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شبكة المنظمات العربية غير الحكومية للتنمية



The Private Sector in Yemen: Social Responsibility, Accountability, and Remedy
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1. Introduction

Yemen is a poor, fragile, and fragmented country with a population of nearly 31 million.¹ Since late 2014, it has been torn apart by a brutal civil war that spread to all its regions. It led to sharp political, economic, and social divisions perpetuated along religious, sectarian, ideological, regional, and separatist lines. All sides are armed and employ militias fuelled by the opposing agendas of regional powers. Today, Yemen has two authorities, two governments, two parliaments, and two judicial powers. It also has two central banks, two currencies, and consequent conflicts in financial and monetary policies. Duality has impacted taxes, customs, zakat, tariffs, and divisive legislation to amend some laws and regulations and ignore or suspend others. Moreover, conflicting separatist and religious movements² control entire regions, cities, and governorates by force, imposing their policies. The President of the Republic and his «legitimate» government left the country at the beginning of the war and are in an exile-like situation in Saudi Arabia.

The conflict in Yemen is rooted in decades of grievances and violence caused by corruption and the elite's control over resources, in addition to tribal, regional, and sectarian divisions.³ The vicious scramble over the country's limited wealth by the regime that preceded the Yemeni Spring Revolution led to the appropriation of the country's wealth. Corruption increased, and so did the state's dependence on oil rents. Oil protection and service contracts and marketing and export deals were awarded to the tribal-military elite loyal to the regime. Thus, state authorities became weaker. Political, economic, and social exclusion grew. Wealth distribution became more unfair. Resources were being exploited unsustainably. All of the above paved the way for the current devastating conflict, in addition to other factors. The consequences of the resulting war, especially the disruption of the social fabric, far exceed the cost of destroyed infrastructure. A long time is needed to return to national unity and political-social stability.⁴

On the other hand, due to the long period of war and conflict, a so-called war economy has developed, where all the country's economic capabilities and resources are devoted to war spending, under the banner of «supporting the war effort.» Corruption networks close to the mafia and warlords exert all efforts to maintain the war, prevent peace, take advantage of a weak and fragmented state, rampant corruption, and lack accountability. These networks are the centers of influence for conflicting parties. They collect resources and royalties, legally and illegally, and supervise their expenditure, benefiting from a large share of the profit, including humanitarian aid, trade, and smuggling of arms and drugs. Trade of oil derivatives and imports are in the hands of a small business circle close to senior government officials. Exchange and money transfer companies spread like mushrooms, reinvesting their huge revenues in money laundering operations, including real-estate speculation more recently.

In light of the deteriorating situation, the disruption of government statistical departments, and the inaccuracy of data, already limited to government-controlled areas, this report will be based on studies conducted by the UN, IFIs (such as the World Bank and the IMF), and other international organizations. It will also depend on the 2015 Statistical Yearbook issued by the Central Statistical Organization (CSO-Yemen), which was the last dependable report issued during the war. In addition, field visits were made to many official bodies and establishments (please see annex for a list of organizations).

Part 1: Business Accountability

1. The Civil War's Humanitarian and Socio-Economic Toll

Since the outbreak of the civil war in late 2014, Yemen has been suffering from the worst humanitarian crisis in the world. According to OCHA's shocking data, millions of Yemenis face the risk of death, hunger, and disease. The degree of suffering is almost unprecedented,⁵ as indicated by the following figures:

- Ten million people are just one step away from starvation and death.
- 230 out of 333 districts in Yemen are facing food insecurity.
- 24.4 million people need help to survive.
- Thirteen percent of the population does not know when they will eat their next meal, and OCHA expects the figure to increase to 20 percent or more if humanitarian operations are not expanded by early 2019.
- The severity of the suffering included an increase in the number of civilians who need urgent humanitarian assistance in all sectors, including 49 percent in the health sector (14 million people), 73 percent in the shelter sector, 32 percent in education, and 26 percent in protection.
- The health sector is in the category of severe need. Less than 50 percent of health facilities are still working, although they lack specialist doctors, medical equipment, and medicines, and most health sector workers have not received their salaries for years.
- The fighting has destroyed water and electricity infrastructure, irrigation systems, agricultural sites, hospitals, sewage networks, and economic facilities, not to mention the tens of thousands of landmines planted in various conflict areas.

- As of July 2020, IDPs had reached about 3.65 million, 63 percent of whom are without care or funding for their needs.⁶

According to Sara Beysolow Nyanti, UNICEF Resident Representative in Yemen,⁷ «the overall number of malnourished children under the age of five could increase to a total of 2.4 million» and «an additional 6,600 children under the age of five could die from preventable causes by the end of the year – an increase of 28 percent.» As COVID-19 spread and the remaining schools closed, «7.8 million children are not able to access education.»⁸ She warned that half a million lactating and pregnant women would miss out on basic nutrition support unless urgent aid is received, and 5 million children will not be vaccinated against deadly diseases.

- The sharp decline in the local currency's exchange rate (the Riyal) led to a considerable rise in inflation and food prices during 2018, especially after the «legitimate» government issued a large cash block in 2017, increasing the size of the money supply by 53 percent. It resulted in an increase in the size of the food basket by 145 percent compared to 2015.⁹
- In 2020, the situation became worse as remittances by migrants declined due to the global pandemic by an estimated 50 to 70 percent.¹⁰ However, Oxfam believes the number is around 80 percent¹¹ (remittances in 2019 amounted to 3.8 billion dollars¹² and went to 80 percent of the population). As a result, hard currency became scarce, and food prices rose by 10 to 20 percent¹³ due to further deterioration of currency exchange rates and an additional and continuous decrease in food commodity imports representing 90 percent of the country's total food needs.¹⁴

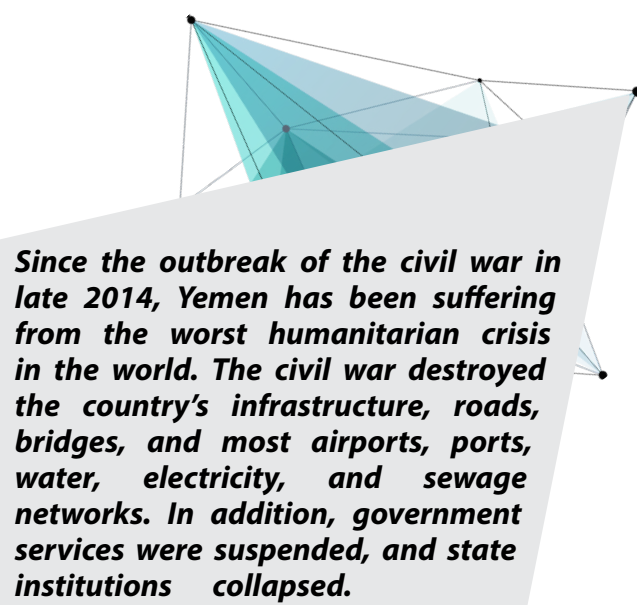
The civil war destroyed the country's infrastructure, roads, bridges, and most airports, ports, water, electricity, and sewage networks. In addition, government services were suspended, and state institutions collapsed, leading to devastating impacts on all levels of the national economy:

- Hundreds of thousands of Yemeni workers lost their jobs and sources of income. Available estimates indicate that the unemployment rate has increased during the war years from 56 percent to nearly 80 percent,¹⁵ while data from CSO-Yemen indicates that the private sector laid off 353,763 workers, or 64.1 percent, in one year (2014-2015).¹⁶
- An ILO rapid assessment of three major Yemeni cities in collaboration with CSO-Yemen in 2015 showed that they had lost a total of 130 thousand jobs or more than the workforce survey issued only one year earlier. Agriculture was the most affected sector.¹⁷ In general, OCHA reports the loss of at least 600 thousand jobs. It adds that employment in the agricultural production and fishing sectors, with a share of 70 percent of the workforce, has fallen to one-third.¹⁸
- Macroeconomic indicators continued to deteriorate for various reasons, including the contraction in the volume of demand resulting from the significant deterioration in household income, due to the decrease in remittances, in addition to the loss of job opportunities and the suspension of salaries for most government employees in the northern governorates since 2016. Ministry of Civil Service data estimates 174,406 employees,¹⁹ while OCHA estimates that 500,000 civil servants had lost their jobs.²⁰

In 2019, more than 80 percent of Yemenis were living below the poverty line, a sharp increase from 49 percent in 2014.²¹

By 2018, the total public debt had risen to \$21.6 billion, or 94 percent of GDP, of which \$8.8 billion was external debt and the equivalent of \$12.9 billion in domestic loans. The external reserve declined in the same year to \$900 million, covering only 45 days of imports. Although the nominal per capita GDP was \$1574 in 2014, it was no more than \$745 in 2018.²² In addition, risks from the continued deterioration of the overall economy are still high due to the potential of a further exacerbation of the currency, inflation,

liquidity crisis in banks, and imbalances in the financial policy, in light of the division of the Central Bank of Yemen. Other consequences are the sharp decline in external transfers, the continued suspension of almost all oil production, the accumulation of public debt, and the decline in the role and activities of the private sector and the government



Since the outbreak of the civil war in late 2014, Yemen has been suffering from the worst humanitarian crisis in the world. The civil war destroyed the country's infrastructure, roads, bridges, and most airports, ports, water, electricity, and sewage networks. In addition, government services were suspended, and state institutions collapsed.

2. The Civil War's Effects on the Private Sector

The civil war raging since late 2014 caused considerable losses in private sector facilities, greatly damaging its interests and the pace of its performance. Some establishments were able to adapt to the new reality, while others moved outside the country. A survey conducted by the World Bank in October 2018 showed that nearly 35 percent of Yemeni companies had closed their doors, while more than 51 percent of the surviving companies suffered from shrinkage in size and decline in business. About 73 percent of the companies that suspended their activities indicated that security obstacles, financial restrictions, increased input costs, lost demand, and loss of the consumer base were among the main reasons for the downturn.²³

According to the Federation of Chambers of Commerce and Industry,²⁴ other effects included delays in the arrival of goods and production inputs due to many ships being directed to the ports of neighboring countries for inspection, the bombing and destruction of the ports of Aden and Hodeidah, the high costs of transportation to Yemen, shipping company fees and insurance costs, and double taxation. In addition, as a result of the bombing and siege, the two sides of the war have imposed customs duties between the areas of control, Sana'a airport and international air traffic stopped, and, thus, the import of medicines and some basic supplies to Sana'a and the northern governorates was suspended. The energy and oil derivatives crisis has also worsened from time to time over the years, which has led to a decline in agricultural, industrial, and service production and the high costs of internal transport, in addition to the destruction of many private sector facilities and infrastructure, not to mention the halting of the export of agricultural and fisheries products and the suspending of export credit by banks.

3. Yemen in International Indicators

As the war spread and the conflict intensified for more than five years, affecting all political, security, economic, and social issues, Yemen's position deteriorated to reach the lowest positions in international indicators:

- Yemen is ranked 187 out of 190 countries in the Ease of Doing Business Index in 2020.²⁵
- It ranked 123 in its latest rating in the Index of Economic Freedom at the beginning of the war in 2015, with a score of 55.5 or «mostly unfree.»²⁶
- The Corruption Perceptions Index 2020 ranked it at 176, only followed by Syria, South Sudan, and Somalia, with a meager score of 15 percent.²⁷
- It ranked first out of 178 countries in the Fragile State Index in 2020.²⁸
- It is also ranked 155 or second to last in the latest Gender Gap Report regarding participation, economic opportunity, and equality with men.²⁹
- Recovery certainly depends on controlling violence and war and reaching peaceful political settlements that achieve security and stability to initiate reform and reconstruction and resume the development processes, which is still obviously a long way off.

4. The Private Sector's Relative Importance in Yemen's Economy

Yemen's private sector remains small and with limited impact due to several objective and subjective factors, fragile institutional structures, the scarcity of funding, the small size of facilities, and the confinement of its companies to the family domain. Although statistics lack accuracy,³⁰ available data indicate that the private sector in 2015 accounted for 80 percent of the entire industries of the national economy. Its activities were concentrated in several sectors, especially in the agriculture and fishing sectors, contributing 18 percent of the non-oil GDP for the same year. In industry, it contributed to 16 percent of the non-oil GDP, 11 percent in wholesale and retail trade, and 10 percent in transport and storage.³¹

However, most industrial establishments are tiny and pay low wages. Official surveys classify them into three categories, small (employing three people or less), medium (which employ 4-9 people), and large (employing ten or more).³² It shows the extent of the limited size of the private industrial sector, primarily since small projects, according to CSO-Yemen, represent 88.6 percent of industrial establishments, reaching 97.4 percent if medium projects are added.³³

Due to the ongoing civil war, Yemen's private sector began to operate in an environment dominated by social, economic, and humanitarian crises and security imbalances. It has become fragile, coexisting with corrupt practices and adapting to various pressures and the interests of centers of influence. Many investments either stopped or migrated to other countries, in addition to the intrusion of tribal groups backed by the dominant centers of influence in investment fields, most notably commercial and real estate activities, exchange companies, and money transfers.

5. Current Situation of Investment in Yemen

Since 2015, already scarce local and foreign investments have declined significantly as a result of the war.³⁴ On the other hand, a handful of large projects take their social responsibility seriously in training and education, health, water and electricity supplies, local community needs, the environment, job creation, and insurance.³⁵

Investment statistics from several branches of the General Investment Authority in the capital, Sana'a, have stopped due to militia control of the capital. The available statistics indicate:

- The value of investment capital decreased in 2015 to 36.2 billion Yemeni riyals,³⁶ equivalent to \$168.6 million, compared to 2010, when it amounted to 129.8 billion riyals (\$604 million),³⁷ a decrease of 72 percent.
- Only 164 projects were registered in 2010, declining to 39 in 2015 and providing a mere 4,350 jobs.³⁸
- Except for investments in the cement and communications industry, the majority of investments were confined to small industries, building materials factories, fertilizers, chemicals, salt and gypsum extraction, grain mills, plastic factories, healthy water, and some foodstuffs such as oils and tomato paste, in addition to service investments in hotels, restaurants, medical centers, schools, private universities, and residential units.³⁹
- In 2015, as a result of the war and security situation, all foreign investments were halted. Until 2010, they had represented 33.1 percent,⁴⁰ or a third of total investments, concentrated in small industrial and service projects and to some extent in fishing.⁴¹
- Investment in the oil and gas sector is of great strategic importance to the Yemeni economy

due to its prominent contribution to the GDP and supporting its budgets and balance of payments. However, despite the continuous decline in the volume of oil production and export in the last two decades, Yemen's crude oil production in the volume of oil production and export, without gas, was relatively stable. There were 12 oil companies managing the oil sector in the country, nine of which were foreign and three governmental, whose combined production was about 57 million barrels in 2014.⁴² Their export revenues made up 80 percent of the state budget and the country's supply of hard currency. Therefore, it had been achieving relative financial and economic stability, in addition to gas export revenues, of which the state's share in 2014 was about \$700 million.⁴³

- With the outbreak of the civil war in 2015, oil and gas production and export operations collapsed, as the foreign operating companies were forced to leave, and nine oil sectors completely stopped working. Total, the Yemen Liquefied Natural Gas Company operator declared a «force majeure» and stopped working, leaving only three companies, including the National Oil Company, which continued to produce limited, irregular quantities, thanks to its distance from the conflict areas.

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6. Conclusions

- Except for some foreign oil companies that consider the partial contribution to achieving some aspects of sustainable development and human rights, following the international legal obligations of the parent companies, most national companies do not pay any attention to the aspects of sustainable development except in rare cases. Some are limited to voluntary charity, as the Investment Law and other related laws lack mandatory texts in this regard. (The legal part of this report will discuss this matter in some detail).
- Except for oil and a few industries, Yemen lacks significant productive investments, especially in manufacturing, agriculture, and fish, to be able to contribute to creating job opportunities in the broad sense, developing the technical skills of workers, and helping to transfer and resettle technology, ensures the sustainability and acceleration of growth, and the achievement of structural transformations.
- Until 2015, the General Investment Authority required that investment projects have ten or more workers, a limited number, to obtain tax and customs exemptions and the facilities stipulated in the investment law. However, the de facto authorities in Sanaa later abolished these exemptions, and many investors are now paying daily wages to circumvent the labor law and not entail any human rights obligations. Consequently, the possibilities of creating new jobs or reducing the gender wage gap have declined even further.
- The applicable Investment Law (No.15 of 2010), as in many countries, included many privileges, facilities, and protective measures, to provide a so-called investment incentive. In addition, it gave equal rights and duties to local and foreign investors alike, aiming to mobilize the resources needed for economic development.
- It was perhaps justified given the generally

weak infrastructure, structural, economic, and security disturbances, and the spread of instability and corruption, in addition to the intense competition with other countries in the region to attract foreign investments. However, the main criticism of the investment law was due to its general nature and the lack of connection, locally and internationally, with social development needs and the SDGs. Moreover, it did not set priorities for required investments and failed to implement a mechanism to support foreign investment partnerships with the local business sector. Thus, foreign investments were far from contributing towards the achievement of development goals.

- Business activities are selective, focusing on quick and guaranteed returns. However, the situation is natural in the absence of regulatory government procedures and policies. As a result, the contribution to infrastructure development, economic and social transformation, and sustainable development is reduced or absent. There have been attempts to establish a legal framework for a voluntary partnership between the public and private sectors to invest in infrastructure. The most pertinent example was in 2014, when the General Investment Authority, the Ministry of Finance, and the Federation of Chambers of Commerce and Industry introduced the draft PPPs Law. Its objectives were set in Article 3, which encouraged the private sector and aimed at attracting its funds to invest in infrastructure projects; regulated supervision and control over partnership procedures, to ensure job creation and attracting technology and innovations to infrastructure projects; and set guidelines for reducing environmental risks and promoting sustainable development in the implementation of all partnership projects. Unfortunately, these attempts have been frozen and yet to be approved by the government and Parliament.
- The private sector in Yemen, as in many countries, often seeks to maximize its profits

and achieve significant gains that are not commensurate with the supposed social return. Its achieved profits do not reflect a tangible contribution to productivity, job creation, or other aspects of sustainable development. Even with the outbreak of the COVID-19 pandemic, the state of destruction and siege resulting from the war, and the exacerbation of poverty and unemployment, private sector contribution was minimal and almost symbolic. On the other hand, the relationship between foreign investors and local business establishments is almost absent. It may be due to corruption at various levels, including the judiciary, the predominance of individualism and the familial nature of private sector institutions, and the lack of legal and regulatory obligations for foreign investments in partnership relations.

- The Strategic Vision for Development until 2025, the second five-year plan (2001-2005),⁴⁴ and later Reform and Development Programs and Policies (2012-2014), under the supervision of the World Bank, all depended greatly on the private sector playing a pivotal role in achieving high and sustainable economic growth rates, in addition to strengthening PPPs. The latter should assume a vital role in achieving economic and social development. In addition, the second five-year plan introduced a program it had described as ambitious to privatize dozens of projects so that the private sector would have a role in providing infrastructure services. However, the program faltered, and its implementation failed. Only 23 to 30 percent were privatized. Many experts recommended the importance of more efficient privatization management, adopting PPPs, and leaving some critical strategic projects with the state.⁴⁵

7. Private Sector Humanitarian and Social Development Activities

In addition to the initiative of the Federation of Chambers of Commerce and Industry on social responsibility, few large business establishments in Yemen are active in the charitable and humanitarian fields or sustainable development activities. The study presents two of the most prominent pioneering institutions:

- Hayel Saeed Anam Charity Foundation (HSACF)⁴⁶ was established in 1970 as a private, voluntary, independent, traditional non-government charity institution to deliver life-saving aid to millions of people living on the edge of survival in all parts of the Republic of Yemen, as part of the social responsibility HSACF. It works in humanitarian assistance such as nutrition, health, water and sanitation, cash subsidies, education, and scholarships. Most of the beneficiaries are patients, orphans, students, and people with special needs. HSACF provides its services through six charitable sectors. Recently, and due to the conflict, economic collapse, and the breakdown of public institutions all over the country, it established the Humanitarian Development Program (HDP) in an endeavor to lead the HSACF internal programs and to build new partnerships with NNGOs, INGOs, and UN agencies. According to its online profile, the HDP is considered an organizational unit to maximize the humanitarian and development impact in health, water, food, and education in Yemen and the Middle East. It also responds to the growing humanitarian and development needs to reduce people's suffering, fulfill social responsibility, and achieve the SDGs.

- Al-Khair Foundation for Social Development,⁴⁷ founded by an international group of companies, specializes in social development, supporting health, humanitarian care, poverty reduction, and rural development. It contributes through the provision of drinking water and clean energy projects, building water barriers and fenders, and supporting the cultivation of income-generating crops, in addition to taking into account the needs and requirements of women. Its various activities aimed at achieving the SDGs include educational and vocational training and economic empowerment; supporting education by building schools and providing scholarships for the poor of both sexes at various educational levels; vocational and technical training and qualification for disciplines required by the labor market; and giving marginalized groups in society special attention and care in education, rehabilitation, and employment.

Both organizations conduct a mixture of charitable and developmental projects. Some are directly linked to several SDGs, although not all, and include water, health, education, training, energy, and environmental programs. However, despite the establishment of semi-independent institutions concerned with humanitarian affairs, they remain under the supervision and direction of the central administrations of the two groups. Their performance is on a partial institutional basis, meaning that they are satisfied with annual plans and periodic achievement reports without a clear long-term work strategy covering all aspects of social responsibility and SDGs. They do not specify stages of targeting and achievement. Their projects are selected according to management estimates and not government development plans and strategies. According to field interviews, they avoid joint initiatives with the public sector and maybe rightly to not fall into the trap of corruption, extortion, and bureaucracy rampant in government administrations.

Another criticism of both organizations is that they do not consider the equitable distribution of their investments in the neediest regions and governorates. Their partnerships are also limited to some international donor organizations without involving local CSOs except in rare cases. Despite these shortcomings, these two institutions are considered pioneers, and perhaps rare, in humanitarian work and social development. Moreover, they occupy an advanced position in this regard, especially since the President of Al-Khair Foundation clearly demanded (during the interview) to participate in the private sector in achieving the SDGs mandatory by law. Nevertheless, it is not possible to compare these two model institutions with the remaining Yemeni businesses that do not pay attention to social development and are satisfied with occasional charitable activities.

- The Ministry of Human Rights and the Federation of Chambers of Commerce and Industry in Yemen, with the support of GIZ, adopted an initiative to highlight the importance of social responsibility and the role of the concerned parties in this regard, including government agencies and private companies and businesses. In 2012, they held an extensive meeting in which the relevant government agencies and representatives participated, in addition to the private sector. It was the only attempt to draw attention to social responsibility and led to a draft matrix of several recommendations and executive procedures. It included the following main measures in the fields of:⁴⁸
 - Spreading a culture of social responsibility in the business community to direct its investments into social development projects and enhance «voluntary» efforts to serve sustainable development.
 - Calling for the establishment of administrative units for social responsibility in relevant government ministries and agencies (human rights, industry, and commerce, oil and minerals,

social affairs, labor), as well as in the branches of the chambers of commerce and industry; networking among all of the above and forming a social responsibility coordination council that includes all government agencies, the private sector, and civil society representatives.

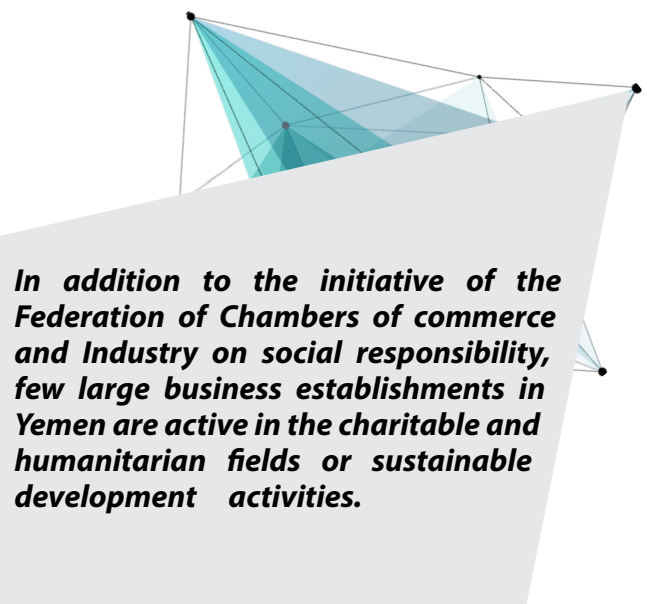
- Establishing a social responsibility fund (with a contribution from the private sector) in the branches of the Chambers of Commerce and Industry in the governorates to support sustainable development projects and programs.
- Preparing an Honor Code for the private sector, including the promotion of social responsibility.
- «Persuading» the private sector to provide job opportunities to accommodate young men and women.
- Absorbing young volunteers wishing to train in business companies.
- Preparing a national strategy for development and construction, in which the priorities of sustainable economic and social development programs are identified.
- Including social responsibility obligations within large investment contracts when they are concluded.
- Preparing for the formation of the «National Network for Social Responsibility and Empowerment» from the relevant government agencies, private sector representatives, and some international institutions (WB, IMF, GIZ) under the supervision of the Ministry of Human Rights.

However, the matrix failed to take the SDGs and government development plans and strategies into account. The meeting did not involve parties directly related to social responsibility, such as the Ministry of Water, Environment, Taxes, the Ministry

of Youth and Health, and the Ministry of Legal Affairs, which could have presented a draft law regulating the social obligations of businesses. In addition, CSOs and human rights organizations were not present at the meeting.

The tasks included in the matrix are general and superficial, indicating the weak understanding of the meeting organizers and participants of the concept and essence of the problem of social responsibility in its various economic, social, legal, and moral aspects. Its outputs were of a voluntary and optional nature that is not legally binding. It lacked a comprehensive vision defining the nature of corporate social responsibility, specific mechanisms for the different stages, and how to achieve transparency and disclosure of information that allow civil society to hold businesses accountable for their levels of performance and supposed contributions in the areas of community development and the achievement of SDGs.

Although partial and marginal at times, the recommendations were considered a step in the right direction and would have enabled subsequent steps. Unfortunately, however, they remain ink on paper and forgotten by all the parties immediately after the conclusion of the «extended meeting.»



8. Challenges to Business Accountability

The lack of a social aspect in the Yemeni private sector's agenda is evident. Business activities are still far from social development needs and achieving the SDGs. Moreover, social responsibility remains a new concept that is still unfamiliar to these institutions. The exception is some voluntary, charitable work carried out by a few large establishments on a selective basis, not as a legally binding duty that requires them to target and include social development activities within their programs; to invest in society's needs through a variety of projects that contribute to extricating people from the cycle of poverty, hunger, and unemployment, guaranteeing their rights, and acceptable level of security and wages; developing local communities, and contributing to the provision of health services, education, training, clean water, and energy; protecting the environment; involving women, and supporting the development of scientific research and innovation.

On the other hand, Yemen's private sector operates in complex conditions and an unstable political, economic, and security climate dominated by corruption, bureaucracy, underdeveloped infrastructure, and failed reform programs, in addition to insecurity, the aftermath of the civil war, and the country's transformation into an environment expelling investments and capital in light of a corrupt judiciary and unenforced laws. The above left its mark on the ability of the private sector to develop, especially in production. It led to its faltering in its anticipated role in sustainable development and social responsibility. Consequently, in such situations, it is not easy to exercise a business accountability process, at least in the foreseeable future, as the relationship between the government and the private sector has not been developed in a way that ensures accountability on a legally mandatory basis.⁴⁹

Moreover, Yemen's civil society, one of the parties expected to play an influential role in this regard, has lately become very weak. Its capacities were reduced dramatically due to security restrictions on its activities, impacting its continuity and survival.



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9. Recommendations

It seems necessary to include recommendations that align with the facts on the ground and are implementable, even after a while. The war situation in Yemen brings forth the following suggestions to be activated when the conflict subsides, and the country becomes more stable.

Social responsibility involves all actors in society, including the private sector, which is supposed to contribute to community development and not just aim for profit. Just as it has rights and privileges, the private sector also has duties, obligations, and social responsibilities outside the scope of charitable work. It must commit to tax duties and workers' rights in wages, insurance, guarantees, equality, respect for the law, and work ethics. It must be obliged to contribute to local community development, including health and educational services and water and electricity supplies. It must avoid harming the environment, strictly observe the rules of governance and integrity, and altogether avoid corrupt practices to contribute to achieving the SDGs.

Therefore, it is not helpful for these urgent tasks to remain in their current voluntary and selective form. Instead, they should switch to a binding formula, within an integrated work mechanism that includes all legal, economic, social, administrative, and oversight aspects implemented and monitored by all local authorities and official and community parties, in addition to relevant human rights and financial institutions, local and international, and those concerned with socio-economic development affairs.

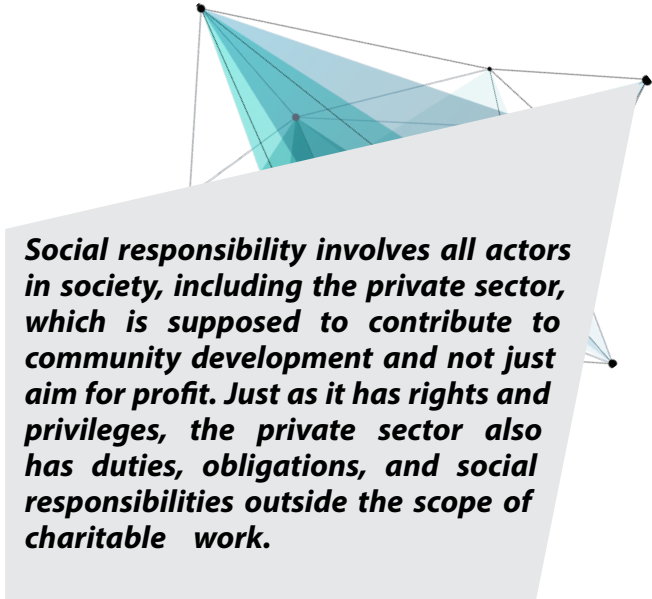
In this regard, this study identified several key recommendations. They are the following:

- Emphasize the contents of the paper prepared by ESCWA⁵⁰ on the importance of the 2030 Agenda on Sustainable Development and its 17 goals as a fundamental pillar for development, with national development plans and strategies that identify social development

priorities, and the adoption of an integrated approach to development that enhances the interrelationship between SDGs with policies and programs for their implementation, as well as the emphasis on the sustainable development priorities for the post-2015 Republic of Yemen. It includes providing a better level of essential services, ensuring an adequate social safety net for the poor, and the importance of increasing investment spending on infrastructure, in addition to the need to work seriously with civil society, the private sector, and the international community, which is committed to aiding countries to reduce poverty, through effective mechanisms to coordinate and unify efforts and develop the capacity of the central government, local authorities, and civil society. The main issue in this regard is the emphasis on strengthening the role of the private sector and the role of businesses in social responsibility.⁵¹

- Establish a higher council of government agencies in relevant sectors with representatives from the private sector, Parliament, civil society, and academia. In parallel, establish commissions or committees at the governorate level whose management involves local authorities and local business and civil society representatives. They should be tasked with identifying community needs, proposing social development projects, coordinating planning processes, and supervising their implementation, follow-up, control, and evaluation.
- According to the priorities identified in the latter, linking the private sector's social development programs to government development plans and strategies avoid selecting merely profitable projects.
- Institutionalize business social responsibility activities by establishing legal entities related to social responsibility and allocating them specific budgets⁵² and departments with an adequate level of independence.

- The state must present a package of incentives to business enterprises committed to actively participating in community development processes by legally defined controls. It should motivate companies to abide by social responsibility through tax incentives, government contracts, moral incentives, and stimulating competition between companies regarding social development, protecting the environment, workers, consumers, and stakeholders, and establishing social security funds. The Ministry of Industry and Trade may establish a committee tasked with evaluating the contribution and performance of business enterprises in implementing their programs towards social responsibility, awarding prizes and rewards to institutions. It could follow up with a «National Corporate Social Responsibility Index,» ranking companies from best to worst according to objective criteria and the extent of their commitment to social and development dimensions in their activities.⁵³
- Carry out awareness and education campaigns for the private sector to introduce the culture of social responsibility and commitment to clear and direct programs and policies towards its implementation according to international and human rights standards and social needs. It must also commit to a mutual interaction with government initiatives, laws, policies, and societal components. In addition, disclosure and transparency in preparing and presenting performance and evaluation reports should be emphasized and comply with government agencies and civil society accountability.
- In parallel, civil society must be active in holding the private sector accountable for its social responsibilities. It should expand this role and involve the most significant number of entities such as trade union institutions and professional civil society organizations, political parties, and the media in joint efforts to oblige the business sector to participate in legal, social development operations. It could also establish a broad coalition whose tasks include following up on the issuance of binding policies and legislation, devising appropriate mechanisms for monitoring and oversight, and exercising the right of accountability for the private sector, in addition to training and advocacy initiatives and related activities.



Social responsibility involves all actors in society, including the private sector, which is supposed to contribute to community development and not just aim for profit. Just as it has rights and privileges, the private sector also has duties, obligations, and social responsibilities outside the scope of charitable work.

Part 2: Human Rights and Private Sector Responsibility in Yemen's Laws

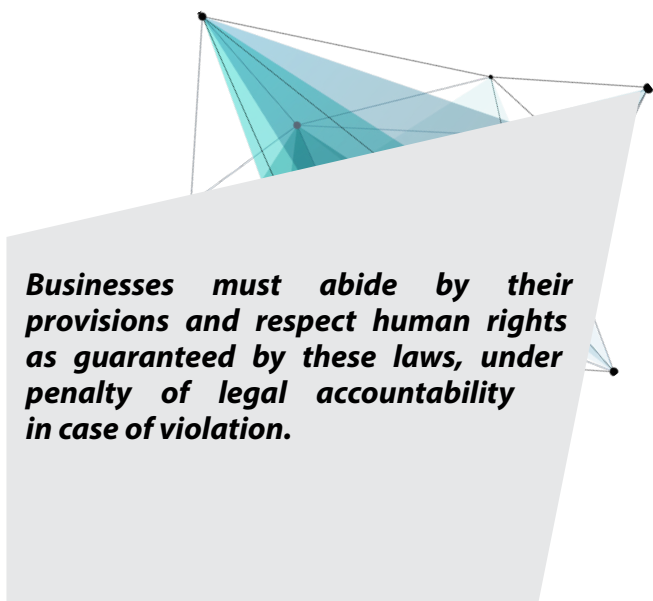
Yemen's civil, commercial, criminal, financial, economic, and procedural codes all stipulate the respect of human rights. These rights are protected from violations committed by any party, whether natural or legal, public or private, local or foreign. The laws prohibit all practices that might prejudice human rights and freedoms. They hold violating companies, local and foreign, accountable for their actions, under an umbrella of laws related to investment activities and special laws related to oil, gas, and mining. Businesses must abide by their provisions and respect human rights as guaranteed by these laws, under penalty of legal accountability in case of violation. Victims also have the right to sue violators to obtain appropriate compensation for the harm they suffered as a result.

Furthermore, international treaties and conventions related to human rights and ratified by Yemen are considered part of the Yemeni legislative system, in parallel with national laws.⁵⁴

1. Corporate Responsibility towards Human Rights

In the past two decades, Yemen hosted several foreign and transnational companies. However, it did not engage effectively and comprehensively in promoting and protecting human rights and linking them to doing business and achieving development. Clear and specific human rights standards for commercial establishment were not put in place. They were absent from both legal regulations and specific contracts and permits. Yemen failed to develop guidelines that obligate commercial companies to respect internationally recognized human rights, international obligations, and national laws related to human rights or be guided by the United Nations Guiding Principles on Business and Human Rights (UNDOCS 2011). Consequently, several businesses have committed various forms of direct or indirect human rights violations.

Law no. 22 of 1997 on commercial companies⁵⁵ did not explicitly oblige businesses operating in Yemen to take measures in their policies and regulations to respect human rights during the conduct of their business and activities. It merely stated that their activities are legitimate and legal.⁵⁶ However, other legal texts delineate commercial companies' liability to human rights violations.⁵⁷ Civil and criminal laws spell out the liability of businesses towards harmful or illegitimate acts, responsibility for negligence, and remedy. These responsibilities apply to foreign company branches⁵⁸ who are accountable to Yemeni courts. The management of foreign company branches share the same responsibility as those of companies established in Yemen.⁵⁹



Businesses must abide by their provisions and respect human rights as guaranteed by these laws, under penalty of legal accountability in case of violation.

However, clear texts relating to the respect of internationally recognized human rights are absent from the companies law, although such references are included in the Civil, Labor, Environment, Consumer Protection, Standards, and Anti-Corruption Laws. Nevertheless, Yemeni courts usually prioritize Yemeni laws, then Sharia and customs, and then the principles of justice.⁶⁰

2. Corporate Respect for Workers' Rights

Based on Yemeni Labor Codes,⁶¹ commercial establishments must not discriminate between workers on any basis, including nationality. It stipulates the provision of a safe and healthy work environment to ensure workers' physical and psychological safety and health. Minimum wages should also be applied and must not be below those of the public sector and must guarantee a decent standard of living for their families. Equality between women and men in all work conditions, rights, and duties is also ensured. Businesses are also obligated not to deprive workers of their wages, partake in arbitrary dismissals, or mass layoffs without proper legal procedures. Workers are also guaranteed freedom of association, the right to collective bargaining, and the right to union work and joining organizations of their own choosing, in accordance with the relevant laws and regulations, without discrimination and without prior permission or interference in their affairs for the purposes of protecting their professional interests and for other purposes of collective bargaining, as provided for in national legislation and relevant ILO agreements that have been ratified.

3. Corporate Compliance with Health and Safety Standards


Corporations are required by law to comply with health and safety standards in their activities. Such provisions are included in the Consumer Protection Law, the Standards, and Quality Control Law, and the Environmental Protection Law in accordance with recognized international instruments or those issued by the General Assembly of the United Nations.

Commercial companies must operate in accordance with fair practices in business, marketing, and advertising and take all necessary steps to ensure the safety and quality of the goods and services they provide, including the observance of the principle of precaution. They may not produce, distribute, market, or advertise harmful or potentially harmful consumer products (University of Minnesota 2003).

The recently issued Consumer Protection Law⁶² was largely in line with the provisions of the United Nations Consumer Protection Guidelines (UNCTAD 2015). It stipulates that suppliers are required to take the necessary precautions to ensure that the health and safety of consumers are not harmed and that their legitimate rights and interests are not affected. They must also refrain from producing, distributing, displaying, or promoting any good or service harmful to the health or safety of consumers, or concealing their reality or essential characteristics, or selling goods that do not conform to the approved standard specifications.⁶³

In turn, the Law on Standards, Measures, and Quality Control⁶⁴ also required all natural and legal persons, public and private, local and foreign, including individual traders, not to violate the obligations and conditions imposed by the law related to the quality of goods and products manufactured locally or imported from abroad. It also stipulated the need to conform to approved standard specifications, including to refrain from selling fraudulent, expired, or harmful goods.

The Environmental Protection Law⁶⁵ requires that commercial establishments and anyone wishing to establish any activity, project, commercial, or industrial business, whatever their nature, which may result in negative environmental effects, to take all necessary and appropriate measures to prevent the occurrence of any environmental damage or environmental pollution. Priority must be given to the principle of environmental protection and pollution prevention and not merely removing damages after their occurrence or compensating for them. Public institutions and companies are not excluded from these obligations, given that the right to the environment is guaranteed by a constitutional provision that may not be disrupted by any party and the person causing the act is not exempted.⁶⁶



Businesses are required to take the necessary measures in their internal systems and regulations to prevent and combat corruption by their management, employees, or commercial agents and representatives.

4. Corporate Commitment to Economic and Anti-Corruption Laws

The Yemeni Anti-Corruption Law⁶⁷ aims to prevent and combat all forms and types of corruption, prosecute its perpetrators, and consolidate the principle of integrity and transparency in economic, financial, and administrative transactions. It takes all necessary measures to combat corruption as required by national laws and the United Nations Convention against Corruption. The law requires that commercial establishments and companies are obligated not to engage in any acts that constitute financial, administrative, or legal corruption. It includes refraining from bribing or paying any sums to public officials or any party to do or refrain from doing an act in violation of their duties or with the intention of obtaining a commercial benefit in violation of the laws. It also prohibits committing forgery, customs, tax evasion, fraud, tampering with auctions, tenders, and specifications in contracts and agreements with government agencies, doing any work that would prejudice the national economy, economic and social development, or the course of justice, illicit enrichment, or other acts that are considered as corruption crimes stipulated by law.⁶⁸ Businesses are required to take the necessary measures in their internal systems and regulations to prevent and combat corruption by their management, employees, or commercial agents and representatives.

Tax and customs laws also require commercial institutions and companies to pay taxes on the specified dates⁶⁹ and to pay insurance premiums to their employees in accordance with the

Insurance and Pensions Law for the Private Sector.⁷⁰ Companies must also function under the rules of free competition when trading goods and merchandise in a manner that does not harm the interests of consumers or create trade monopolies.⁷¹

5. Corporate Accountability and Remedy Mechanisms for Victims of Human Rights Violations

5.1. Liability for Harmful Actions

Laws are applied to natural and legal persons without discrimination. Businesses, whether established in accordance with national laws, branches of foreign companies, or those that conduct their business under special laws,⁷² are considered legal persons that can be sued for violating laws. They are liable in criminal and civil courts for the damages that may result to third parties due to the business practices and commercial activities, as part of their obligations under national laws and international conventions and treaties ratified by Yemen. The law has made any act harmful to the rights of third parties unlawful and subject to liability.⁷³ In its broad sense, the Law includes various types of provisions, such as those imposed by labor, health, safety, and environmental laws. Article 17 of the Civil Code stipulates that using rights in contravention of the law shall lead to responsibility for the resulting harm. The liability of companies is established by the force of law. Exemption from liability resulting from the illegal act is not permissible.⁷⁴ Company

managers are liable before Yemeni courts for any human rights violation occurring during the exercise of their business, activities, or services.⁷⁵ They are also responsible for any harm caused by subordinate employees,⁷⁶ such as damage to the environment, health and safety of citizens, or agricultural lands due to environmental pollution, production or promotion of harmful goods, acts of corruption, tax evasion, violation of workers' rights, or other harmful acts while conducting business. Company directors and branch managers are also jointly liable with employees or associates.⁷⁷

5.2. Available Means to Remedy Human Rights Violations by Businesses

Businesses operating in Yemen are held accountable in accordance with the procedures stipulated in the Civil Procedures and Execution Law,⁷⁸ which governs all litigation procedures in commercial, civil, criminal, financial, and other matters. These procedures apply to local and foreign businesses whenever they have a domicile or place of residence in Yemen, usually the head office or branch headquarters.⁷⁹ Businesses could be litigated through civil lawsuits by the aggrieved party requesting remedy. Criminal lawsuits are filed through the Public Prosecution.

a) Civil Lawsuits

Compensation claims for violating labor rights provided by the law shall be brought against the violating company before the competent labor arbitration committee at the company's location or place of violation. They include claims against arbitrary termination of employment contracts by the employer, violating the right to healthcare, wages, legal allowances, or overtime pay,⁸⁰ and violating the terms of work stipulated in the work contract, the labor law, or rights guaranteed by

other laws. Furthermore, the Labor Committee may not refrain from considering workers' claims, as the law has made consideration and adjudication of labor cases mandatory for arbitration committees and courts of appeal. Decisions regarding workers' compensation enjoy a privileged right over all the employer's movable and immovable property, and the law prohibits the abrogation of worker's rights.⁸¹ Lawsuits to compensate for harm inflicted by businesses on consumers are among the issues considered by the court of urgent matters and have no statute of limitation.⁸² Consumers whose rights have been violated are entitled to compensation for damages incurred due to harmful practices by businesses.

The courts also consider compensation claims for damages caused to humans due to actions harmful to the environment, under the procedures of urgent matters.⁸³ Such cases have no statute of limitation either.⁸⁴ Environmental protection associations have the right to initiate civil lawsuits against those who commit or contribute to acts harmful to the environment or its natural components. Civil suits are also filed when businesses violate tax and customs laws, the Standards, Measures, and Quality Control Law, the Private Sector Insurance and Pensions Law, or other related laws.

b) Criminal Litigation

The Public Prosecution shall file criminal lawsuits against commercial companies for acts that incur penalties by law without prejudice to the right of the aggrieved to file a civil lawsuit for compensation. Lawsuits are filed against company directors, as per the Criminal Procedure Law.⁸⁵ Criminal cases related to the freedom and dignity of citizens,⁸⁶ corruption crimes,⁸⁷ environmental pollution crimes, and crimes against consumer rights do not have a statute of limitations.

Practices that violate consumers rights, putting their health and safety at risk, intentionally or through

neglect, carry a penalty of at least one year imprisonment. However, harsher penalties can be applied through the Criminal Code, especially in case of the death of the consumer.⁸⁸ Causing harm to the environment can be punished for up to 10 years in prison and appropriate material compensation.⁸⁹

The Law on Standards, Measures, and Quality Control also imposes penalties on commercial establishments and individual importers who produce, market, or sell fraudulent goods causing harm to citizens' health or safety. The penalties include imprisonment, fines, closing the establishment, and confiscating the goods, unless other laws impose a higher penalty.⁹⁰ Corruption crimes carry a sentence of five years imprisonment or fines.⁹¹

6. Obstacles to Remedy of Victims of Human Rights Violations by Private Sector Establishments

Many victims of human rights violations by commercial establishments face legal obstacles in obtaining compensation for the harm they have suffered. Some transnational or multinational companies operating in the oil sector are committed to respecting human rights in their home country. However, these obligations are ignored in countries that suffer from legislative or institutional weaknesses or ineffective procedures for redressing victims. They tend to exploit that shortcoming, attempt to evade human rights obligations, hinder victims from obtaining remedy, and follow conduct inconsistent with the United Nations Guiding

Principles on Business and Human Rights. This is particularly true for businesses based in OECD countries required to abide by the OECD Guidelines for Multinational Enterprises, which stipulates: «A State's failure either to enforce relevant domestic laws, or to implement international human rights obligations or the fact that it may act contrary to such laws or international obligations does not diminish the expectation that enterprises respect human rights (OECD Guidelines for Multinational Enterprises 2011, 32).

6.1. Government Complicity with Commercial and Investment Enterprises

The UN Guiding Principles on Business and Human Rights includes the foundational principle that states: «As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.» However, victims of corporate human rights violations often face administrative and legal obstacles in states that fail to respect their responsibility to protect human rights, violate their national legislation, and fail to fulfill their international obligations as per ratified conventions and treaties. Yemen is no exception to this feature of many developing and underdeveloped countries, especially those with corrupt regimes. In 2019, Yemen was ranked 176 in Transparency International's Corruption Perceptions Index. Government practices contributed to impeding victims of human rights violations by businesses from accessing remedy, both before and after the violation had occurred.

a) Government Obstruction of Remedy for Corporate Human Rights Abuses

The government has been complicit in obstructing remedy for corporate human rights abuses by intervening to assist violating companies and hindering victims from seeking redress. In the case filed by the workers' union of Canadian Nexen Petroleum Yemen, which operates Oil Sector 14, before the labor arbitration committee, the Minister of Finance asked the Minister of Social Affairs and Labor for personal intervention to stop the proceedings. The suit had called for financial dues and compensation to the company's workers in the amount of \$242,505,196. The government justified its intervention by saying it was preserving public money and did not want to adversely impact the petroleum industries and investment in the country. Furthermore, it decided to prosecute the workers for exercising the right to strike, claiming that the workers' demands had no legal basis and that their claim was contradictory and inconsistent.⁹²

The union's claim against the company that operates Oil Sectors 14 and 51⁹³ dates back to 2007, regarding the settlement of their dues from wages, annual increases, risk allowances, incentives, and improvement of working conditions and environment, in accordance with what is stipulated in the Labor Law and agreement between the company and the Yemeni government. Between 2007 and the end of 2011, the workers and their union fought a long battle to defend rights violated by the company. They held several meetings with management and reached several agreements under the auspices of the Ministry of Petroleum. However, the company reneged on those agreements related to obligations towards employees, especially paying their dues before the end of the production sharing agreement in December 2011.

In 2012, Oil Sector 14 was handed over to PetroMasila⁹⁴ without paying the dues. The workers were thus forced to resort to the courts. The Canadian Nexen Yemen Union filed a lawsuit before the Labor Arbitration Committee against both companies for the amount mentioned earlier, to be paid jointly and individually. The suit also demanded that Canadian Nexen Petroleum Yemen (Sector 14) and Canadian Nexen Petroleum Sharq al-Hajar (Sector 51) pay dues amounting to \$253,514,170, in addition to \$100,000 per worker for depriving them from work during that period.

Adverse Impact of Government Obstruction

The government's intervention to obstruct the Canadian Nexen workers' case before the Labor Arbitration Committee is a flagrant violation of human rights, national laws, and international conventions and treaties ratified by Yemen. It has several negative effects on human rights and their protection. According to UN Guiding Principle 26 on Business and Human Rights: «States should ensure that they do not erect barriers to prevent legitimate cases from being brought before the courts in situations where judicial recourse is an essential part of accessing remedy or alternative sources of effective remedy are unavailable. They should also ensure that the provision of justice is not prevented by corruption of the judicial process, that courts are independent of economic or political pressures from other State agents and from business actors, and that the legitimate and peaceful activities of human rights defenders are not obstructed» (UNDOCS 2011).

In light of its inability to resolve grievances suffered by workers early and before the end of the production agreement, the Yemeni government should not have used its influence to impede victims of violations from accessing judicial remedy. The government, however, decided to abandon its responsibility to protect human rights related to business as stipulated in the Constitution, national

laws, and ratified international charters, including ILO conventions. Thus, it encouraged commercial enterprises to practice human rights violations during the conduct of their business without regard to national laws, which makes victims feel deprived of the protection of national law and the state's duty in protecting their rights.

b) Obstruction of Remedy by Transnational and Multinational Investment Companies

Since the discovery of oil in the early 1980s, Yemen has attracted several transnational and multinational companies working on oil and gas exploration and production. These companies employ many local and foreign workers, employees, and technicians. They conduct their business and activities according to a standard agreement issued and enforced by law, which holds them, their contractors, and subcontractors accountable to all enforced Yemeni laws, legislation, and regulations that do not conflict with the provisions of the agreement.

Oil investments play a key role in sustainable development by providing the state with financial resources to develop economic, political, and social conditions, improve living standards, combat poverty and unemployment, develop institutional structures, and set plans for the optimal utilization of human and material energies in various areas of development. However, some oil companies have committed several human rights violations. One important example occurs when companies stop their work suddenly and withdraw from the area of operations through unilateral decisions. Therefore, they fail to abide by their legal obligations, especially with regard to human rights and the environment or damages resulting from violation of the provisions of production-sharing agreements and national laws, forcing

the government to file international arbitration cases in accordance with such agreements. Such actions are a result of several legal and institutional loopholes that companies exploit to evade responsibility, namely the absence of a legal text obligating them to respect human rights in accordance with international instruments, the UN Guiding Principles on Business and Human Rights, or their own countries' legislation, particularly OECD countries. The provisions of the agreements supersede those of other laws.⁹⁵ It allows companies to take advantage of the absence of government agencies working to monitor and evaluate the respect of human rights during operations.

International Arbitration

International, regional, and local arbitration is generally considered appropriate to resolve disputes between investors and the state in a contractual relationship. However, some oil companies and investors have used the international arbitration clause as a means to evade human rights and the environmental obligations, including workers' rights, environmental damage, tax evasion, and other obligations under national laws.

Businesses should address the adverse human rights impact of their activities independently from disputes with the government, especially workers' rights and environmental harm to local communities in their area of operations and property. Human rights commitments need to be addressed separately, from taking necessary measures to prevent harm and ensure remedy. UN Guiding Principle 11 on Business and Human Rights in the section on Corporate Responsibility to Respect Human Rights states: «Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address

adverse human rights impacts with which they are involved.» On the other hand, Principle 23(c) states that corporations must «treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.» Therefore, human rights abuses must be addressed where they occur, given the complexity of remedy through international arbitration where workers are in a weak position.

The Yemeni government filed several international arbitration cases against oil and other investment companies for violating national laws and the production sharing agreement. They included tax evasion, environmental harm, and technical violations of the rules of international oil production. However, the government and the companies continue to ignore workers and environmental rights. For example, the government filed an arbitration case against Canadian Nexen Petroleum in Oil Sector 51 at the International Chamber of Commerce in Paris, regarding the company's abandonment of operations in violation of the production sharing agreement, demanding back taxes and compensation for technical damages. However, the case was resolved through a financial settlement amounting to merely 10% of the claim, in return for the government's waiver of any current or future demands, obligations, or responsibilities arising from the company's operations.

Multinational Companies

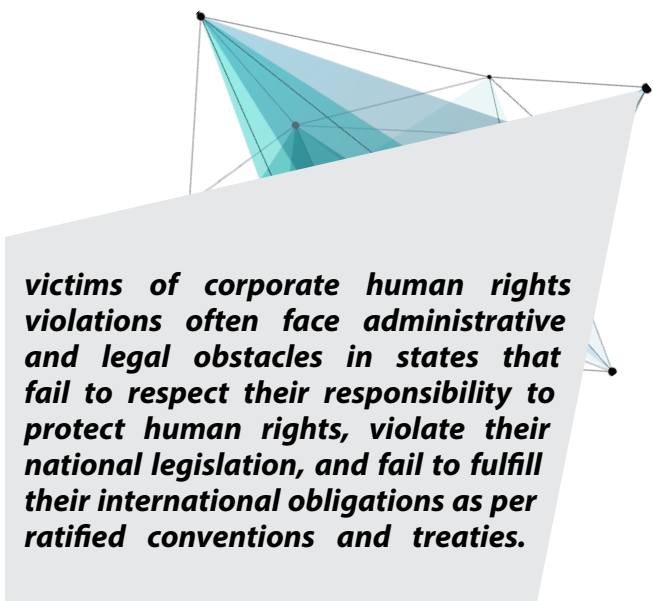
Oil companies based in other countries operate in Yemen through subsidiaries with an independent legal personality. They are often established under multiple nationalities and are dissolved after completing their mission, withdrawing from the project, or the end of the production sharing agreement. However, production sharing agreements do not require companies to open branches or establish subsidiaries as stipulated in the Companies Law or the Law on Branches of

Foreign Companies. They merely need to open an office in the country during the contract period to receive notices and record activity accounts as per Articles 10 and 13(1) of the standard agreement. Consequently, court orders in favor of victims of human rights abuses are very difficult to execute.

7. Case Study: Workers at the Norwegian Oil Company DNO Yemen ASA

The case against Norwegian oil company DNO Yemen ASA, which operates Oil Sectors 32, 43, and 47 in Hadramout province, continues to stir controversy at the local and international levels. The case was brought forward by the Union representing 175 DNO employees and workers who were dismissed collectively through SMS and email without receiving their wages and dues or consulting the union. DNO had announced the suspension of its operations in Yemen on April 26, 2015. It took advantage of the state of war and the political situation to evade responsibilities towards workers and in violation of the provisions of the laws and the production sharing agreement. The Labor Arbitration Committee issued a preliminary decision (No.1 on 3/8/2016), which explicitly obligated DNO to pay the 175 workers a total of 1,519,804,260 riyals, covering 23 months and their return to work. The company's appeal of the decision was rejected by the Appellate Court, which issued a ruling on 26/4/2017 to confiscate the company's property and assets in Sanaa. It also delegated the Mukalla and Seiyun courts in Hadramout to confiscate its property and equipment in Oil Sectors 32, 43, and 47 to fulfil its obligations, rehire the workers, or dismiss them fully or partially according to the law. However, the company continues to evade the ruling, despite failing in its appeals.

Since the company was based in Norway, an OECD member, the case became a public opinion issue and an international solidarity campaign was launched by the Industrial Global Union. On 9/4/2018, OECD found that DNO had failed to comply with OECD guidelines related to notifying workers and negotiations prior to dismissal or suspending production (International Global Union 2018). It also failed to comply with its home country's legislation, local laws, and the UN Guiding Principles on Business and Human Rights. Implementing the court decision was further complicated by the fact that the company did not leave behind any money, property, or financial balances. Oil assets and facilities belonged to the Ministry of Petroleum, which also provided bank guarantees. The workers continue to strive for their rights. However, their situation has been deteriorating due to the situation in the country. As of April 2020, five of those workers had died without receiving compensation (alyoum8.net 2020).



victims of corporate human rights violations often face administrative and legal obstacles in states that fail to respect their responsibility to protect human rights, violate their national legislation, and fail to fulfill their international obligations as per ratified conventions and treaties.

8. Recommendations

- Amend the Commercial Companies Law, commercial laws, and laws related to the practice of business to include clear and binding texts on the respect of human rights during the conduct of their business and services in accordance with what is stipulated in national legislation and ratified international agreements, and that their policies and regulations include appropriate related measures.
- Establish the National Institution for Human Rights in accordance with the Paris Principles, whose establishment failed in 2014, as a reference for the implementation of human rights by public governmental institutions, civil and commercial private sector institutions, and local, foreign, transnational, and multinational companies operating in Yemen.
- Establish a special human rights court to consider cases of violations of civil, political, economic, social, and cultural rights and the right to the environment.
- Re-establish labor arbitration committees, headed by a judge appointed by the courts, independent in its decisions and functions, and free from domination or influence of the executive authority.
- In agreements concluded with companies under special laws, include a clear and specific text on respecting human rights as stipulated in national laws and international instruments recognized by the States of the parties, including the State of the subsidiary company and the parent company.
- In business agreements with the government, grant victims of business-related human rights abuses the right to pursue and sue commercial companies according to the law of their nationality, country of headquarters, or place of business, whichever is best for the victim.
- Harmonize Yemeni national legislation with ratified international instruments, removing contradictions and ensuring coverage of all sectors, especially the local and foreign commercial sector, with regard to business respect for human rights and the environment, guided by the UN Guiding Principles on Business and Human Rights and other relevant UN documents.
- Integrate environmental, social, and human rights policies into educational curricula, development plans, and when preparing projects implemented by public or private institutions and companies.
- Adopt the necessary institutional measures to bridge the gap between legal provisions and implementation.

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- 53 المرجع السابق، ص 14، 15، 16.
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- 55 Law no. 22 of 1997 on commercial companies, amended by Law No.15 of 1999 and No.12 of 2001.
- 56 Article 8 of Companies Law.
- 57 Article 3 of Companies Law: “This law shall be considered part of the trade law and is applicable to all commercial companies established and headquartered in the republic.”
- 58 Article 39 of Law of Foreign Agencies and Company Branches: “The laws of the republic apply to all foreign company branches and houses.”
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- 64 Law on Standards, Measures, and Quality Control, No.44 of 1999.
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- 71 Law No.19 of 1999 on promoting competition and preventing monopolies and commercial fraud, Article 3.
- 72 Civil Code, Articles 24, 36, 87.
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- 85 Criminal Procedure Law, No.13 of 1994, Article 17.
- 86 Criminal Procedure Law, Article 16.
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- 89 Environmental Protection Law, Article 85.
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- 91 Anti-Corruption Law, Article 41.
- 92 Minister of Finance Memo to the Minister of Social Affairs and Labor on 21/7/2012 (569- 110_{٣,٤}).
- 93 Canadian Nexen operates Oil Sectors 14 and 51 through two companies with one administration, Canadian Nexen Company Yemen (Sector 14) and Canadian Nexen Company Sharq al-Hajar (Sector 51), and employs around 900 Yemenis.
- 94 PetroMasila is owned by the state and established by Council of Ministers Decision 244 of 2011, on 18/12/2011, during Session 44 on 22/11/2011.
- 95 Production Sharing Agreement, Article 24.