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REPORT FROM
YEMEN'S POLITICAL TRANSITION:
CHANGING THE STATUS QUO?
ROUNDTABLE

Roundtable Series Report

May 2012



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ROUNDTABLE**

May 14, 2012

On May 14, 2012, the Public International Law & Policy Group (PILPG), and the Rafik Hariri Center for the Middle East at the Atlantic Council, hosted a roundtable featuring Mr. Munir Daair to discuss the background of, challenges to, and milestones involved in Yemen's political transition. Mr. Daair is the co-founder of the Democratic Awareness Movement, a Yemen civil society organization (CSO) focused on Yemen's democratic transition, as well as the chairman of Injaz Al Yemen, a CSO created by Yemen's business community and affiliated with the Pan-Arab group, Injaz Al Arab, dedicated to training youth to become tomorrow's business leaders. Mr. Daair related his perspective on the prospects for a successful two-year transition period in Yemen and highlighted the key challenges and opportunities for long-term stability.

The discussion that followed Mr. Daair's presentation focused on the role of youth and civil society in the transition process, particularly with respect to the constitutional reform process, as well as issues surrounding the position of the South, security sector reform, and opportunities for international assistance.

Context

After protests broke out in Yemen in January 2011, months of revolution and public debate yielded a framework brokered by the Gulf Cooperation Council (GCC), popularly known as the GCC Initiative, to facilitate a transition of power and the creation of a democratic state. The framework, signed on November 23, 2011, called for Yemen's president of thirty-three years, Ali Abdullah Saleh, to step down and set forth a series of objectives to implement presidential and parliamentary elections, security sector reform, a National Dialogue, and constitution-drafting and referendum processes. As a member of Yemen's civil society and business community, Mr. Daair shared his perspective on the state of the GCC Initiative's implementation, as well as what is necessary to ensure that the transition is successful.

Discussion and Lessons Learned

1. Rebuilding Governance Institutions

Mr. Daair expressed the imperative to address the overall mismanagement of the relationship between the North and South during the transition process. On this point, Mr. Daair emphasized the importance of establishing democratic and properly functioning governance mechanisms, promoting respect for the rule of law, and instilling protections for civil rights, such as freedoms of the press and information, to benefit all Yemenis.

2. The National Dialogue and Constitution-Drafting Processes

Mr. Daair suggested that a fundamental challenge to the transition is the role of the political parties and the extent to which they can commit themselves to a non-partisan national agenda. He asserted that their individual political agendas and the feeling of exclusion by certain political players may undermine the National Dialogue and constitution-drafting processes. Mr. Daair asserted that the National Dialogue must be inclusive, ensuring adequate representation of and input by all stakeholders—including the youth, Houthis, and southerners. Participants expressed concern about the recently appointed committee tasked with implementing the National Dialogue, and argued that it is under-representative and, in fact, serves to marginalize key groups whose participation is necessary to ensure a peaceful transition and stable future—including the youth, Houthis, and southerners. Other concerns articulated included that the members of the committee are part of the old regime of political elite and that the lack of broad-based representation within the committee itself may serve to undermine the legitimacy of the Dialogue, which is supposed to set the stage for the constitution-drafting process.

Mr. Daair commented that there is a lack of technical capacity within Yemen to draft a constitution that embodies the rule of law, creates effective, democratic state institutions, and protects fundamental rights. He hopes that the new constitution will create a presidential system and a federation with multi-regional representation. Some participants agreed that there exists a fundamental misunderstanding about the distinctions between a presidential, semi-presidential, and parliamentary system, and provided that checks and balances enumerated within the constitution may serve to allay fears about the presidential system in light of fears of a dictatorship emerging out of it. Mr. Daair called on the international community to provide assistance to the drafters to ensure they adequately understand the concepts they seek to incorporate into the new constitution.

3. Security Sector Reform: From Warlords to a Professional Military

Yemeni participants at the roundtable generally agreed with Mr. Daair that one of the most significant factors contributing to former President Saleh's ability to maintain a dictatorship was the political structure and misuse of the military. Mr. Daair argued that security sector reform is imperative to the success of the transition. Mr. Daair explained that, until recently, the military has been used as Saleh's personal security force, with soldiers owing allegiance to the former president and his family rather than to the people of Yemen. At present, competing factions of the security sector, including those trained to be elite counterterrorism forces, are camped in Sana'a to influence the balance of power during the transition process. Mr. Daair thus suggested that the military be reorganized under a unified command with civilian oversight. The military should also shift its focus from internal to external security, remove politically-motivated leadership, and ensure accountability and professional conduct of its soldiers.

In addition to the systemic problems within the security sector, Mr. Daair also urged the need for reform in light of the negative role the security forces played in the uprisings. During the 2011 protests, the protestors were determined to lead a peaceful revolution, illustrated on numerous occasions when the youth at protesting sites searched incoming protestors to ensure they carried no weapons. In Mr. Daair's opinion, the military was not prepared for the Yemeni population's nonviolent strategy in the face of violent provocation by former President Saleh's government, which gave rise to over 2,000 civilian deaths during the revolution. By maintaining its nonviolent character, the protest movement was eventually able to remove Saleh from power, but Yemenis still have a negative perception of the security sector as a tool for political manipulation and human rights abuses. Participants generally echoed the sentiment conveyed about the security forces, but some argued that their reform must precede further implementation of the GCC Initiative because they can serve as spoilers in the transition process.

4. Engaging and Empowering Yemeni Youth and Civil Society

One of the most prominent threads of the roundtable was the importance of Yemen's youth and civil society during the transition. Mr. Daair emphasized that Yemen's 2011 revolution was different than political and military uprisings in the past. The youth and women led this revolution. Due to the legitimacy these two groups gained from the successful movement, Yemen's civil society and youth will be fundamental to securing and maintaining the transition. Mr. Daair stressed that the creation of government institutions must be led by civil society through a coalition of independents and technocrats in order to build institutions on a

national, rather than partisan basis, as political parties do not have the credibility or capacity to build these institutions in a non-partisan way. Civil society itself has evolved during the revolution and is now more active, but further capacity-building is still necessary to ensure civil society can not only participate in the National Dialogue and constitution-drafting processes, but also serve as a check on government power for the long-term. Mr. Daair asserted that the youth population, which is scattered across issues and political platforms, may improve their influence in the transition process by better organizing themselves. He respects the criticisms by the youth of the GCC Initiative, but called on them to work within its framework, as it is the only available option at the moment.

Participants from Yemen's civil society and youth expressed their hopes, as well as their concerns with respect to the National Dialogue process, the remaining implementation of the GCC Initiative, and the prospects for accountability and real democratic change. In particular, one participant representing Yemen's youth expressed her doubt in the process after having seen how the formation of the committee tasked with implementing the National Dialogue largely failed to reflect the aspirations of the uprisings that made the transition possible in the first place. Mr. Daair likewise related that attaining true national dialogue is far away and noted that the outreach committee did not adequately represent the Yemeni youth. Mr. Daair emphasized that the youth must be included in the National Dialogue and suggested that international influence could help shape the youth's perceptions and keep them engaged. In addition, he argued that the youth should also be helped to organize themselves and hold one or more youth conferences to produce a "Youth Charter" to synthesize their demands and incorporate into the National Dialogue.

5. Establishing a Federal State Structure and the Position of the South

Mr. Daair related his view of the south, and expressed his discontent with those who try to label southerners as champions of secession or separation. Mr. Daair, who is from the south (Hadramaut), explained that, compared with many other states, Yemen has always had a very strong national identity. Several participants echoed this perception. Mr. Daair believes that southerners are not seeking disengagement from Yemen because of any belief that the south is truly different from the rest of Yemen, but rather because of the way former President Saleh deliberately mismanaged Yemen as a whole and because of the many wrongs committed against the south. To this point, Mr. Daair asserted that the "disengagement" movement has no majority following, and that many southerners, such as himself, are staunchly opposed to any kind of separation from Yemen. The

problems of the union must be discussed within the Yemen context and not north-south context, but it will not succeed unless it addresses fairly the grievances of the southerners, as well as the Saada Houthi and youth.

In light of his view of the south, and considering the strong tribal system in Yemen, particularly in the north, Mr. Daair suggested the development of a federal system. He recommended a multi-provincial system within one federal state to account for the distinct needs of disparate geographical areas rather than creating a north-south divide. Mr. Daair fears that a two-state federation would risk tearing the state in two and plunging it back into the civil war that arose in the 1990s. By creating a federation that properly accounts for the demands of the south, Yemen may maintain its unity and move forward with this nascent democratic transition. Participants were receptive to the creation of a federation, and criticized the overly vague distinction often drawn between the north and south.

6. Counterterrorism Efforts in Conjunction—Not Competition—With Economic Development

Mr. Daair explained that the international community's primary focus in Yemen on counterterrorism efforts is being undermined by its lack of attention to democracy and governance initiatives, as well as economic development. Mr. Daair described how economic and social policies under multiple dictatorships throughout Yemen's history aimed to keep citizens economically and socially marginalized; thus creating a society incapable of resisting dictatorship. Therefore, despite abundant natural resources, such as oil and natural gas, Yemen remains characterized by wealth disparity and the absence of a middle class. Mr. Daair pointed out that the substantial gap between Yemen's classes, as well as the government's inability or unwillingness to provide basic services generates support for terrorist organizations. Thus, he explained, counterterrorism efforts should be complementary to, and in conjunction with, concerted programs to rebuild and develop the economic, social, and governmental capacity of Yemeni citizens and leaders.

Participants from Yemen generally agreed that the current drone policy seemed to absorb the majority of the United States' energy with respect to Yemen to the detriment of potential programmatic assistance that could help create the economic and political conditions that would prevent groups like Al Qaeda in the Arabian Peninsula operate in Yemen. Mr. Daair highlighted the fact that the drone attacks, however well intentioned, are creating civilian casualties and radicalizing youth. Participants also criticized the deployment policy regarding Yemeni

security forces capable of combating the extremist forces operating in the south, which are instead camped in and around Sana'a in an effort to buttress the political influence of their respective leaders during Yemen's transition to the post-Saleh era.

7. Role of the International Community

Mr. Daair emphasized that international partnerships, capacity-building efforts of transition leaders, and civil society empowerment will be critical for a successful transition. He also acknowledged the support of the GCC, particularly Saudi Arabia, and expressed hope that this support continues. In general, Mr. Daair conveyed his gratitude for what he viewed as generally unified support from the international community throughout the uprisings. Despite this support, however, Mr. Daair indicated that the people of Yemen could benefit from additional international assistance on a variety of levels.

During the open discussion and question session, participants representing international organizations and government agencies expressed a willingness to support Yemen, though some conceded their lack of understanding on the best way to do so. Mr. Daair indicated that international involvement in training programs for both the constitutional reform process, as well as for the general transition would be particularly helpful. Specifically, programs should provide substantial training in building democratic governance institutions and training members of parliament on the democratic process—particularly on matters of government, legislative affairs, and parliamentary issues.

Additionally, Mr. Daair pressed the importance of educating the youth on international affairs and societies, and training civil society on children and women's rights. Thus, in addition to general programs aimed at training civil society and political leaders, Mr. Daair also suggested establishing "train the trainers" programs so that individuals throughout Yemen can receive training and return home to train their local populations on effective participation in the political process and civil society participation.

8. Immunity of Former Officials and the Potential for Accountability

At least one participant from Yemen expressed his discontent with the immunity given to former officials, namely former President Saleh, as part of the GCC Initiative. Mr. Daair echoed that the amnesty granted to former government officials is a concern. He explained, however, that the immunity provided is a

judicial matter, not a political issue, and should not be used to derail the political transition or benefit the accused by politicizing the judicial process. Thus, Yemen must build an independent and transparent judiciary and consider using courts outside Yemen to prosecute members of Saleh's regime for crimes committed during his reign.

9. Viewing Yemen's Transition through a Long Term Lens

Although the GCC Initiative only involves a two-year transition period to achieve its goals, the participants agreed that the transition will likely take longer. Building governance institutions and establishing a constitution are the most critical aspects of the short-term transition. In addition to these short-term goals, Mr. Daair cautioned that the international community should not rush the transition and reiterated the importance of moving beyond a revolutionary victory to a long-term successful transition.

About the Public International Law & Policy Group

The Public International Law & Policy Group, a 2005 Nobel Peace Prize nominee, is a non-profit organization, which operates as a global *pro bono* law firm providing free legal assistance to states and governments involved in peace negotiations, drafting post-conflict constitutions, and prosecuting war criminals. To facilitate the utilization of this legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution.

PILPG's primary practice areas are:

- **Peace Negotiations**
- **Post-Conflict Constitution Drafting**
- **War Crimes Prosecution**
- **Policy Planning**
- **Democracy and Governance**
- **Water Diplomacy**

To provide *pro bono* legal advice and policy formulation expertise, PILPG draws on the volunteer services of over sixty former legal advisors and former Foreign Service officers from the US Department of State and other foreign ministries. PILPG also draws on *pro bono* assistance from major international law firms including Baker & McKenzie; Covington & Burling; Curtis, Mallet-Prevost, Colt and Mosle; DLA Piper; Sullivan & Cromwell; Steptoe & Johnson; Milbank, Tweed, Hadley & McCloy; WilmerHale; Vinson & Elkins; and graduate international affairs and law students at American University and Case Western Reserve Schools of Law. Annually, PILPG is able to provide over \$10 million worth of *pro bono* international legal services.

Frequently, PILPG sends members in-country to facilitate the provision of legal assistance and its members often serve on the delegations of its clients during peace negotiations. To facilitate this assistance, PILPG is based in Washington, DC and has points of contact in New York City, Boston, Seattle, Cleveland, London, Paris, Rome, The Hague, Stockholm, Belfast, Krakow, Budapest, Zurich, Tbilisi, Kabul, and Nairobi.

PILPG was founded in London in 1995 and moved to Washington, DC in 1996, where it operated under the auspices of the Carnegie Endowment for International Peace for two years. PILPG currently maintains an association with American University in Washington, DC, and Case Western Reserve University in Cleveland, Ohio. In July 1999, the United Nations granted official Non-Governmental Organization status to PILPG.