

YEMEN LEGAL COUNTRY PROFILE

LEGAL SYSTEM OVERVIEW

The Yemeni legal system is a mixed system of Islamic Law, Napoleonic law, customary law and English common law, although the system is, in reality, in flux. The constitution is supreme in Yemen, which is explicitly stated in the 2015 Draft Constitution.¹ Nevertheless, this was rejected by the Houthi side, who prefer a two-region solution which allows them to dominate northern Yemen, over the proposed six-region federal system. As such, currently the 2001 Constitution remains the *de facto* supreme law. The role of Islam in the Yemeni legal system is clearly defined in both texts: Islam is the state religion and Islamic Sharia is defined as the source of legislation. Currently the House of Representatives holds full legislative power, but under the 2015 Draft a bicameral system is suggested, with a House of Representatives and a Federal Council forming the National Assembly.² Article 149 of the current Constitution defines the independence of the judiciary and its autonomous nature.³

Nevertheless, the judiciary faces serious problems over its independence. Judicial corruption is widespread with bribes and irregular payments often being exchanged for favourable court rulings. Patronage systems also interfere, particularly in commercial disputes, whilst the judiciary is highly susceptible to political interference. Anti-corruption legislation has major loopholes and it is poorly enforced.⁴ Furthermore, the state judiciary is weak and in much of rural Yemen, customary tribal law is resorted to, with cases settled by tribal elites. This system is widely seen by Yemenis as more transparent, efficient and effective than the state judiciary.⁵

Major domestic legislation includes the 1992 Civil Code. It covers a wide range of topics including contracts, torts, sale of goods, insurance, tenancy and possession. The Code also grants specified limits to which judges may apply Sharia and customary law in civil cases: the implementation and interpretation of these though lies with each individual judge. The Civil Procedure Code lays out the provisions relating to the enforcement of local and foreign judgements, although the latter are rarely enforced: Yemen is not a signatory to the 1958 New York Convention. Meanwhile, the Criminal Code defines the scope of punishment for a range of offenses; These can include capital punishment for Islamic *hudûd* offenses, such as apostasy and blasphemy, although this rarely occurs.⁶ Nevertheless, the rule of law is weak and highly geographically dependent. Arbitrary arrests and abuse of power by law enforcement officials occur across the country, whilst extra-judicial detention centres have been reported in Houthi territory.

Yemen is a signatory to a number of international treaties, such as the Geneva Convention, United Nations Convention Against Corruption and the Biological and Chemical Weapons Conventions. Yemen is also a member of a number of international organisations including the Organisation of Islamic Cooperation, World Health Organisation and the International Centre for the Settlement of Investment Disputes. Despite the 2001 Constitution and 2015 Draft conforming adherence to 'generally recognised' principles of international law, such as humans rights, violations have been found to occur, and overall the current political situation means adherence to international law is poor.⁷

¹ Article 391, <http://www.constitutionnet.org/sites/default/files/2017-07/2015%20-%20Draft%20constitution%20%28English%29.pdf>.

² <http://www.constitutionnet.org/sites/default/files/2017-07/2015%20-%20Draft%20constitution%20%28English%29.pdf>.

³ https://www.constituteproject.org/constitution/Yemen_2001.pdf?lang=en.

⁴ <http://www.business-anti-corruption.com/country-profiles/yemen>.

⁵ http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_191212_DEF.pdf.

⁶ http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_191212_DEF.pdf.

⁷ https://www.constituteproject.org/constitution/Yemen_2001.pdf?lang=en.

BUSINESS SECTOR

The civil war combined with the fall in oil prices has crippled Yemen's economy, as GDP has fallen to US\$25.67 billion from US\$43.23 billion in 2014. Indeed, 2015 saw real GDP contract by 28.1% and real GDP growth currently remains negative.⁸ The consequences of the civil war and the depletion of oil reserves have severely curtailed Yemen's ability to produce hydrocarbon products, which account for over 70% of its exports.⁹ Positive economic forecasts are predicted, although these are highly dependent on the course of the civil war and any conflict resolutions which may arise.

The poor economy, conflict, weak state, lack of infrastructure and corruption, amongst other factors, all prove to be major obstacles to conducting any sort of commercial business in Yemen. Yemen ranks 186 of 190 in the World Bank's Ease of Doing Business Index.¹⁰ There are also a number of sanctions by Western nations in place against a number of Yemeni citizens and firms, as well as a UN arms embargo directed against non-governmental forces, such as the Houthis.

Current commercial opportunities are severely limited. The Yemeni General Investment Authority (GIA) reported that in 2016 just US\$65.12 million was invested into Yemen, predominantly in the extractive, construction and manufacturing sectors.¹¹ Currently international aid is a primary source of state financing as public accounts remain severely depleted. Humanitarian organisations have replaced the state in regions which have seen heavy fighting and health crises.¹² Even these organisation's ability to operate within Yemen are dependent on the Saudi-led coalition's decisions to open or close Yemen's airspace and ports, both of which were temporarily shut in the wake of the Houthi missile fired toward Riyadh on 4 November 2017. As such, currently most foreign organisations operating inside Yemen are those humanitarian NGOs and the UN. Nevertheless, the long term, that is post-conflict, there may be opportunities. Yemen is geo-strategically important; thus it is likely that a number of Arabic and Western countries will provide financial backing to the future nation. Significant reconstruction will be required, currently estimated at US\$19 billion.¹³ Before the conflict the GIA had outlined areas of investment opportunities in a number of sectors including energy and transport infrastructure, extractive industries, the health sector and the tourism industry.¹⁴ Given the destruction caused by the conflict, the investment needed in these sectors will only increase once a conflict resolution is found.

SECURITY SITUATION

The security threat in Yemen is severe. Military operations continue across the country by and against a variety of actors. Houthi rebels and forces loyal to former President Saleh have continued to clash with forces of the internationally recognised Hadi government, whilst the Saudi-led coalition have continued to provide direct military assistance to the latter. This conflict has also extended offshore. Furthermore, US counter-terrorism operations, against al-Qaeda in the Arabian Peninsula (AQAP) and Daesh-Yemen, are ongoing.

Owing to the conflict, the quality of law enforcement is low. Weapons are widely available and seemingly criminal acts may be linked to terrorism. Tribal disputes are common, including in metropolises, and may involve the use of small-arms. The risk of kidnap or arbitrary detention by

⁸ <http://www.imf.org/external/datamapper/NGDPD@WEO/YEM>; http://www.imf.org/external/datamapper/NGDP_RPCH@WEO/YEM.

⁹ <https://atlas.media.mit.edu/en/profile/country/yem/>.

¹⁰ <http://www.doingbusiness.org/data/exploreeconomies/yemen>.

¹¹ <http://www.investinyemen.org/ndetails.php?c=178&langid=2&pageid=9>.

¹² <https://globaledge.msu.edu/countries/yemen/risk>.

¹³ <https://globaledge.msu.edu/countries/yemen/risk>.

¹⁴ <http://www.investinyemen.org/mcontent.php?p=5&langid=2&pageid=5>.

militias, terrorists, criminals or tribes remains high and in particular a number of kidnappings have resulted in the death of the victims.¹⁵ There is also a threat of piracy in Yemen's territorial waters.

The terror threat is also severe, and further heightened in isolated areas where AQAP have strong tribal connections. Daesh also have a presence in Yemen. Both groups have enacted a large number of attacks through a wide variety of methods, including suicide bomb attacks, car bombings, firearm attacks and the use of improvised explosive devices. Attacks thus far have widely been focused on Houthi and the Aden governments, and security forces, although Western concerns are also likely to be viewed as targets.¹⁶

COUNTRY OVERVIEW

The Republic of Yemen is located in the south of the Arabian Peninsula neighbouring Oman and Saudi Arabia. It has a population of 28.04 million people, making it the 48th most populated country on Earth. The vast majority of this population inhabit the Asir Mountains, located in the far west of the country, including the capital Sana'a, which has a population of 2.96 million inhabitants. The strategic southern port city of Aden forms the other major urban centre, with a population of 882,000 denizens. Arabic is the official language, although Mahri is widely spoken in Eastern Yemen and the distinct Socotri language is used on the Socotra Archipelago. 99% of the population are Muslim, with an estimate of 65% adhering to Sunni Islam, and 35% following Shi'a Islam.¹⁷

Yemen is classified as a very high-risk country, politically and economically. Indeed, the Fragile States Index currently lists Yemen as the fourth most fragile state in the world.¹⁸ The security situation is dire owing to the civil war which broke out in March 2015, and the Gulf Cooperation Council's military intervention to restore President Hadi's government. The threat of terrorism is also severe. Over 10,000 people have been killed as a result of the conflict, and 18.8 million need humanitarian aid.¹⁹

Yemen is one of the most corrupt countries in the world, being ranked at 170 of 176 countries by Transparency International's 2016 Corruption Index.²⁰ Corruption exists across the state and society; Nepotism and patronage networks are widespread as are bribery and extortion.

The Yemeni economy has been drastically hit since the 2014 fall in oil prices and the onset of the civil war in 2015. GDP has fallen from US\$43.23 billion in 2014 to US\$25.67 in 2017, whilst real GDP growth has remained negative since 2014. Although forecasts are positive, they are highly dependent on the oil price and conflict resolution.²¹

Yemen is officially a presidential republic, although the CIA World Factbook currently defines it as 'in transition.'²² The current internationally recognised President is Abd Mansour Hadi, elected in 2012. In 2014, however, Houthi rebels allied with forces still loyal to former President Saleh and staged an armed takeover, capturing Sana'a and forcing the government into exile. In 2016 the Houthis and Saleh's political party formed the Supreme Political Council, followed by the National Salvation

¹⁵ <https://www.gov.uk/foreign-travel-advice/yemen/terrorism>.

¹⁶ <https://travel.state.gov/content/passports/en/alertwarnings/yemen-travel-warning.html>.

¹⁷ <https://www.cia.gov/library/publications/the-world-factbook/geos/ym.html>.

¹⁸ <http://fundforpeace.org/fsi/data/>.

¹⁹ <https://globaledege.msu.edu/countries/yemen/risk>.

²⁰ https://www.transparency.org/news/feature/corruption_perceptions_index_2016.

²¹ <http://www.imf.org/external/datamapper/NGDPD@WEO/YEM>; http://www.imf.org/external/datamapper/NGDP_RPCH@WEO/YEM.

²² <https://www.cia.gov/library/publications/the-world-factbook/geos/ym.html>.

Government, neither of which has been recognised.²³ The conflict has continued since, with significant military involvement from Saudi and UAE led Arab coalition, backed by Western powers. Islamist groups have also gained footholds in Yemen, filling the political-military vacuum in rural areas. This is particularly true of AQAP, who have a presence across large areas of central Yemen.



²³ <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.