC, though not for lack of substantial efforts in that regard. Rather than encouraging public buy-in, the

difficulty in communicating what was accomplished and the contrast between the rhetoric leading up the NDC and the harsh reality on the ground appear to have contributed to an even greater trust gap between the transitional government and the population. Whereas following the GCC agreement, Yemenis expressed hope that a new era for the country was beginning, today the same level of confidence and buy-in is hard to find.

Final Verdict?

The final verdict on the NDC is still out. By all accounts, the NDC may have been the most functional institution in Yemen in the last year. But even given its extraordinary accomplishments, it has left many questioning whether it delivered on its expectations.

Even at this early stage, prescriptive lessons might be drawn. What cautions or considerations with regard to timing or process does the NDC experience so far offer for other countries considering engaging in such processes? How does consideration of some of the hurdles the NDC faced guide thinking on the next stages of the transition process in Yemen, or simply offer further areas for reflection and research?

Timing

The most common critique leading up to the NDC was that holding it before at least some of the key deal-breakers and political framework issues were negotiated, or at least softened, was premature. Although it had already been delayed for more than a year, some argued that the NDC should have been delayed even further because not enough progress on the main political issue—the future status of the South—had been made in the pre-dialogue phase. When the NDC got under way, no significant progress was made on the so-called twenty points—the series of confidence-building measures aimed at greater buy-in from the secessionist-leaning South.¹⁶

The opposing argument—and the one that ultimately won out when the NDC commenced—was that putting the NDC on hold until an agreement was reached with all southern factions held the entire NDC hostage, potentially indefinitely given that they might never agree to negotiate. In addition, as with many of these processes, often the real negotiation does not happen until the process commences and the reality of a binding accord is looming. Given that the NDC did make some progress by agreeing to a federal system, this latter view seems appealing in hindsight. Maybe the southern delegates needed the push to begin negotiating in earnest. Yet in many ways the timeline has simply been extended. As part of the compromise with southern delegates, the final guarantee document of the NDC prioritized implementation of the twenty points. Actually implementing these twenty points in the next year is one of the few measures that might actually soften southern resistance. In essence, the confidence-building measures and eliciting greater southern buy-in will still be necessary before a sustainable political solution is possible. The bench posts were moved, and the focus has shifted from the NDC as the negotiating mechanism, but the timing issues remain the same.

The role that timing can play in making or breaking political roadblocks is important not only in terms of when such processes should start but also in how the time devoted to these mechanisms, or the time elapsed in them, can affect political conditions for compromise. As discussed, the NDC was likely never where the most critical political negotiations would be struck. However, given the emphasis on the NDC to fulfill this role, other pathways for political negotiation were largely on hold until the NDC tried to do so. In the meantime, the southern issue was left to fester, and the significant time elapsed has provided ample opportunities for spoilers to sabotage a weak transitional government. In this sense, the

Other countries considering similar processes should carefully weigh whether underlying political issues will be negatively or negligibly affected by the vested time and political energy in a huge undertaking.

time devoted to preparing for and then holding the NDC may have been harmful because it may have worsened the conditions for political compromise.

Other countries considering similar processes in the future should carefully weigh whether underlying political issues will be negatively or negligibly affected by the vested time and political energy in a huge undertaking, however well designed and however well it functions.

Size versus Inclusivity

To reach a compromise, the size of the negotiating mechanism, and who is and is not included, matters a great deal. As became clear, this large, public national forum was less useful in working through several of the key political questions. Smaller groups of the right political actors—those who actually had traction within their parties or constituencies to be able to negotiate and enforce political compromises—were needed to work through many of the issues.

Going forward, the Yemeni leadership appears likely to favor smaller, more selective committees or working groups rather than large, inclusive public mechanisms like the NDC. A small committee led by President Hadi decided the number of regions and devolvement of power. A slightly expanded consensus committee will oversee how the 1,800 recommendations from the NDC will be translated into the new constitution, or otherwise implemented through legislation, executive decrees, or other policies.

Given the unwieldiness of the NDC plenary, this movement to smaller committees may be appropriate for some issues, but there is a risk of the balance being shifted too far the other way as well. The six-region decision by President Hadi and a small committee only a few weeks after that solution was not accepted by southern delegates in the NDC rings alarm bells that the inclusivity of the NDC is giving way to elite-driven expediency in the next stages of the transition process. The crisis in 2011 represented a major sociocultural shift and a breakdown of the old political order. At such times, there is a value in expanding the political tent beyond the usual suspects, which is what the NDC attempted to do. An entirely elite-driven process risks sending Yemen back to the crisis point of 2011. Rather than relying on new, irregular small committees, greater attention needs to be placed on having more functional, accountable, and inclusive Yemeni government institutions implement transitional reform. For issues like the status of the south or the Saada issue—which require the buy-in of those who are not fully represented by President Hadi or the existing government—special negotiating mechanisms that are smaller than the NDC but still include representatives from the main parties or stakeholders to that issue would create more sustainable solutions.

Scope

Another key process issue that may have made the path smoother for the NDC was a more limited scope. The scope and number of issues should be realistic given the size of the body and the time and resources allotted. The issues selected should also be balanced against the role that other political or transition processes might play. Although some of the issues on the NDC agenda needed a more holistic public airing, others were predominantly technocratic and more appropriately dealt with at a policy or legislative level. The consensus committee and the Yemeni leadership will now struggle to enact more than a thousand legislative and administrative recommendations in the time remaining via a bureaucracy and political apparatus that has grown weaker during the last year of neglect. Still others—such as the southern issue—required the type of political negotiation not as suited to large-forum debates.

Pruning the number of issues to those more suited to that type of forum may not have prevented the NDC from getting waylaid with political roadblocks but may have freed more time and energy to publicly moot and develop buy-in within the deadline.

Competing Priorities

The balance between the mandate of the national dialogue and those of other processes is particularly important because big-ticket dialogues may take away from other transition processes that might equally (or better) address the underlying issues. National dialogues tend to absorb enormous time, focus, and political energy. Yemen's was no exception. Countries in transition often value such mechanisms because they can galvanize all parties and the public to focus on issues of national importance. They do so at a price. The time and focus devoted to them can detract or derail other transition processes or even simply distract the government and public sector from business as usual.

Although the NDC was its flagship, the transition process was also intended to encompass other elements, including institutional reforms and restructured ministries. These types of processes are important because such institutional and technocratic reforms could begin to address the service delivery and implementation issues that have long prevented the Yemeni government from addressing the country's challenges and contributed to political fracturing and destabilization. These reforms could also remove bad actors from positions of power and limit the ability of spoilers to frustrate the situation.

These other transition processes were ongoing throughout 2012 and 2013 before the NDC commenced. They included presidential decrees that removed some former actors of the previous regime from key positions and restructured the military and security institutions, a series of strategic planning and needs assessment processes within different ministries, and development of specific legislative and policy initiatives on key issues, such as provisions for eliminating ghost workers, among others.¹⁷

Most of these measures have de facto been put on hold, both because political attention was largely absorbed by the NDC and because the NDC touched on so many critical issues that it would be pointless to push forward on other initiatives until the NDC conclusions were known. The neglect of these other transition processes for so long is a significant cost that must be balanced against the NDC's benefits. Hopefully the new post-NDC implementation phase will reinvigorate progress on these other priorities.

The NDC may also have contributed to the government's inability to get back to business as usual. Yemenis expected that after the 2011 crisis, the new government would be responsive to the many day-to-day challenges facing them, from poor economic opportunities to deficits in education and health to food insecurity. The NDC certainly cannot bear the full (or possibly even the bulk) of the blame for the dysfunctionality of this transition government. Nonetheless, the political energy and time focused on the NDC would have waylaid even a smoothly running government. Whether a fair accounting or not, a large part of the public dissatisfaction with the NDC lies in the perception that it would not deliver any concrete results. Meanwhile, the government continues to neglect bread-and-butter needs. In extending the transition process and the NDC implementation for another year or more, there is a risk that neglect of 'business as usual' will continue, which would seriously hamper Yemen's ability to move beyond this transition period successfully.

Policy Recommendations

While the extension of the transition process presents some risks, it was likely the best course available. Forcing a constitutional referendum and new round of elections with so many critical issues left unresolved would have been a recipe for renewed conflict. The ability of the Yemeni actors to adjust the timeline and process but largely stay on track has so far been the major strength of the Yemeni transition process. In fact, though the focus

Though the focus of comparative discussions has been on the NDC, the more patient timeline of the Yemeni transition may be the aspect worth modeling.

of comparative discussions has been on the NDC, the more patient timeline of the Yemeni transition may be the aspect worth modeling. Whereas other countries (such as Egypt and Tunisia) moved rapidly into elections, a new regular government, and constitution, this rapid progress was soon undone as the results became contested, in some cases violently. The slower, more deliberative model in Yemen might be a better way to work through the complex political and structural conflicts inherent in transition.

A potential caveat is that the more measured pace in Yemen has so far been possible because, notwithstanding delays, the international community kept the process on track. The absence of this unified international role in other countries may make a slow process less possible. Unless the international actors behind the original GCC agreement continue to play the mediating role they have so far, the next, most difficult stages of the transition process in Yemen also risk running aground.

Although the verdict on the final impact of the NDC is still out, even at this early stage some lessons might be drawn, if not for Yemen then at least for other countries considering such mechanisms.

First, in designing the mechanisms and processes for negotiation, evaluate the sensitivities of discussing or negotiating certain political issues in a public and large-scale process. This evaluation helps ensure that efforts to make political negotiations more inclusive and to increase public buy-in are successful but do not delay ultimate resolution of the issues.

Second, consider whether and which political questions might be harmed by the delay inevitable in making a large national forum the decision-making vehicle. Reflect this appropriately in the division of labor between the dialogue and other transition processes.

Third, ensure that transition processes other than the dialogue continue to receive attention and are equally important to decision making.

Fourth, take into account the ultimate output or implementation mechanism (such as constitutional provisions, legislative action, or executive branch decision making) in deciding agenda items. Organize and stage elements of the national dialogue and the balance between which elements are decided within the national dialogue and which elements are decided outside it accordingly.

Fifth, limit the agenda to the fewest items possible to those that cannot be resolved or deliver needed outputs without the type of widespread and public national discussion that only a national dialogue can provide. A more streamlined agenda may enable greater focus, follow-through, and success within the national dialogue.

Last, ensure that the agenda is realistic for the amount of time allotted; if numerous issues need to be debated through a large national forum with multiple actors, more than several months may be needed.

Appendix: Conference Topics

Southern issue

- Roots of the southern problem
- Content of the southern problem
- Methods of solving the southern problem
- Ensuring that what happened does not recur

Saada issue

- Roots of the problem
- Content of the problem
- Ways of addressing the problem
- Ensuring that what happened does not recur

National issues

- Problems of displaced persons and ways of addressing them
- Recovery of property and land in Yemen and abroad that was seized by force due to the abuse of power
- Combating terrorism

National reconciliation and transitional justice

- Previous political conflicts and rights violations relating to them
- Issues and rights of persons in forced hiding
- Violations of human rights in 2011

Statebuilding (principles and foundations of constitution)

- Identity of the state
- Form of the state
- System of government in the state
- Electoral system
- Legislative authority
- Judicial authority
- Administrative system

Good governance

- Rule of law
- Balance of authority and responsibility
- Enforcement of accountability and transparency
- Achievement of justice and equality
- Combating of corruption
- Equal opportunity among citizens
- Expansion of popular participation
- Competence of the public administration

- Role of civil society organizations
- Role of parties
- Foundations of foreign policy

Foundations for building—and the role of—the armed and security forces

- The national and professional foundations for building the army
- Compatibility of the outcomes of the restructuring of the army with these foundations
- The role of the army in political life
- The security organization as a civil entity

Independence of special entities

- Civil service
- The media
- Religious endowments
- Alms obligations
- Human rights (semi-official)
- Office of the Grand Mufti
- Supervisory agencies
- Affairs of parties
- Organizations specific to groups (youth, women, etc.)

Rights and freedoms

- General rights and freedoms (political, civil, economic, social, cultural, ideological, and sectarian)
- Special rights and freedoms (women, youth, children/marriage of minors, marginalized persons, persons with special needs, expatriates, minorities, displaced persons, and refugees)

Development (comprehensive, integrated and sustainable)

- Economic
- Cultural
- Educational
- Human
- Health
- Social
- Political
- Role of the state and private sector, civil society organizations, and individuals in development
- Rationalization of the use of resources
- External support for development

Special social and environmental issues

- Revenge
- Weapons
- Armed outlaw groups

- Qat
- Diversity and tolerance
- Water and the environment

Formation of committee to draft constitution

- Criteria for membership and representation
- Selection method
- Specification of the duties and operating mechanism of the committee

Assurance of successful implementation of conference outcomes

- Formation of a National Dialogue Conference committee representing all participating constituencies to monitor the implementation of the outcomes of the National Dialogue Conference (it is recommended that the reconciliation committee serve this function)
- The authority of the elected House of Representatives to monitor and supervise, and the new government's responsibility in respect to implementation
- Long-term national partnership
- Code of ethics
- United Nations guarantees

Source: National Dialogue Conference, "About the Dialogue: Conference Topics," www.ndc.ye/page.aspx?show=67.

Notes

An online edition of this and related reports can be found on our Web site (www.usip.org), together with additional information on the subject.

1. Ali Abdallah Saleh was Yemeni president from 1978 to 2012—first of North Yemen and then of unified Yemen.
2. The civil protest movement under al-Hiraak's banner has been ongoing since 2007, initially focused on a series of grievances and civil rights issues. Beginning in 2009, elements within the group began to push for secession.
3. Differences are wide even among mainstream al-Hiraak actors and certainly between the mainstream and the more radical elements. The demands of different factions within al-Hiraak range from a greater degree of autonomy to nothing less than independence. For more on the different actors that make up al-Hiraak, see International Crisis Group (ICG), "Yemen's Southern Question: Avoiding a Breakdown," Middle East Report no. 145, September 25, 2013, www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iran%20Gulf/Yemen/145-yemen-s-southern-question-avoiding-a-breakdown.
4. The Houthis are a Zaydi Shia group that retains near total control of the northern Saada governorate and—since 2011—control of significant areas in neighboring governorates in al-Jawf and Haajjah. The conflict has been complicated by external influences, the Houthis accused of alignment with Hezbollah and Iran and the central government, and local tribes receiving support from Saudi Arabia against them. The cycle of conflict continues, aggravated by acts of brutality on both sides. See ICG, "Yemen: Defusing the Saada Time Bomb," Middle East Report no. 86, May 27, 2009, www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iran%20Gulf/Yemen/086%20Yemen%20Defusing%20the%20Saada%20Time%20Bomb.pdf.
5. The exact duration of the agreement was twenty-seven months, which included the three months before the February 2012 presidential elections.
6. The dialogue was due to end on September 18, 2013, but was delayed following a boycott by southern delegates in August 2013 (www.ndc.ye/news.aspx?id=1928). For more, see Rafat Al-Akhali, "Debating Federalism in Yemen," October 28, 2013, *MENASource*, blog at the Atlantic Council, www.atlanticcouncil.org/blogs/menasource/divide-and-conquer-debating-federalism-in-yemen; ICG, "Yemen's Southern Question."
7. The consensus committee was a mechanism created in the NDC process to act as a tiebreaker when working groups reached a deadlock to help vet recommendations for feasibility and to help finalize the recommendations and outcomes. It is an unelected body with members chosen by President Hadi.
8. ICG, "Yemen's Southern Question," ii, 3–4.
9. See National Dialogue Conference website, "NDC National Issues and Transitional Justice Working Group Sends its Final Report to President Hadi," December 19, 2013, www.ndc.ye/news.aspx?id=2705. The transitional justice issue has long been one of the most contentious issues in the NDC. Many political factions have argued that former president Saleh and elements of his regime should be subject to prosecution and punishment; others argue that Saleh's amnesty deal was critical to the GCC compromise and that calls for transitional justice are nothing more than political revenge attacks.
10. ICG, "Yemen's Southern Question," ii, 3–4.
11. Interview with National Dialogue delegate, September 26, 2013, Sanaa, Yemen.
12. "Yemen: National Dialogue Subcommittee Calls for Longer Transitional Period," *Asharq Al-Awsat*, September 13, 2013, www.aawsat.net/2013/09/article55316722.
13. This helpful description of the Consensus Committee's role while the NDC was ongoing was offered by women's rights activist Sanaa Al-Hamdani, "According to the NDC process requirements, at the initial stage, an article must receive 90% of the vote among the committees in order to pass; otherwise it is sent to the Consensus Committee, which was established to oversee the dialogue process in order to maintain harmony. If the Consensus Committee modifies the article and sends it back to the committees, it must then receive 75% approval or it is returned again to the overseeing body. Finally, a modified draft must be passed by 55% of the committees. If it is not passed by the committees, the Consensus Committee and the dialogue president make the final decision on whether or not to move forward with the article" (www.fikraforum.org/?p=3850).
14. The final NDC document denotes which recommendations are intended to be implemented via the new constitution or through legislative initiatives, presidential decrees, or other policy measures. The consensus committee, which survives the NDC, is in charge of overseeing the implementation of these recommendations to ensure they are consistent with the NDC's intent in creating them. At the time of the NDC's closure, the sequencing and processes for implementing the non-constitutional recommendations were not yet clear.
15. Ibid.
16. A push back to that view, and the one that ultimately prevailed, was that it was not appropriate to allow one faction—the secessionist-leaning al-Hiraak—to hold up the entire process. See ICG, "Yemen's Southern Question," 3–4.
17. See Erica Gaston and Nadwa al-Dawsari, "Waiting for Change," *Peaceworks* no. 85, United States Institute of Peace, 13–16, www.usip.org/sites/default/files/PW85-Waiting-for-Change.pdf.



**United States
Institute of Peace**
2301 Constitution Ave., NW
Washington, DC 20037
www.usip.org