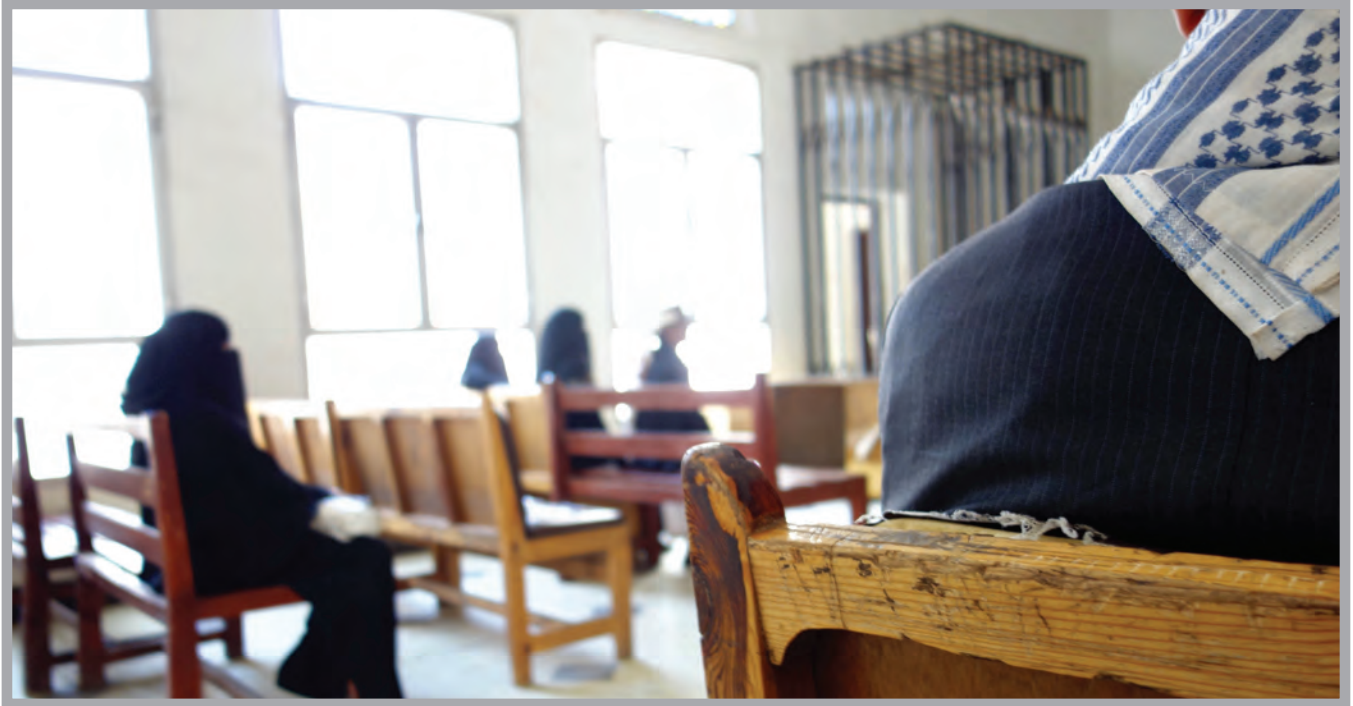


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## JUSTICE IN TRANSITION IN YEMEN

A MAPPING OF LOCAL JUSTICE  
FUNCTIONING IN TEN GOVERNORATES

Erica Gaston with Nadwa al-Dawsari



UNITED STATES  
INSTITUTE OF PEACE



## ABOUT THE REPORT

This research is part of a three-year United States Institute of Peace (USIP) project that explores how Yemen's rule of law and local justice and security issues have been affected in the post-Arab Spring transition period. A complement to other analytical and thematic pieces, this large-scale mapping provides data on factors influencing justice provision in half of Yemen's governorates. Its goal is to support more responsive programming and justice sector reform. Field research was managed by Partners-Yemen, an affiliate of Partners for Democratic Change.

## ABOUT THE AUTHORS

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Cover photo: Citizens observe an implementation case proceeding in a Sanaa city primary court.  
Photo by Erica Gaston.

The views expressed in this report are those of the authors alone. They do not necessarily reflect the views of the United States Institute of Peace.

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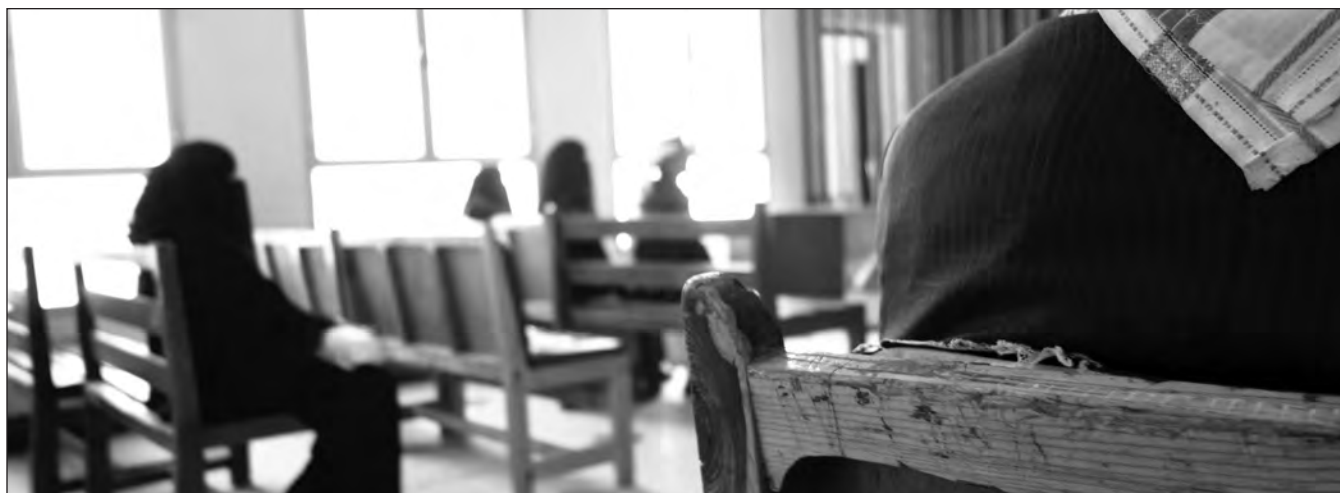
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[The overall political uncertainty and the frailty of the divided transitional government have eroded state control and weakened rule of law in all areas. As a result, justice institutions have struggled to provide services at even the modest levels that existed in 2010.]

Introduction ...	5
Methodology ...	8
Overview of Governorates Studied ...	11
Security ...	17
Facilities and Infrastructure ...	21
Personnel ...	29
Case Management ...	37
Corruption and Accountability ...	43
Conclusion: A System in Crisis ...	46
Recommendations for Donors and the Government of Yemen ...	55
Annex 1. Field Data Summary Tables ...	56
Annex 2. Questions for Justice Mapping ...	59
Annex 3. Judicial Decrees for Special Courts ...	61
Annex 4. Summary of Cases, 2010 to 2013 ...	62
Annex 5. Analytical Charts ...	66
Annex 6. Summary Governorate Statistics ...	70



## Summary

- The political crisis and subsequent transition period triggered by the 2011 Arab Spring protests have severely strained already flawed judicial institutions in Yemen.
- The overall political uncertainty and the frailty of the divided transitional government have eroded state control and weakened rule of law in all areas. As a result, justice institutions have struggled to provide services at even the modest levels that existed in 2010.
- Courts have been shuttered or obstructed in carrying out normal functions because of general insecurity, direct threats against courts and judicial actors, and strikes and political disturbances. Citizens complain about increased corruption and poor performance of the judiciary and state impotence before increasing criminality, gangs, and armed groups.
- This research captures some of the challenges to justice delivery at a governorate level based on interviews with judicial actors and court observations in ten governorates across Yemen. In half of the ten governorates examined, there was little to no functioning judiciary at all. Even in the other five, many courts were closed 20 to 50 percent of the time in response to insecurity, political disturbances, strikes, or other factors.
- Until the larger political and security issues connected with transition are resolved, a full return to pre-2011 levels of functionality—much less improvements on those levels—will be difficult.
- Nonetheless, rule of law development targeted to the specific strengths and blockages in each governorate may address some of the immediate weaknesses. Such support might include protection for court facilities and personnel, greater transparency and public accountability over judicial case management, stronger monitoring and accountability for judicial actors, or, in some areas, infrastructure and equipment support.
- Investments in sustainable training and education mechanisms, including continuing legal education and practical job skills, may also help lay the groundwork for a stronger judiciary when the political turbulence subsides.



## Introduction

In December 2010, following repeated police harassment and intimidation and a lack of response or redress from state officials, Tunisian street vendor Mohamed Bouazizi immolated himself in front of the governor's office in Sidi Bouid, Tunisia. This single match ignited the Arab Spring protests, the most significant string of political events the Arab world had seen in decades. Although an isolated incident, Bouazizi's act struck a chord with millions across the Arab world who were frustrated with decades of corruption, state impunity, and a general lack of justice.

In Yemen, the protests broke out in January 2011. Hundreds of thousands of Yemenis established protest sites known as "change squares" or "freedom squares" across the country and stayed in them for more than a year, despite physical reprisals, loss of livelihood, and other threats against the protestors. Many factors drove the protestors, but one of the critical elements was a lack of justice.<sup>1</sup> Protestors demanded enforcement of rights, equal treatment, good governance, and an end to corruption and impunity for powerful figures. Many judges, prosecutors, lawyers, and other members of the legal community took part in the protests, demanding not only enforcement of rights for the broader population but also judicial independence and protection.

In November 2011, after months of negotiations and amid dangerously escalating armed conflict, the country's main political parties signed the Gulf Cooperation Council (GCC) agreement and UN-backed implementation mechanisms, which established a two-year political transition.<sup>2</sup> President Ali Abdullah Saleh agreed to step down from power in exchange for immunity, and former vice president Abd Rabbuh Mansur Hadi was confirmed in a referendum as interim president. In addition to laying out the framework for political transition, the GCC agreement set a number of aspirational goals for the transition period, including prioritizing institutional reform and obligating the transitional government to work on immediately improving "standards of good governance, the rule of law and respect for human rights."<sup>3</sup>

Given this background, justice issues would seem to be an important part of the reform agenda for the transition period. In addition to the many rights- and justice-related demands from protestors, this new transition period appeared to offer the first window in several decades to improve long-standing issues in the justice system. Justice reform had been largely a nonstarter under former president Saleh, who used justice institutions as an extension of executive control and undermined or restricted meaningful reforms. Many donors have expressed interest in providing support to the justice sector in this period, if not with quite the same eagerness as with security sector reform.

Yet despite suggestions of possible justice reform and investment, actual changes have been few and relatively minor. An August 2012 presidential decree made the head of the Supreme Court a separate position from the head of the Supreme Judiciary Council,<sup>4</sup> and removed from the Supreme Judiciary Council certain individuals who had previously been vehicles for Saleh's control of the judiciary.<sup>5</sup> A May 2013 Supreme Court decision found the law that empowered many of the Ministry of Justice's functions unconstitutional, sparking a debate about restructuring judicial administration, financing, and oversight in ways that would improve independence (to date, no actual solutions have been implemented). Separately, the concluding document for the National Dialogue Conference (NDC), the ten-month flagship element of Yemen's transition process, repeatedly emphasized the need for judicial independence,<sup>6</sup> recommended reforming the Supreme Judicial Council and other high judicial bodies,<sup>7</sup> and reaffirmed the supremacy of Yemeni law and of the judicial branch in overseeing and enforcing respect of rights by other branches.<sup>8</sup> At the time of writing, a new constitution was being drafted to enshrine many of the proposed changes and institutional reforms decided on by the NDC.

These steps toward top-level reform have been necessary but so far largely rhetorical or superficial. Deeper justice reform has stalled, many argue because of a lack of political will or capacity to tackle justice reform at a time of such political uncertainty and state frailty. Meanwhile, anecdotal accounts from the average Yemeni suggest that the performance of justice institutions and rule of law more generally have worsened significantly over the transition period. The deterioration of security and the weaker state apparatus have exacerbated long-standing weaknesses in the judiciary.

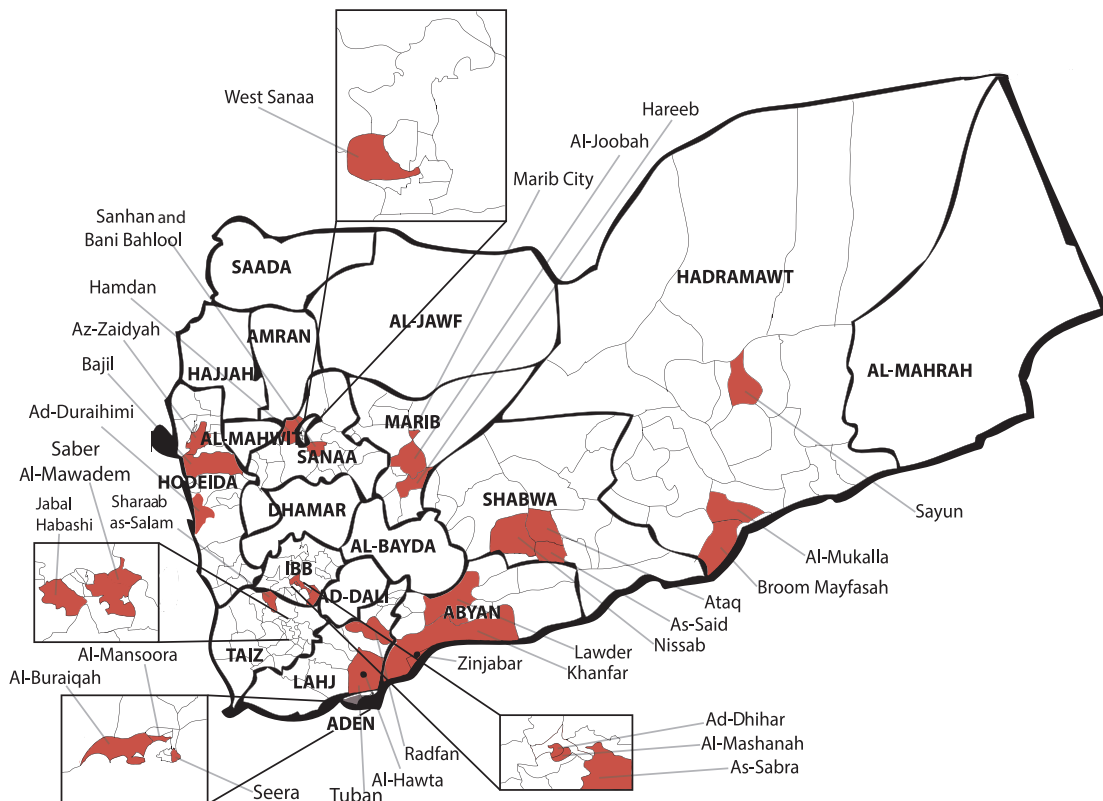
### Assessing the Challenges

Although the weakness of the justice sector (currently and in the past) may be common knowledge, there has been a dearth of public data and analysis at a level of detail that might enable justice officials and the international community to develop solutions or an appropriate development strategy. Even simple baseline information—such as the number of cases resolved, the number and spread of judges, or other metrics—is hard to come by.

This report attempts to fill some of those gaps, exploring how courts and supporting rule of law institutions are functioning in ten governorates (Aden, Taiz, Hodeida, Hadramawt, Ibb, Governorate of Sanaa, Lahj, Abyan, Shabwa, and Marib) and Sanaa City (see map 1).<sup>9</sup> Two years after the 2011 crisis, what would the average Yemeni in Taiz, or Hadramawt, or Lahj find when she approaches a courtroom? Where courts are not functioning well, or at all, what are the causes or factors? How do they vary from one governorate to another?

The main contribution of this report is its provision of current, observational data at a governorate level. It is hoped that providing this information may enable more responsive programming. What this report does not attempt to provide is a deeper contextual analysis of the political

Map 1. Research Sites in Governorates





factors influencing justice performance and institutional reform, or an examination of sociocultural factors influencing access, demand, or use of the justice system. Although these issues are critical for improving justice in Yemen, they have been addressed elsewhere and are beyond the primary objective of this report.<sup>10</sup> This report also focuses almost entirely on the formal justice sector's assets and weaknesses, rather than on informal justice, such as tribal arbitration or other means of nonstate or community-based dispute resolution. The authors recognize that more disputes or conflicts are resolved outside the justice system than within it, and have written on the topic elsewhere, as have other authors.<sup>11</sup>

Although this report attempts to provide information that might contribute to later baselines or measurements of progress on justice reform or development, one handicap is the lack of retrospective data for many issues. In the past, donors funded studies of the justice system that focused on similar technical data collection to this study, but most of these reports were not made public. None that the authors are aware of have gone into depth on a governorate-by-governorate basis and so do not offer ready comparisons with the material gathered in this study. Past data from the Ministry of Justice—for example, numbers of cases—and discussions with lawyers and judges about how the system compares to the system in the past help inform this report's conclusions on how much the system has changed or worsened in the last few years. However, neither of these sources offers a perfect baseline for field research comparison.

This report discusses in turn the impact of security, staffing, case management, facilities and infrastructure, and corruption and accountability issues on courts and prosecutors at a governorate level. Overall, the most significant factor that led to courts being closed or dysfunctional was insecurity and lack of state-enforced rule of law in a governorate. Never strong, both have deteriorated since 2011. Insecurity has led to staff not appearing for work and citizens increasingly going outside the formal justice system to have the law enforced. In governorates where these trends have been most prominent, courts were more likely to be closed than not, particularly in the districts outside the major urban center. The governorate most acutely affected by insecurity is Abyan, which was taken over by the al-Qaeda affiliated militant group Ansar as-Sharia (AAS) in 2011. Even in governorates where the overall security climate is better than in Abyan, security remained one of the predominant factors limiting judicial functions. For example, in Aden, growing insecurity and threats against courts and judges had a chilling effect on judicial services. This, together with the ongoing political crisis over the southern issue, has undermined what would otherwise be the best-functioning court system in the study.

Second to the growing insecurity and deteriorating rule of law, judges' strikes and staff absenteeism more generally were a major reason for courts being closed or not functioning fully. In 2012 and 2013, judges' strikes likely contributed to many courts being closed 20 to 60 percent of the time, particularly in Hadramawt, Lahj, Ibb, and Hodeida.

Beyond security and staff absences, this study also explores how corruption and judicial accountability, case management, and basic infrastructure and facility conditions affected the functionality or efficiency of court systems. Although not leading courts to be open or closed, apart from staffing, case management probably has the biggest impact on whether courts were functioning effectively and efficiently. Procedures for managing cases are consistent across governorates but are administered with significant irregularities, depending on the quality and availability of staff. Those interviewed in nearly all courts said that time-consuming and convoluted case documentation slowed court processes. In Lahj and the Governorate of Sanaa (GoS), court processes were so slow that the courts did not get through 71 percent and 82 percent of their caseloads, respectively, in 2012.

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***Insecurity has led to staff not appearing for work and citizens increasingly going outside the formal justice system to have the law enforced.***

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Poor facilities and infrastructure were also a factor in court functions in many governorates. Some facilities were so damaged or destroyed that they were actually unusable. Meanwhile, others (primarily those in rented apartment facilities) were so poorly designed or ill-fitted for judicial work that certain judicial functions were not carried out or standards met—for example, cases were not being archived because there was no room to store them, or criminal defendants were not appearing at their trial because there was no place to hold them in the courtroom.

Finally, although the accountability system has never been strong in Yemen, the political uncertainty of this transition period undermined whatever controls or oversight did exist. This affected everything from staff attendance, to regular facility maintenance, to correct application of the law, to the prevalence of petty corruption.

## Methodology

This research was funded by the Bureau of International Narcotics and Law Enforcement Affairs of the U.S. Department of State. Field research was managed by Partners-Yemen, an affiliate of Partners for Democratic Change. Primary field research was conducted from October through early December 2013. Secondary and follow-up research, triangulating and verifying data and trying to balance the level and type of information across governorates, was conducted in January and February 2014 (see photo 1). All field researchers were Yemeni, and most were lawyers or had some relevant legal experience in the governorate in question. For both security concerns and the privacy of the interviewees and researchers, the names are not disclosed.

Research was predominantly qualitative, although certain quantitative metrics such as numbers of cases or judges were also gathered to supplement the analysis. Researchers interviewed primarily members of the legal profession—judges, prosecutors, lawyers, and court or prosecutorial staff at a governorate level—but also citizens and representatives of other government entities at a local level.



Photo 1. Lead author Erica Gaston discussing blockages in criminal trials with security officials in Taiz, Yemen, February 2014.

Research questions focused on five categories: facilities and infrastructure, security concerns and supporting security institutions, staff levels and personnel issues, case management, and other factors likely to influence justice delivery, such as corruption and levels of political interference. See annex 2 for a list of the starting questions or categories. Because questions were qualitative, each one was expanded on with follow-up questions and discussion as relevant to the particular governorate and interviewee. Because of the qualitative nature of the questions, and because different researchers were used for each governorate, the level of information gathered per question varied from one governorate to another. When responses to questions were so disparate that comparisons between governorates were unhelpful or flawed, the material was not used in the analysis. When information was weaker on certain questions for certain governorates (for example, because officials were reluctant to answer the question), it is flagged in the discussion.

The ten governorates and Sanaa City were chosen because they represent a cross section of the differing levels of judicial development, security, and resources in Yemen's judicial system. Choosing governorates that had some spread geographically was also important, as was access. For example, while it would have proved interesting to visit locations in Saada, researchers did not believe access would be granted safely.

Most information was gathered at a governorate level. However, in addition to collecting data from officials in the main city of each governorate, researchers also visited two other districts in each governorate.<sup>12</sup> These were chosen either to provide a contrast with the urban findings or to provide insight into a known issue in the governorate—for example, a rural or more remote district, or a district particularly affected by recent political or security issues. Because most of the district-level questions focused on the local primary court, districts in which a primary court existed (or was supposed to exist) were the only districts chosen. In Marib, which has only three primary courts, this was the only criterion used. In some cases, when researchers visited the district primary court early in the research, they found it closed. This was in itself a data point and was considered in the final conclusions on each governorate. When this was the case and it was possible within the research period to visit a different district, another district was chosen in order to provide richer detail and data overall for that governorate.

Most researchers faced some difficulty collecting information. Those in Hadramawt, Aden, Abyan, and Lahj encountered additional hurdles because of either the security situation in the governorate or ongoing political turmoil (or both), which during the period of research was significant in the southern governorates. The security situation resulted in closure of courts and limited researchers' mobility. For example, an al-Qaeda attack on the Second Military Regional Command took place early in the research, and for ten days the Hadramawt government declared an emergency situation that shut down offices and prevented most travel.

Insecurity prevailed in many of the governorates where research was conducted. The researcher in Hadramawt was assaulted in front of the courthouse. Researchers took precautions in some districts out of fear that they would be questioned, threatened, or worse by local security officials or armed groups. "Sometimes I would disguise and take my wife and children with me so that they don't suspect that I was doing research," one of the researchers from a southern governorate noted.

Research into government processes in Yemen has long been greeted with suspicion. The political uncertainty surrounding the transition period, a recent increase in targeted assassinations of government officials, and the poor overall security atmosphere have increased sensitivities since 2012. This presented complications for researchers in getting data or interviewing judicial officials. In Abyan, Lahj, Aden, and Hadramawt, judges and other judiciary staff interviewed requested to remain anonymous and in some cases refused to share information, citing fears of being targeted by armed groups or subject to professional consequences.

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Taking photographs was a particularly sensitive activity. The GoS researcher was detained for several hours for taking photographs of the court building, and the Taiz researcher's camera was confiscated by security at one court facility.

### Common Terms

*Akl* (عاقل حارة): An *akl* is a local community leader who usually has no formal government position. De facto, *akls* are frequently the point of contact to deliver a summons for a court. They also play a prominent role in dispute resolution and arbitration beyond the formal justice system.

*Ameen asser*, or secretary (أمين سر): A position requiring an administrative judicial degree, the *ameen asser* is responsible for writing court session reports, summaries of cases, and other documents. He is also responsible for case files and documentation. The *ameen asser* is critical to most of the regular court processes and management. Most of the support staff positions are *ameen assers*.

Assistant judge (مساعد قاضي): Graduates of the High Judicial Institute are initially granted the degree of assistant judge and are supposed to serve in courts as assistant judges or in a prosecutor's office before they are promoted to regular judges. In practice, there is often a lack of distinction between judges and assistant judges.

Documenting judge (قاضي توثيق): Documenting judges are responsible for documenting and processing paperwork, similar to notary functions. They have a degree in law but it is an administrative degree. They are appointed by the Ministry of Justice. A notary law regulates the function of official notaries (also known as *ma'dhun*).

Implementation cases (قضايا تنفيذ): Implementation cases are those brought to enforce a prior ruling of the court. For example, if a court granted a divorce but the ex-husband fails to pay the remittances included in the verdict to the wife, the wife may file a case to have those remittances paid. Another example would be a case in which the court ruled against one side in a property or land dispute and required the losing party to vacate the premises, but he or she did not. In such a situation the opposing side could file an implementation claim to have the verdict enforced.

Judicial police (الشرطة القضائية): The judicial police are responsible for delivering judicial announcements and summons and for helping enforce court decisions. They were mentioned only in Ibb, Aden, and Sanaa, and even within these areas were reportedly understaffed, underequipped, and may have existed only on a pilot basis. They fall under the Ministry of Justice but in practice may take directions from the security director or other local Ministry of Interior officials, rather than from the courts themselves.

*Mudhir*, or messenger (مخضري): A *mudhir* is a person whose responsibility is to deliver court notifications to disputants. *Mudhirs* are not present in all courts and all governorates; court notification functions may be carried out by judicial police, by lawyers, by *akls*, or by other individuals in areas where courts are not staffed with *mudhirs*.

*Qalam al-kottab* (قلم الكتاب): The department in the court responsible for keeping files and documents of the court—everything related to a case from its beginning until a sentence is issued. A *qalam al-kottab* can also review case documents to ensure they are complete before presenting them to the judge.

*Qalam at-tawtheeq* (قلم التوثيق): An independent department in courts, a *qalam at-tawtheeq* is responsible for financial management and assets, such as buying and selling properties.

*Qatib*, or transcriber (كاتب): The *qatib* is an administrative position with the main responsibility of transcribing and maintaining documents and records. Among other duties, the *qatib* takes court minutes.

Southern Judges Club (نادي القضاة الجنوبي): The Southern Judges Club is a syndicate that includes judges and prosecutors from southern governorates whose purpose is to advocate for the rights of southern judges. Despite the “southern” moniker, the Southern Judges Club does not have a secession mandate and recognizes the Supreme Judiciary Council in Sanaa.

Yemen Judges Club (نادي القضاة): An independent nationwide nongovernmental organization established with the goal of safeguarding the independence of the judiciary and defending the interests of members. The club has a branch in every governorate and its members include active and retired members of the judicial branch. The club held its latest elections in August 2013, when the General Assembly elected the board of directors. The club was a main organizer of judicial strikes in 2012 and 2013.

## Overview of Governorates Studied

Each governorate has its own particular political, demographic, and geographic dynamics that affect aspects of justice provision differently. Nonetheless, certain commonalities are clear, at least in terms of the scale or scope of the challenges, or overall levels of development. For ease of analysis, the governorates are grouped into four categories with descending levels of judicial functionality and demand for judicial services. No category is a perfect fit, owing to the diversity among and within Yemeni governorates. Nonetheless, these categories may help an uninitiated reader with less familiarity with Yemeni governorates get a sense of the dynamics in the ten governorates discussed. Annex 6 presents a summary of key demographic factors, judicial structures and metrics, and other basic information for each governorate.

### Category 1: Well-developed judiciary, significantly higher demand (Aden, Sanaa City)

Two areas in this study, Aden and Sanaa City, stand out for having a much higher demand for formal justice and a much more developed judiciary, in terms of number of staff and courts and functionality of processes. These two areas alone accounted for 35 percent of the new cases in the country in 2010.

Aden has historically had stronger justice institutions and a greater reliance on state justice mechanisms than any other governorate. It has a much higher demand by far than any other governorate or Sanaa City, with the number of new cases per thousand people approximately four times the average of other governorates in the study. Courts and prosecutor offices are better staffed. Judges, prosecutors, and staff tend to have a stronger knowledge of the law, with more qualifications and specialization.

Close behind is Sanaa City, considered a separate administrative unit from the rest of the governorate. Formally, it is designated Amanah, but in this report is referred to as Sanaa City. It has markedly higher demand, higher levels of judicial services (availability of courts, judges, prosecutors, and other judicial resources), and better enforcement than the surrounding Sanaa governorate. Like other urban and more developed areas in this study, the city of Sanaa’s courts have slightly more resources than surrounding nonurban areas. Unlike in Aden, however, staffing is not sufficient to keep up with the high demand for justice services—the number of cases per judge was among the highest in the study, as was the rate of noncompletion of cases each year.

Although they are still the two highest-functioning areas of the study, the last two years of political protests and increased insecurity have had a significant impact on Aden and Sanaa City. In both, judicial functions were halted or severely limited during the 2011 crisis. Although court functions have resumed since then, they have not regained the 2010 levels of operation. Statistics suggest that from 2010 to 2012, the number of new cases dropped 46 percent in Aden and 44

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percent in Sanaa City.<sup>13</sup> In Aden, this was largely due to continued security disturbances and political protests and civil disobedience surrounding the southern issue. Attacks on judges and courts increased dramatically, and the population began turning to other means, a phenomenon that was more notable in Aden than in any other area, in light of its traditional reliance on state mechanisms. In Sanaa, judges' strikes and protests over the political transition (for example, over the National Dialogue) have also led to significant court closures in the last two years. Security concerns also increased over the course of 2013, which affected judicial functions in terms of a higher prevalence of threats against judges and prosecutors.

**Category 2: Developed judiciary, but varying levels of demand and judicial strength (Taiz, Hodeida, Hadramawt, Ibb)**

One step below these high-functioning governorates, Hadramawt, Hodeida, Ibb, and Taiz have relatively well-developed and established judicial systems in urban areas but varying levels of formal justice provision and presence in rural and even periurban areas of the governorate. For example, in Hadramawt and Hodeida, just under half of the districts do not have primary courts at all (fourteen of thirty in Hadramawt, ten of twenty-six in Hodeida).<sup>14</sup> Many of these districts are rural and predominantly tribal. Residents have little desire or demand for formal justice provision, a phenomenon that is also true in the outlying districts of Ibb and Taiz. The four governorates in this category thus have much lower levels of overall demand for justice services than the predominantly urban Aden and Sanaa City. The number of new cases per thousand people in 2013 ranged from 1.95 in Ibb to 2.85 in Taiz, versus 5.81 in Sanaa City and 8.83 in Aden.

Despite some districts in these large and wide-ranging governorates that have low-performing (and little demanded) courts, the courts in urban areas are relatively well developed and used but are less well resourced than those in Aden and Sanaa City. As a result, a common problem we noted for governorates in this category is a lack of staff to keep up with high demand: Hadramawt, Taiz, and Ibb had three of the four highest average caseloads per judge in the study (the fourth was Sanaa City). Lack of qualified support staff in Hodeida and Hadramawt seriously undermined otherwise relatively functional courts and prosecutor's offices.

Other common issues leading to court stoppages were strikes and political protests by judges, which are estimated to have led to courts being closed as much as 40 percent of the time in Hadramawt, Ibb, and Hodeida. These issues are discussed in greater length later in this report. Deteriorating security also had a significant effect on staff absenteeism and demand in these three governorates, especially in Hadramawt toward the end of 2013. Judges' strikes and closures as a result of physical or political insecurity had a far smaller impact in Taiz than in other governorates in this category: judicial functions were severely disrupted during the 2011 crisis but since then have largely stabilized.<sup>15</sup>

Of these four governorates, Taiz had the highest levels of development and demand overall, though still not comparable to those of Aden and Sanaa City. With a relatively small urban population, Ibb had the lowest levels of demand and judicial development in this category, although still distinctly more than those in the third category. Finally, conditions in Hadramawt appeared to have deteriorated significantly over the transition period, and particularly by the end of 2013. If these trends continue, the levels of dysfunctionality and blockages may make the level of justice provision in Hadramawt more akin to that of the governorates in category 3.

**Category 3: Judicial development, but significant limitations or issues (Lahj, Governorate of Sanaa, Abyan)**

In the GoS, Lahj, and Abyan, judicial institutions have been established, and some level of demand and use exists among the population, but it is far lower than in places like Taiz or Hodeida. Case

demand is roughly half or less than that of governorates in category 2. This is in large part because GoS, Lahj, and Abyan all have more districts that are rural, tribal, and disconnected from state services and fewer significant urban concentrations to counterbalance that effect (noting again that Sanaa City is considered administratively distinct from GoS).<sup>16</sup>

Also in these three governorates, extreme security threats, political crises, and long-standing chronic issues related to justice institutions have reached such a level that justice provision in many districts has become completely dysfunctional or has stopped altogether. Lahj, and to a lesser extent GoS, were significantly affected by judges' strikes and court closures resulting from political disturbances, similar to what was seen in some of the governorates in category 2.

Structural and process issues appeared more severe in the governorates in this category than in those in categories 1 or 2. Interviewees frequently complained of incredibly slow and unwieldy case processes and of high levels of judge and prosecutor absenteeism for a variety of reasons. As a result, Abyan, Lahj, and GoS had the most severe case backlogs and lowest rates of case completion in the study, 99 percent, 82 percent, and 73 percent, respectively, in 2012. Court systems in these governorates also had serious facility issues, ranging from a high proportion of inadequate facilities in GoS, to extreme lack of maintenance and facility neglect in Lahj, to absolute destruction of facilities in Abyan.

Abyan merits special consideration. In the past, Abyan enjoyed a reasonable level of formal government engagement and a functioning judiciary relative to its population and size. In 2010, its new case demand was similar to that of Ibb and the GoS, and its specialized judicial processes and judges ranked higher than might be expected in light of its low population and predominantly agricultural and rural makeup. However, during the takeover of Abyan by AAS in 2011, all government and state services in Abyan, including the judiciary, stopped. The ensuing conflict in 2011 and 2012 caused significant destruction of court and law enforcement facilities and displacement of judges, lawyers, and other legal staff. The governorate still remains de facto beyond state control, with only pockets of security provided by local pro-government citizen militias known as popular committees. Most statistics from 2011 and 2012 reflect this shutdown. For example, only twelve new cases reached Abyan courts in 2012 (versus 1,251 in 2010). The research conducted suggested that by the end of 2013, four of nine primary courts in Abyan had resumed work, but at much more limited levels than in the past, engaging primarily with small civil cases or notary services, but not criminal cases. In terms of categorization, Abyan arguably might better be placed in category 4 based on existing levels of demand and court functioning (minimal), but because the cause of this dysfunctionality stems from such different causes than those affecting court function in Marib and Shabwa, and because of its past judicial development, it may be more helpful to consider it a failed category 3 governorate.

#### **Category 4: Little to no judicial presence or reliance on a formal system (Marib, Shabwa)**

The final category of governorates examined comprised those with a reputation for little judicial presence or demand at all. In Shabwa and Marib, both governorates have a long history of being virtually self-governing through the tribal system. The majority of the population relies more on and prefers tribal arbitration or the intervention of other nonstate actors for dispute resolution and justice. Of the two, Shabwa has substantially more infrastructure, in part because the socialist government of South Yemen (the former People's Democratic Republic of Yemen, 1970–1990) made greater efforts to exert state control and presence. Thus, although Shabwans and Maribis equally rely largely on tribal arbitration as opposed to the formal system, Shabwa has courts in thirteen of its seventeen districts and eight prosecutor's offices, whereas Marib has only three primary courts for its fourteen districts and one prosecutor's office covering the entire governorate.

In both governorates, courts tend to be closed rather than open. Where open, they tend to deal only with basic civil cases and notarization duties. This is due not only to low demand but also to serious security concerns as a result of criminality, the presence of terrorist groups, and tribal conflicts, which can block access for citizens from one district to the other. The combination of few courts and insecurity limits access to courts in Marib more than in any other governorate in the study. Although Shabwa has more courts on paper, most of them are not open. Because districts in Shabwa are relatively large and tribal feuds block access to neighboring districts, Shabwans face some of the same access issues as Maribis.

Demand and court functionality have long been low, but interviewees suggested that the situation has worsened since 2011, in part because of worsening security and state control from 2011 onward. This impression is supported by evidence of significant declines in case numbers and new cases from 2010 to 2012.

A final notable characteristic is that reports and examples of corruption and poor case processing were relatively lower in Shabwa and Marib than in all other governorates. Interviewees noted wryly that this was because there was no money to steal, and no cases to weigh the system down.

### Governorates by the Numbers

It is difficult to make a perfect comparison of the governorates studied because of the disparity between governorates and even within each governorate in terms of population, levels of development, and levels of interest or support for formal justice services. Table 1 gives some sense of the varying numbers of basic inputs to the justice system, by comparison with the number of districts and the population in each governorate. In addition to the primary and special courts listed, each of the governorates has one court of appeals, except Hadramawt, which has two courts of appeals because of the large territory and administrative division within the governorate. The GoS court of appeals also covers the al-Jawf governorate.

Special courts are a relatively recent phenomenon, with most established within the last decade (see table 2; see also the sample of judicial decrees in annex 1). Public assets courts are the most common type of special court, existing and largely functional in all but the three governorates in the survey with the least developed judiciary. In the governorates where they existed, the special commercial and criminal courts tended to be among the strongest courts, having better staffing of judges and a reputation for effective operations.<sup>17</sup> A new special criminal court for Taiz was announced in 2014, but no specific construction or development plans were underway.<sup>18</sup>

### Caseload and Case Demand

As the description of the different governorates also suggested, an important factor is not just the number of courts or judges but also the demand per population, and how the resources compare to the caseload. Table 3 presents the number of cases, both total and new, per thousand people, arranged from highest to lowest (per thousand people) for each of the ten governorates and Sanaa City. Case figures are based on the Ministry of Justice annual report for 2012.<sup>19</sup> Population figures are based on the 2012 Government of Yemen estimated population.<sup>20</sup> Because of significant backlog issues throughout the justice system (old cases that are still on the books but not active), looking purely at the new cases initiated from year to year may give a better sense of the relative demand from one governorate to another than looking at the total number of cases.

Courts from al-Jawf are physically located in the GoS territory, so the Ministry of Justice data group GoS and al-Jawf together, and the average number of cases per thousand people in



**Table 1. Numbers of Courts, Judges, and Prosecutor's Offices**

Category	Governorate	Population, in Thousands	Districts	Primary Courts	Special Courts	Prosecutor's Offices	Judges
1	Aden	752	8	5	7	15	70
	Sanaa City	2,216	12	6	8	26	134
2	Taiz	2,969	23	16	4	13	70
	Hodeida	2,697	26	17	5	18	69
	Hadramawt	1,292	30	15	5	18	17
	Ibb	2,635	20	19	2	18	75
3	GoS*	1,142	16	12	Sanaa City's	9	40
	Lahj	900	15	12	1	14	29
	Abyan	543	11	9	1	11	15
4	Shabwa	585	17	13	0	10	12
	Marib	296	14	3	0	1	3

\*Al-Jawf primary courts are located in the GoS but not included in the number of primary courts.

**Table 2. Special Courts**

Category	Governorate	Public Assets	Juvenile	Commercial	Traffic	Criminal	Administrative	Tax	Press and Media	Total
1	Sanaa City and GoS	X	X	X	X	X	X	X	X	8
	Aden	X	X	X	X	X	X	X		7
2	Hadramawt	X	X	X	X	X				5
	Hodeida	X	X	X	X	X				5
	Taiz	X	X	X	X					4
	Ibb	X	X							2
3	Lahj	X								1
	Abyan		(Past)							(1)
4	Marib									0
	Shabwa									0
<b>Total</b>		<b>7</b>	<b>6</b>	<b>5</b>	<b>5</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>1</b>	

Table 3 is calculated based on the population of both GoS and al-Jawf. Because al-Jawf has the lowest case demand of any governorate, this likely brings down the GoS average in Table 3, making demand in GoS appear lower than it actually is.<sup>21</sup> If the average number of cases for GoS were instead calculated only based on the GoS population,<sup>22</sup> every thousand citizens would have generated on average 7.43 total cases in 2012, making it fourth overall among the governorates listed in Table 3, and 1.98 new cases in 2012, putting it on a par with Ibb and Hudeida in terms of recent demand.

**Table 3. Cases Generated per Thousand People, 2012**

Category	Governorate	Total Cases	Per Thousand	Governorates	New cases	Per Thousand
1	Aden	13,118	17.4	Aden	6,640	8.83
	Sanaa City	33,092	14.9	Sanaa City	12,871	5.81
2	Taiz	22,358	7.5	Taiz	8,464	2.85
	Ibb	14,195	5.4	Hadramawt	3,276	2.54
	Hadramawt	6,561	5.1	Hodeida	6,640	2.46
	Hodeida	13,118	4.9	Ibb	5,143	1.95
3	Lahj	6,673	7.4	Lahj	1,179	1.31
	GoS/Al-Jawf	8,485	5.0	GoS/Al-Jawf	2,266	1.34
	Abyan	1,485	2.7	Abyan	12	0.02
4	Marib	237	0.8	Shabwa	115	0.20
	Shabwa	334	0.6	Marib	139	0.47

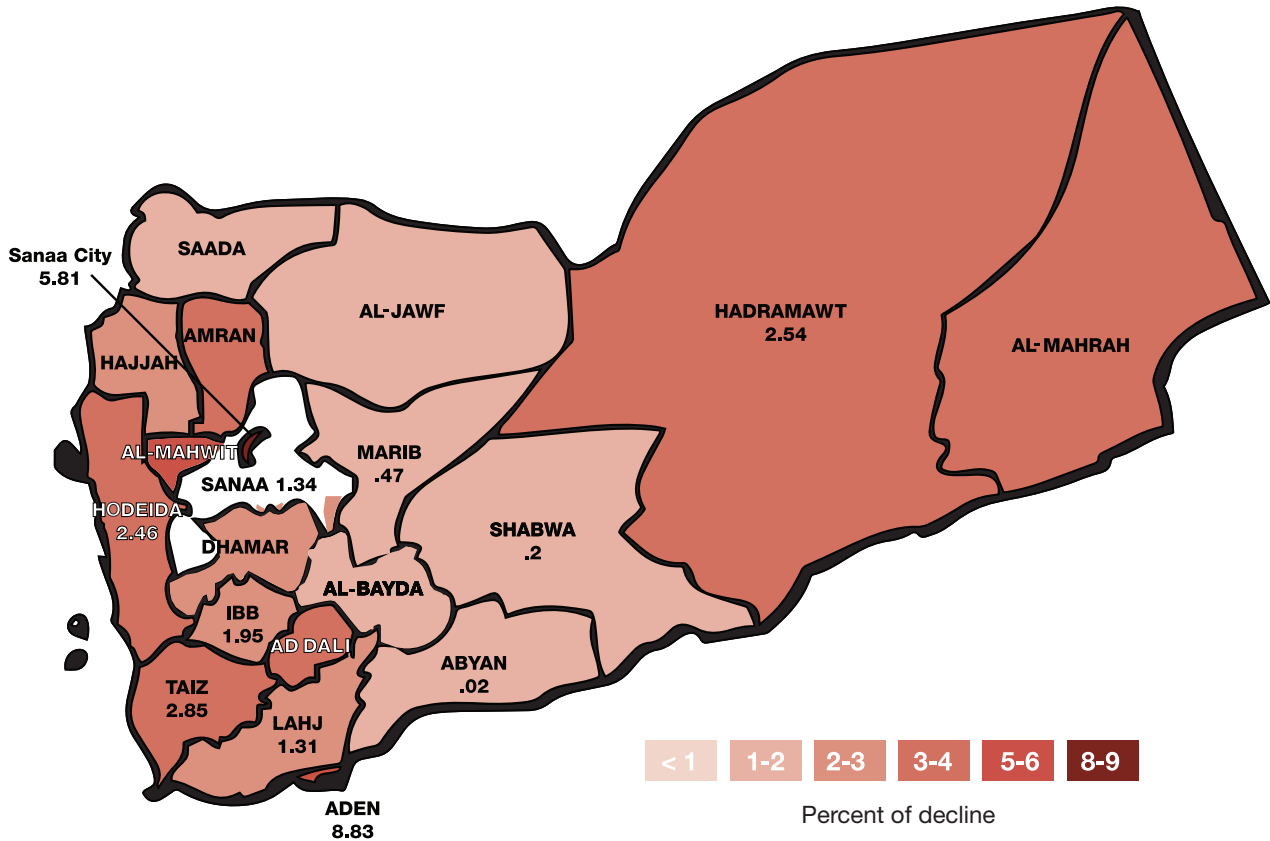
Second, the extremely low case numbers in 2012 for Abyan accurately reflect the shutdown of nearly all services and normal life in Abyan through half of 2011 and most of 2012; however, they provide little insight into what normal levels of case demand per population might look like. To give a sense of the more regular levels of caseload, if the number of total cases on the docket in Abyan for 2010 (3,041) were used instead of the exceptional 2012 numbers, then the number of cases would be 5.6, comparable with the ratios for Ibb and Lahj.<sup>23</sup>

Finally, how the ten governorates compare in terms of caseload and demand relative to the averages for the country as a whole is also important. As illustrated in map 2, this study includes four of the five governorates with the highest case demand based on 2012 case data and population (all except al-Mahwit), three of the five governorates with fewer than one case generated per thousand people, three of the five with fewer than two cases, and three of the six governorates with fewer than three. See annex 5, table A5.1, for the full table with new cases per thousand people for all governorates of Yemen, and also for the years 2010 and 2013. Table 4 provides a rough estimate of the top five and bottom five governorates in terms of new cases per capita for 2010, 2012, and 2013. Only 2012 population estimates were available from the Government of Yemen (GoY), so that population is used to calculate the per capita estimate in all three years.

**Table 4. Five Highest and Lowest New Cases Generated per Capita**

2010		2012		2013	
Highest	Lowest	Highest	Lowest	Highest	Lowest
Aden	Abyan	Aden	Al-Bayda	Aden	Al-Bayda
Sanaa City	Al-Bayda	Sanaa City	Marib	Sanaa City	Marib
Hadramawt	Marib	Al-Mahwit	Saada	Taiz	Abyan
Taiz	Shabwa	Taiz	Shabwa	Hodeida	Saada
Al-Mahrah	Saada	Hadramawt	Abyan	Al-Mahwit	Shabwa

Map 2. New Cases per Thousand People in 2012



### Security

Security was the most significant factor affecting court functionality in the study. It came up in the field research not only in response to questions specifically about judicial staff safety but also in response to many of the other questions related to judicial functioning. When asked whether courts were open and regularly functioning, and if not, why not, interviewees cited insecurity as the most common reason for court closures.

Over the last two years, security declined in all ten governorates. Given worsening security on roads and the frequent targeting of government facilities, the population is increasingly deterred or prevented from accessing courts. Judges, prosecutors, and court staff face increasing threats from criminals, armed groups, and even members of the armed forces, leading them to avoid work. In many governorates, law enforcement officials cannot act on an arrest warrant or otherwise enforce judicial decisions because of lack of government control or access, or threats from nonstate armed groups.

### Weaker Rule of Law and State Control

The deterioration of the rule of law and state control was most precipitous in Abyan, which was largely taken over by the militant group Ansar as-Sharia (AAS) in 2011. Although government control nominally resumed in mid-2012, outside the main city center of Zinjibar, the governorate remains de facto under the control of pro-government popular committees (made up of armed

local citizens, some under tribal leadership and some not).<sup>24</sup> As a result of this extreme security situation, courts were closed through much of 2011 and 2012. As of the end of 2013, four of the nine primary courts had reopened, but on a limited basis because of continuing extreme security threats against judges and staff, lingering facility damage from the conflict, and a lack of ability to enforce rulings in anything but minor, civil cases. As one judge from Abyan noted,

I want to exert rule of law as a judge, [but] it is impossible to have decisions enforced. Who will capture the criminal? If I ask the popular committees [local pro-government, self-formed militias] to go and bring this person to me, then that in itself is an illegal request because it is asking a nonstate entity to capture someone.

The extreme security conditions have led to favorable comparisons with the brief AAS rule. During 2011, the primary court building in Khanfar district (and reportedly other districts as well) was used by AAS as a courthouse, which it called the Waqar State Court (see photo 2). Those interviewed noted, “Many people used to come there in big numbers. Rulings were issued quickly and got implemented immediately. People brought disputes that had lasted for years and they were resolved.” The contrast with the current lack of security and enforcement of decisions led many citizens interviewed to wish that AAS would return. That said, support for AAS was not widespread, nor was endorsement of its reportedly harsh interpretation of sharia law and punishments.<sup>25</sup>

In the governorates of Marib and Shabwa, government control has always been weak and state law enforcement the exception rather than the rule. Tribal conflicts are prevalent, and traffickers, criminal gangs, and terrorist networks have a conspicuous presence. Security has deteriorated since 2012. Criminal actors and militant groups have strengthened in the governorates, making travel to and from courts and enforcement of state verdicts even more difficult. Direct threats against judicial actors and facilities also increased significantly in Shabwa as the overall rule of law deteriorated. Most courts remain shuttered.

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***Security has deteriorated since 2012. Criminal actors and militant groups have strengthened in the governorates, making travel to and from courts and enforcement of state verdicts even more difficult.***

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Photo 2. The black flag of the militant group Ansar as-Sharia on the still closed primary court in Jaar, Abyan, which was taken over by the group in 2011 and referred to as the Waqar State Court.

In the other governorates in the study, the security situation is not as dire, but the state's ability to prevent and deter crimes or violations of the law, and to enforce criminal or civil decisions of the court, is much weaker. Governorates such as Ibb, Lahj, and Hodeida, which before 2011 had law enforcement and judicial functions in place, albeit weakly, have seen spikes in criminality and greater threats against government actors since 2012. Lahj saw a significant increase in security incidents in 2013, particularly in the main district of al-Hawta, owing to high concentrations of al-Qaeda fighters surrounding it and the growing activity of criminal groups in the governorate. In Ibb, rates of criminality—murder, assaults, kidnapping, and robbery—have increased since 2011 and particularly over the course of 2013. Meanwhile, fraying local political tensions throughout 2013 in Hadramawt escalated dramatically in December 2013. A coalition of local tribes called for a popular uprising, rejecting the legitimacy of the national government. This sparked lower-level conflict and limited even local government control.

The government's inability to contain or respond to the higher rates of violence and crime decreases citizen confidence. In all governorates, those interviewed noted that citizens were increasingly taking matters into their own hands because they could no longer rely on the state for security and justice provision, and thus it was no longer worth the risk incurred to take a case to court.<sup>26</sup>

The impact of a weaker state-enforced rule of law has manifested even in major cities. In Aden, political instability and the greater prevalence of arms and armed groups, and in some cases damage to police buildings or other infrastructure, have had a serious effect on what is otherwise the strongest judicial system. Judges interviewed said there are areas in Aden—Areesh, Mimdarah, Bassateen, and al-Buraiqah—that cannot regularly be reached by general security forces or law enforcement, so judicial sentences often cannot be enforced. Although the security has improved since the worst point in 2011, levels of crime and numbers of armed groups in Taiz are higher than before 2011. Law enforcement and security actors have lacked regular access in all districts or areas at different points in the transition period such that in the worst times, arrests were not possible in many areas. By the end of 2013, security in Sanaa City and GoS had deteriorated significantly. Toward the end of 2013, assassinations, kidnappings, and targeting of government actors and facilities all spiked. Although this situation did not appear to have significantly limited access, judges and prosecutors were reporting higher threat levels, which led to increased absenteeism and court closures.

### *Direct Threats to Judicial Facilities and Personnel*

The weaker rule of law has also manifested in a greater number of direct attacks on court staff and facilities. The source of these threats is diverse—including local strongmen, terrorist or militant groups, protestors and popular mobs, and individual criminals. The diversity of these threats in itself signals the chaotic security landscape in which many courts must try to operate.

In a number of governorates, courts were directly targeted or collaterally affected by armed attacks or clashes:

- In Abyan, the court of appeals, the central prison, and the Zinjabar primary court suffered collateral damage during the fighting in 2011. The court and the prosecutor's offices in Jaar were first occupied by AAS and then looted when the officials were ousted.
- In Lahj, elements of AAS have reportedly attacked the area in which the al-Hawta primary court is located several times, and a number of casualties have been reported, although not members of the court staff or attendees. Angry citizens and (reportedly) members of the Southern Movement have also formed a potentially violent mob around the court and forced it to close on several occasions.

- In Aden, several courts came under attack in the 2012–2013 judicial year: a group of masked thugs attacked the Sheikh Othman court, and men reported to be dressed in military pants but civilian tops attacked the primary court in Meena, resulting in its temporary closure. No court casualties resulted, and closure was brief in both cases.

Although armed groups or unknown actors were more frequently blamed for the assaults, in some governorates security forces, which should have a role in protecting judicial facilities, were reportedly involved. In May 2010, policemen stormed a judiciary compound in Hodeida and released a suspect who had been detained by a court order. Twice in the 2012–2013 judicial year, a group of security personnel (members of the Special Security Forces), heavily armed with small arms, stormed the Sheikh Othman court in Aden to contest a ruling over a land dispute. They orally threatened the head judge, and although this was only a show of force, interviewees pointed to it as a sign of the growing threats against and intimidation of judges. The court was closed for a week on each occasion. According to several lawyers interviewed in Mukalla, Hadramawt, lawyers are routinely threatened by law enforcement officers when members of the security forces are accused or become a party to a case.

In some cases, courts operate remotely from their assigned district because of these security threats, which in turn limits local citizens' access to the court. In Lahj, for example, for much of 2013, most of the judges for the al-Habeelain primary court operated out of al-Hawta, the central city in Lahj, expressly because of security concerns. The Assaberah primary court in Ibb operated from its home district for only limited periods of time in 2013, with judges instead working mostly from the main city of Ibb for security reasons. The Abyan court of appeals was operating out of Aden, both for security reasons and because the Abyan facility had been heavily damaged. The as-Sabrah district court in Ibb either operated out of the main city of Ibb or ceased functions altogether for large parts of 2013 because of insecurity in the district itself. When visited, the court was closed and the court building appeared pockmarked with bullets and its windows broken (due largely to disputants bringing arms to the court to dispute rulings).

Judges, prosecutors, and lawyers have been directly targeted, threatened, or harassed at an increasing rate in all governorates since 2012. The Judges Club, which keeps statistics on self-reported assaults or threats (thus only a small percentage), recorded fifty-two physical assaults or threats on members in 2013.<sup>27</sup> Opposition groups or terrorist groups attacked or threatened judges and prosecutors as representatives of the state. Not all of these incidents can be attributed to heightened insecurity and political turmoil. Criminals or disputants not happy with verdicts or charges against them frequently threaten judges and prosecutors. As a judge from Sanaa West noted, "A judge interacts with the oddest of people, like murderers, thieves, [and] road hijackers, so there is no doubt that such work is full of risks, and the state [does not] secure them and their families."

The types of attack included assassination, attempted killing, assault, kidnapping, property damage, and verbal harassment of the judicial staff or his or her family members. By way of example, at the end of September 2013 the head judge for the Mukalla appeals court was kidnapped, physically and verbally assaulted, drugged, and constantly threatened with execution.<sup>28</sup> In October 2013, the residence of the appeals court judge in Hodeida was attacked by gunmen on motorcycles, who showered the judge's house and car with bullets before they fled. In Taiz, a lawyer was pursued by armed gunman in September 2013 and received death threats connected to his work.

The most dire reports and the greatest fear of direct targeting and attack came from Abyan, Lahj, Hadramawt, and Aden. The Abyan researcher noted, "It is safe to assume that in the

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***Opposition groups or terrorist groups attacked or threatened judges and prosecutors as representatives of the state. Criminals or disputants not happy with verdicts or charges against them frequently threaten judges and prosecutors.***

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last two years, no member of the judiciary or lawyer has not received a threatening message or worse,” citing among recent incidents the kidnapping of two judges; the assassination of a deputy prosecutor; the shooting (nonfatal) of one judge; and the assault and beating of many judges, prosecutors, and lawyers. Judges in Lahj stopped working out of many district courts in 2013 because of security threats. In response to a question about this concern, one senior judge in Lahj responded, “We leave our homes without being sure that we will return.”

Within these four governorates, it is difficult to objectively measure threat levels. In some cases, such as Aden, it may be that what is notable is that the threats are serious in comparison with previous levels of security rather than objectively among the worst in the country. That said, the number of outright attacks on courts reported was higher in Aden than in a number of other governorates in the study.

Many of the perceived security threats and incidents of harassment were linked to political interference with the judiciary. Perhaps because of the political uncertainty, political actors, sheikhs, and other local powerbrokers were much more likely to interfere in the work of judges, prosecutors, and lawyers than in the past, threatening them and sometimes carrying out assaults. This appeared to happen in all locations but was noted more frequently in Aden, Taiz, and Hodeida, perhaps because that type of heavy-handed pressure or the prevalence of arms was in greater contrast with the past. In Aden, many court staff noted with alarm that parties to the dispute were bringing arms into the courtroom, a novelty in Aden, and were increasingly threatening judges over the matters at issue.

The overall dip in the security climate and the increased attacks on judges have had a chilling effect on justice. Where threats against judicial staff and legal personnel were perceived to be real and high in number, absenteeism was higher. Fear of targeting led some judges to avoid ruling in some cases or to alter their verdicts. One judge in Marib said he would not dare to issue a death sentence for fear of being kidnapped by the defendant’s tribe. In Aden, the higher rate of threats and harassment plus the greater number of individuals who had recently escaped from prison has reportedly made judges hesitant to make themselves a target by imposing sentences; as a result, they are in some cases postponing issuing sentences.<sup>29</sup>

Across all governorates, many judges and prosecutors mentioned the lack of protection around courts and for judicial staff. For example, in 2013, a Sanaa West judge was threatened in the court hall. Because the threat was serious and security protection at the court was insufficient, to ensure his safety, he was transferred to another court. Lack of security or protection for judicial staff was the subject of many of the judges’ strikes in 2013.

Map 3 illustrates the impact of security across the ten governorates (see also table 5). It takes into account not only these two factors—how insecurity affects access to justice and the frequency of reported threats against facilities or representatives of the judiciary—but also the relative importance of these security considerations vis-à-vis other factors that might have inhibited the functioning of the judiciary. So, for example, in Aden, overall security levels may not have been as bad as in neighboring Abyan or Lahj governorates, but they were likely the most significant factor undermining what otherwise would have been the most functional judicial system in the survey .

## Facilities and Infrastructure

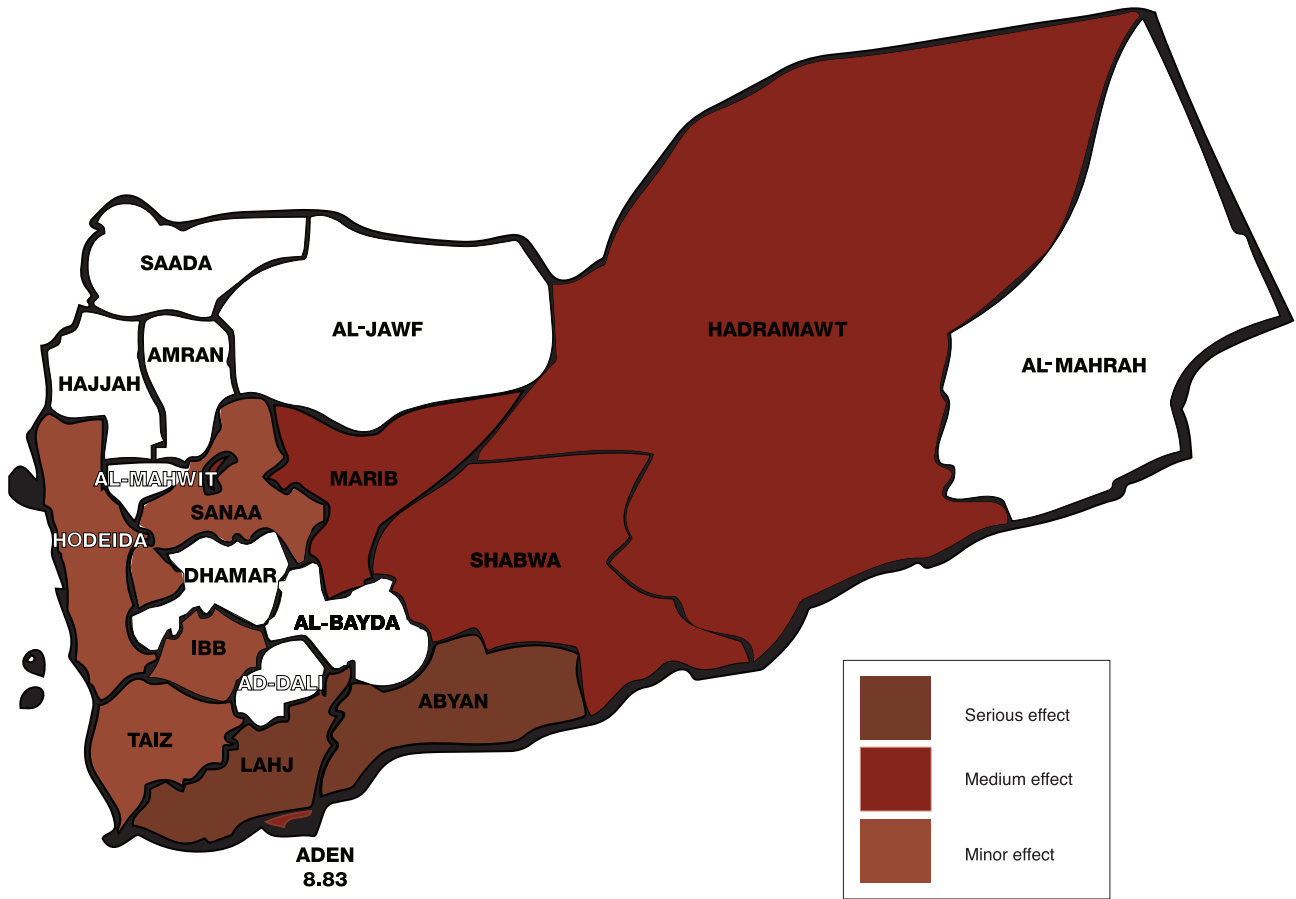
In all governorates, judicial staff frequently cited poor infrastructure and facilities as a major issue. As a general rule, building maintenance and conditions are poor. In the worst facilities, the general level of decrepitude descends to a level that violates basic health and sanitary standards. In Lahj

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***Fear of targeting led some judges to avoid ruling in some cases or to alter their verdicts. One judge in Marib said he would not dare to issue a death sentence for fear of being kidnapped by the defendant’s tribe.***

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Map 3. Security as a Primary Inhibitor of a Functioning Judiciary



in particular, and in some of the rented facilities in Hadramawt, the scope of facility deterioration appeared acute. Many of those interviewed in multiple governorates said that inspections of facilities and maintenance had declined since 2011. Deficits in equipment—from computers to desks and chairs—in all governorates are common. Lawyers, prosecutors, and judges frequently equip themselves as needed with their own money to make up for shortfalls.

A significant source of facility issues was the conflict, fighting, and other civil disturbances. The overall level of facility damage from fighting was worst in Abyan, where the conflict in 2011 and 2012 between pro-government forces and AAS damaged almost all judicial facilities to varying extents. The central prison and the court of appeals were partially bombed, and the Zinjabar primary court collapsed in 2011. AAS occupied a number of government buildings, including judicial facilities in 2011, then looted and damaged them when it was forced out (see photo 3).

Most of the damaged facilities in Abyan had not yet been restored, repaired, or replaced at the time of writing. The researcher who visited Jaar noted that it remained in the same state that AAS had left it in, with no reconstruction or rehabilitation undertaken at all: “The al-Qaeda flag is still painted on the front side of the court.” One exception is the primary court in Zinjabar. Renovations commenced in the fall of 2013.<sup>30</sup>



**Table 5. State Control and Key Security Factors**

<b>Abyan</b>	State control is absent outside Zinjabar's main center. In almost all districts where information was available, armed groups, typically popular committees, rather than the state maintained control. Arrest or detention by the state is not possible without help from such groups. Clashes between armed groups are not infrequent. Illegal checkpoints are prevalent in many locations.
<b>Aden</b>	Though still better than in surrounding governorates, insecurity has risen sharply in Aden compared with the past. Armed groups and the carrying of arms openly on the street—which used to be infrequent in Aden—are now prevalent. Law enforcement and state control have particularly weakened since 2011 in Areesh, Mimdarah, Bassateen, and al-Buraiqah. Strikes and political instability impair overall law enforcement and security.
<b>Hadramawt</b>	Government control has been decreasing, with many far-flung districts beyond effective state control and access. Throughout 2013, attacks on government and military facilities and personnel escalated, as did levels of criminality, including assassinations, kidnappings, and intimidation of government and judicial personnel. Al-Qaeda in the Arabian Peninsula (AQAP) has expanded its base in some Hadrami districts, and groups related to the Southern Movement have frequently blockaded roads and created other security disturbances. In December 2013, simmering political instability exploded into open clashes between different tribal and other armed groups.
<b>Hodeida</b>	Police and security are largely present throughout the governorate, but law enforcement is ineffective in many areas. The rule of law has generally weakened since 2011, with increased, land grabbing and criminality. The vulnerability of the security situation has created opportunities for powerful actors to influence court proceedings.
<b>Ibb</b>	State control is largely present, apart from the al-Qaffer district, deemed insecure because of the influence of nonstate actors. However, incidents of crime, carjacking, and gang activity have increased, and there has been a general deterioration in state-enforced rule of law since 2011. Outside Ibb City, insecurity has limited or shut down government operations for a period of time in many areas, including the operations of courts.
<b>Lahj</b>	State control weakened in 2013, with armed groups affiliated with AQAP and AAS launching attacks near the city center and setting up illegal checkpoints in some districts. Incidents of urban crime, carjacking, and assassinations of security and military officers have increased dramatically, particularly in 2013. Armed groups claiming affiliation with al-Hiraak (the Southern Movement) blocked roads and surrounded police stations.
<b>Marib</b>	State control is largely absent; most districts are under local tribal control or are completely lawless. There is a high presence of armed groups (e.g., terrorists, criminals, traffickers). Specific threats against the judiciary are lower than in other governorates, at the same level as threats against other citizens.
<b>Sanaa</b>	All districts of Sanaa City are under state control, but in some districts of GoS (e.g., Nihm), where tribal and rural customs are stronger, government law enforcement—in the sense of being able to easily detain or capture someone—is weak. Insecurity, kidnappings, and assassinations in and around the capital rose significantly in 2013. Even main facilities such as the prosecutor general's office are in areas of the city that many consider to be off limits because of security concerns.
<b>Shabwa</b>	State control has long been weak, with limited law enforcement throughout. Access to districts is difficult owing to tribal dominance and the presence of AQAP. In districts such as Nissab and Aazan, virtually no government law enforcement or operations are possible because of security concerns.
<b>Taiz</b>	Although security has improved since the worst point in 2011, there is still more criminality and more armed groups in Taiz than before 2011. Judges and prosecutors report that they feel subject to more threats and physical attacks than two years ago. Police and security are largely present throughout the governorate, although access to some districts is difficult, even within Taiz City. Assassinations and kidnappings of government officials and wealthy businessmen are still a much greater problem than prior to 2011.

Although the most severe facility damage was in Abyan, previous conflict and ongoing sporadic fighting also damaged facilities in other governorates. The primary court in the Assaberah district of Ibb was closed or operated partially remotely for much of 2013 because of insecurity and attacks. Researchers found the court building peppered with bullets, and windows were broken. Although many facilities in Shabwa were reported to be adequate, in more remote areas



Photo 3. Primary court in Zinjabar, Abyan, after damage and looting in the 2011 conflict

beyond government control, damage to facilities during fighting may be an issue. In the one outlying district visited, Nissab, the court building was looted by tribesmen and then occupied by an armed tribal leader, who continues to live in it. In Lahj and Aden, clashes and protests related to the southern issue have frequently resulted in damage to government facilities since 2011. Court facilities were rarely targeted directly but were damaged because of their proximity to other targets or their central location, as with the attacks surrounding the al-Habeelain primary court in Lahj.<sup>31</sup> All governorates saw some degree of damage in at least some courts from crossfire in personal disputes or factional fighting.

Beyond conflict-related damage, another persistent problem is the lack of capital investment and maintenance, together with the general neglect of facilities in certain governorates. Although it is difficult to evaluate the scope of the problem without more detailed research and facility surveys, the worst complaints in the qualitative interviews came from Lahj and parts of Hadramawt. In Lahj, several of the buildings visited—the al-Hawta primary court and the al-Habeelain primary court and prosecutor’s office—sparked descriptions that included “rotten from the inside,” “desks supported by stones or cement blocks,” “corridors...dark, narrow, dirty, and badly ventilated,” and (of the central prison) a “rotten spot not even fit for goats.” In the Mukalla area of Hadramawt (not the Sayun area), the rented buildings were poorly maintained, often were not equipped with chairs or furniture, and in some cases had no working bathroom facilities or water.

Poor maintenance and lack of equipment or resources are issues everywhere, even in governorates where facilities and infrastructure are relatively robust. In Hodeida, Taiz, and Aden, electricity cuts made otherwise adequate facilities unusable for prolonged periods. When researchers visited the court in Seera, Aden, they found no one there in the morning and the electricity off. All staff and some disputants had gone to Aden Mall opposite the court of appeals building to wait until the power was restored.

Most governorates noted equipment shortages ranging from a lack of computers and copying machines to shortages in basic notepaper or furniture. In Jabal Habashi, Taiz, the prosecutor's office had a reputation for being hard-working and relatively effective, but it lacked basic amenities, including a telephone, a fax machine (which is used in standard procedures for authorizing the release or transfer of criminal defendants from detention facilities), and, most days, power. The description of the al-Mashanah primary court in Ibb illustrates the equipment of an average to good facility: "The equipment and furniture of the primary court are very old. There is one copying machine, but it is currently broken, and a computer that is currently broken as well." In the prosecutor's office for the same district, the equipment and furniture were in better shape, but there was only one copying machine, one fax machine, and no computers.

Prosecutors in the Taiz appeals process noted acute shortages of vehicles and staff necessary to transport defendants from detention facilities to appear before courts. The lack of vehicles and staff to secure them held up court trials far more, they noted, than judicial strikes, insecurity, or other factors in 2013.<sup>32</sup>

### ***State-Owned versus Rented Facilities***

Many of the facility issues arose from the inappropriateness of the facilities for judicial tasks rather than from damage or poor maintenance. Many of the complaints stemmed from the lack of state ownership. Ownership means maintenance and investment. Rented facilities not designed for court trials or other specific judicial functions may not be appropriate to the task. Rented facilities tended to be buildings or apartments originally designed for residential living, and generally too small to accommodate full court trials. They also frequently lacked halls for disputants to stand or wait in, temporary detention facilities or holding places for criminal defendants, or adequate places to store court records.

The lack of stability that goes along with rented facilities and the tendency for space to be in short supply within facilities caused some court staff to limit the records that were preserved and documented. In Taiz and Ibb, staff noted that some documents were not stored because of space shortages, and that case documents were sometimes stored in other buildings where they were less accessible.

All governorates had a significant proportion of their court and prosecutor's offices located in rented facilities (see table 6). The prevalence of rented facilities that were inadequate for court trials was one of the most significant issues in GoS. Most of the buildings in GoS are rented, including the court of appeals for the governorate of Sanaa, the prosecutor's office for appellate cases, and four primary courts.<sup>33</sup> Although complaints about the buildings were frequent, in most cases they focused not on the need for renovation but on the fact that many of the facilities were not designed to serve a judicial purpose. Many of the rented buildings are in residential facilities such as apartment buildings. As the researcher who observed the Hamdan court noted, "They were designed for housing with small rooms and narrow corridors. They lack session halls, judges' offices spaces and seating of [both parties]." A description of the Sanhan court identified similar issues: "The court has only two halls [suitable for a court session]. The two smaller ones (3 x3 meters) [are] located under the staircase. This makes it impossible to run sessions for all judges [all the time]. Criminal cases are limited to the main hall only."

Concerns about the facilities for Sanaa City are similar. Half of the capital's primary courts are rented, as are most of the special courts. The rented facilities have similar suitability problems and some of the same maintenance issues, as facilities in the governorate, though maintenance was not as poor. The state-owned buildings, including the capital's court of appeals, are old and have some maintenance issues, in addition to capacity issues engendered by the high volume of cases in Sanaa City (second highest after Aden).

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***Prosecutors in the Taiz appeals process noted acute shortages of vehicles and staff necessary to transport defendants from detention facilities to appear before courts. The lack of vehicles and staff held up court trials far more, they noted, than judicial strikes, insecurity, or other factors in 2013.***

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**Table 6. State Ownership of Court Facilities**

Governorate	Total Courts	Courts Where Information Available	State-Owned	Rented
Abyan	11	11	6	5
Aden	13	13	7	6
Hadramawt	22	21	11	10
Hodeida	23	21	14	7
Ibb	22	22	12	10
Lahj	14	14	10	4
Marib	4	4	3	1
GoS and Sanaa City	28	20 <sup>a</sup>	8	12
Shabwa	14	14	10	4
Taiz	21	21	12	9

a. Data obtained included the GoS and Sanaa City courts, but not the special courts. The special courts are reportedly primarily in rented buildings, though this was not confirmed for each one.

Issues with rented facilities were also significant in the Mukalla area of Hadramawt (but not the Sayun area), where most rented buildings were reportedly in poor condition and had both small rooms not fit for court trials and offices without chairs or furniture.

No particular regional or geographic trends are discernible in the ratio of state-owned to rented facilities, as illustrated in table 6. It is frequently the case, however, that more recently established courts and special courts are located in rented facilities, suggesting that in recent decades facility investment and construction have not kept pace with the expansion of the justice system. This is not to suggest that all maintenance or construction has ceased in recent years. For example, a new judicial compound in Taiz was constructed and began being used in 2012, and in Marib a new prosecutor's compound was under construction (see photo 4). Seera's court, in Aden, was

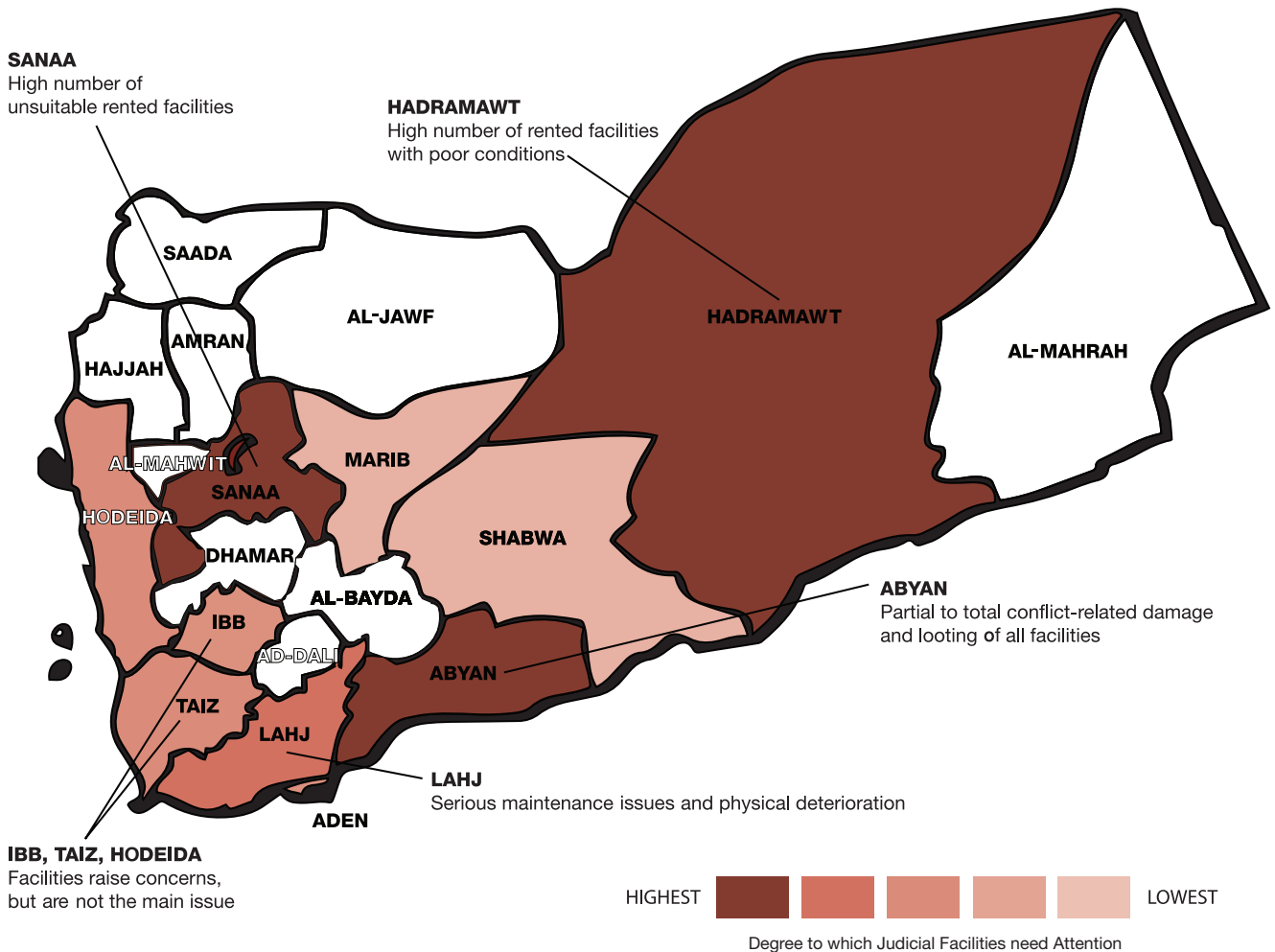


Photo 4. New judicial complex under construction in Taiz.

designated as a model court a few years ago and provided with modern equipment and television monitors to show times of court sessions and disputants' names. There is a section for client service that provides support and legal services, and the rest areas and waiting rooms are adequate.

Although facilities inadequate to judicial tasks were a more common complaint with rented facilities than with state-owned ones, some of the older state-owned buildings are also in need of not simply maintenance but also possibly retrofitting to meet current demands. In Aden, many of the state-owned facilities are in relatively good shape but are nonetheless much older, some dating to the British era, and may not meet current capacities or needs. For example, in Buraiqah's primary court, the court building is a line of rooms without any halls or spaces for defendants to sit or claimants to wait. In Sanaa West, the old, state-owned building had halls that were too small for both the size and the number of trials, and had neither offices nor a detention room. Table 7 presents the number of rented and state-owned courts in each province, as well as the facility issues in each. Map 4 presents a summary of the facility issues in each governorate based on the qualitative field interviews.

**Map 4. Status of Judicial Facilities**



**Table 7. Court Facility Issues**

<b>Abyan</b> 5 rented 6 state-owned	Facilities were the worst seen in this study and a serious obstacle to a functioning judiciary. Court and administrative facilities were damaged, looted, and destroyed during the conflict with Ansar as-Sharia in 2011; most have not been repaired fully and some have deteriorated further. Some buildings were directly hit by ongoing fighting; the court of appeals, for instance, was partially bombed. The primary court in Zinjibar collapsed during the 2011 fighting and is now operating out of a set of four rented apartments that are not suitable for trials because of their small size. Others, such as the primary court in Jaar, were occupied by Ansar as-Sharia, which looted and gutted them after being ousted. Although the primary challenge is the need to rehabilitate or rebuild infrastructure and facilities damaged in 2011, many of the facilities were inadequate even before 2011.
<b>Aden</b> 6 rented 7 state-owned	Courts were generally described as in good shape and adequate for their purpose, and in a few cases had been retrofitted with modern facilities and systems. Even the rented buildings were generally described as adequate to the task and in good condition; some older court buildings dating from the British era were not well suited to modern caseloads or processes, but were otherwise adequate.
<b>GoS and Sanaa City</b> 12+ rented 8 state-owned	Facilities that were not built or designed for court trials, or poorly maintained rented facilities, were one of the main issues in the governorate. Most buildings were rented and were built for civilian housing purposes; for example, they lacked halls large enough to accommodate court trials. Eight of the primary courts were reportedly in rented facilities, mostly apartment buildings, but this could not be verified for each.
<b>Hadramawt</b> 10 rented 11 state-owned	Judicial facilities (both courts and prosecutors' or judges' offices) are a significant issue in the Mukalla area, where most courts and offices are rented and few are state-owned. The rented ones were in poor condition and had small rooms not fit for court sessions. Some had too few offices, lacked chairs and other furniture, and even lacked working bathroom facilities. The commercial court and the court of appeals are among the few new and state-owned buildings, and were in good shape. In Sayun, the courts were mostly state-owned and the buildings reportedly in better condition (though fewer site visits took place in Sayun).
<b>Hodeida</b> 7 rented 14 state-owned	Facilities are relatively usable compared to other governorates, but still in need of repair; some cannot accommodate court hearings because of small courtrooms or lack of proper furniture or equipment. Most are state-owned and in working condition. Deficits frequently included a lack of computers or other equipment, small rooms for court trials, and furniture shortages. As in many areas, electricity and power cuts were an issue, and when they happened, courts such as the one in Hodeida North (one of the major courts) were effectively shut down.
<b>Ibb</b> 10 rented 12 state-owned	Most court facilities were in reasonable condition; the court of appeals building is old and unsuitable for the number of trials held, but it will soon move to a new judicial complex that is 70 percent complete. A number of primary courts use rooms that are too small to accommodate trials. The rented buildings for courts and prosecutors were in great need of attention. The majority of facilities were in working condition, though with serious deficiencies in some. The state-owned court of appeals building is old, with narrow rooms unsuited for trials, but the court will soon move to a new complex. The rented buildings, both courts and prosecutor's offices, were in need of attention, and some facilities were too small to even store files.
<b>Lahj</b> 4 rented 10 state-owned	Facilities ranged from new and very good in a few cases (the new judicial complex and al-Hawta primary court) to unsuitable or virtually uninhabitable in others. Though most courts are state-owned, most courts had seriously neglected facilities, rotting infrastructure and furniture, and other serious health hazards. The rented offices were either inadequate for court facilities or severely neglected. Almost all courts were dilapidated, with collapsing or inadequate furniture. A new judicial complex built in 2008 houses the court of appeals, public assets court, and al-Arah and al-Madharibah primary courts, as well as several of the prosecutor's offices.
<b>Marib</b> 1 rented 3 state-owned	Although buildings are scarce in most areas of the governorate (only three courts have been established), their physical condition is not the main reason for the lack of a functioning judiciary. The appeals court and Marib City's primary court are colocated in a state-owned building in very good condition. The al-Joobah court is in an adequate state-owned building, but the Hareeb primary court is in a small rented building. A new prosecutor's office was under construction in Marib City at the time of research.
<b>Shabwa</b> 4 rented 10 state-owned	Facilities are generally state-owned and in relatively good physical condition; many are new and even the older Ataq court has been renovated recently. However, in Nissab, the judicial building was looted and is occupied by a tribesman.
<b>Taiz</b> 9 rented 12 state-owned <sup>a</sup>	Many state-owned courts are in working condition; however, there are still many rented facilities, typically apartment buildings ill-suited for court-related needs, that are not connected to other judicial resources or law enforcement systems. A new judicial compound open since July 2012 in Taiz City has relieved some of the past rental and facility issues as courts in older buildings were transferred there. Although facilities and conditions were satisfactory, shortages in computers and other equipment are widespread. Power cuts frequently make courts and offices difficult or impossible to work in.

a. At the time of research, the commercial special court was still lodged in a rented facility but was due to be moved shortly to the state-owned judicial complex, so it is considered in this count being as in a state-owned building.

## Personnel

Many of the questions in the study related to levels of staffing, staff absenteeism, and deficits in staff knowledge, training, or performance. Inadequate levels of staffing and staff absenteeism were major problems across all governorates. Lack of training and poor staff quality—from judges to junior staff—were also a pervasive issue, cited frequently by judiciary staff themselves as a critical weakness. These deficiencies have been allowed to persist by a weak monitoring and accountability system, which grew even weaker during the transition period.

**Table 8. Cases Generated per Judge, 2013**

Governorate	Total Cases	Number of Judges	Cases per Judge
Hadramawt	6,766	17	398
Taiz	24,519	75	327
Sanaa City	36,729	134	274
Hodeida	18,396	69	267
Ibb	15,978	61	262
Lahj	7,041	29	243
GoS/Al-Jawf*	10,022	40 GoS, 3 Al-Jawf	233
Aden	15,021	70	215
Marib	349	3	116
Abyan	1,451	15	97
Shabwa	219	12	18

\* Because the MOJ case data combine statistics of cases from GoS and al-Jawf, the judge for each of the three al-Jawf primary courts are included here. Al-Jawf was not part of this study, but some prosecutors interviewed for other parts of the report noted that to their knowledge, these courts were not open (and perhaps judicial spots were not even filled) since 2011.

Although these personnel issues were present in all ten governorates studied, the research tried to identify where the staffing issues most seriously blocked effective court functions, based not only on the qualitative interviews but also on analyzing data about case volumes per available staff numbers. The staffing issues and factors are wide-ranging; this section discusses in turn the following items:

- staff shortages, staffing numbers per capita, and caseload;
- effect of judges' strikes and political disturbances on staffing levels;
- other causes of absenteeism (insecurity and threats, low demand, posting far from home, low morale and accountability);
- consequences of shortages in staffing and absenteeism;
- staff quality issues; and
- a summary of staffing issues by governorate (see table 9).

**Table 9. Summary of Personnel Issues**

Governorate	Judges and Prosecutor's Offices	Staffing Concerns
Abyan	15 judges 11 offices	Owing to insecurity, lack of government presence, and general absenteeism, staff are present and active only one to two days of court per week in only a few courts. Many judicial and rule of law entities for Abyan operate from Aden, including the Investigation Office, the main detention facility, and the court of appeals. Where primary courts do function, they are manned (as before 2011) by one judge each, with the exception of the Zinjabar and Jaar primary courts, which nominally have three judges assigned.
Aden	70 judges 6 assistant judges 15 offices ca. 104 prosecutors	Among the largest number of judges and support staff, and reportedly among the highest quality in terms of knowledge and training. Yet staff still felt the staffing levels were barely keeping up because of high demand, and were made worse by absenteeism caused by judicial strikes, southern issue protests, and insecurity. The imminent retirement of qualified support staff will strip courts of important capacity. Prosecutors struggle to keep pace with the volume of cases, and most need training and capacity building.
Hadramawt	17 judges 18 offices	Because of judges' strikes and politicization, the judiciary is effectively shut down, making staffing one of the major problems. Qualified support staff are scarce, among the worst in the study. Based on an analysis of case data and numbers of judges, judges have the highest caseload of any governorate in this study.
Hodeida	69 judges 18 offices ca. 70 prosecutors	Staffing was the most significant issue, and the rates of general absenteeism and judicial strikes were among the highest. Staffing was deemed adequate by human resources staff for the governorate in only three primary courts and seven prosecutor's offices. One staff member said that many staff members had passed the age of sixty and had not retired, and that no new staff had been hired to replace them or to cover for them during sick leave, which put staff under pressure and slowed court processes.
Ibb	57 judges 4 assistant judges 18 offices ca. 86 prosecutors	Judicial strikes were a significant cause of understaffing and a major issue overall. Staff in the district courts visited estimated that they may have impaired judicial functions by as much as 50 percent in some courts. In addition, that most judges come from outside the governorate and live outside Ibb also contributes to regular absenteeism. Staffing levels are worse in outlying areas. Political interference and security threats also had an important effect on staff presence and independence. Staff do not attend courts outside Ibb City regularly because of insecurity.
Lahj	29 judges 14 offices	Serious and increasing insecurity, often targeted at the judiciary, results in high absenteeism. Judges strikes and strikes related to the Southern Movement had a high impact relative to that in other governorates. Internal politics among judges was said to cause a lot of infighting within courts, which slowed court processing. This reflects more on personalities than on institutional issues. As one judicial staff member noted, "Many judges are engaged in office politics, and competition over power with other judges." Low morale and staff quality were frequently mentioned.
Marib	3 judges 1 office	Staff attend infrequently in all courts and prosecutor's offices, primarily because the courts and offices are closed owing to low demand, but also because of weak state control and judges living outside the governorate. The judge for two of the three primary courts works remotely more often than not, leading the court to be closed. The court of appeals bench is not full, having only one of the three judges mandated by law.
Shabwa	12 judges 10 offices ca. 12 prosecutors	Only eight judges serve for thirteen primary courts covering all seventeen districts. All other staff levels are similarly low, though case volumes are also low, a result of low demand. Judges rarely show up because of insecurity and because courts are usually closed (the cause and effect are muddled: whether courts are not open because judges do not show up or vice versa). One district had no court because the judge had died more than a year earlier.
Sanaa	40 GoS judges 134 Sanaa City judges 9 GoS offices 26 Sanaa City offices	Though better staffed than other governorates, corruption, frequent judicial strikes, general absenteeism, and an overly heavy caseload are persistent problems. GoS and Sanaa City had among the lowest case completion rates and extensive case backlogs, suggesting either staff numbers inadequate to deal with demand or slow processing, or both.
Taiz	75 judges 12 assistant judges 13 offices about 110 prosecutors	Urban areas have a high number of judges, although a high case volume and heavy case backlog led staff to complain of insufficient numbers. Corruption remains the most serious problem, with many lawyers in the area and at a national level arguing that the levels of corruption in Taiz exceed those of most other governorates.

Numbers of judges and prosecutor's offices are based on reporting at a governorate level, typically by the human resources or payroll office at the local court of appeals.



## **Staff Shortages**

Across all ten governorates, court staff interviewed complained about the negative impact of staff shortages. In Sanaa (governorate and city), Taiz, Ibb, Lahj, Hodeida, and Hadramawt, interviewees highlighted it as one of the biggest problems facing the judiciary.<sup>34</sup> Court staff argued that too few judges and prosecutors to keep up with the case volume contributed to extremely slow case processing times (frequently exceeding the time limits under the law), and a continuing backlog of unresolved cases. In Ibb, for example, inadequate numbers of staff in the districts outside the main urban area reportedly led to typical three-month wait times between court sessions. In Hodeida, those interviewed estimated that staffing levels were sufficient in only three of the primary courts and seven of the prosecutor's offices.

Information collected on the numbers of active judges in each governorate suggest an average of 3.2 judges per hundred thousand people in the ten governorates surveyed.<sup>35</sup> The Ministry of Justice's records of the total number of judges in Yemen would instead suggest an average of 4.1 judges per hundred thousand people. Other studies have yielded estimates of 8.2 in the Near and Middle East, and 11.5 globally.<sup>36</sup> Annex 1 lists the estimated ratio of judges per population for each of the governorates studied and more information on how these numbers were derived and discrepancies between local- and national- level estimates.

Whether the number of judges per population is adequate depends not only on the number of judges per capita in a governorate but also the level of demand from that population. It is possible to estimate the caseload per judge using the numbers of judges collected at a governorate level and the Ministry of Justice national statistics on number of total cases in each governorate. Analyzing this data for 2013, judges in Hadramawt have the highest caseload by a wide margin, followed by those in Taiz, Sanaa City, Hodeida, Ibb, and Lahj.

A significant portion of the caseload in Yemen represents a backlog from prior years, as discussed in greater detail in the following section. High case backlogs may be caused by inadequate staffing, but other factors are also in play, such as efficiency of case processing, political interference or pressures delaying the conclusion of certain cases, inability to obtain evidence or the presence of defendants, and so on. In some governorates, the number of judges or staff may be enough to cope with the rate of new case generation, but with a backlog of cases equal to or greater than the new cases per annum in nearly all governorates, not enough to clear the backlog.

## **Judges' Strikes and Political Protests**

Although the number of judges, prosecutors, or other staff assigned is one factor, equally important is whether they actually show up to work. One of the most significant factors affecting absences of judges, prosecutors, and other staff since 2011 has been the high number of strikes and protests. In all governorates, strikes, protests, and other civil disobedience campaigns were estimated to close court functions or lead to judge or prosecutor absences for days, weeks, or even months at a time.

Since 2011, the Judges Club, or the Southern Judges Club, has organized frequent and often prolonged judges' strikes (with prosecutors often participating as well) as a way to protest ongoing political developments or raise judicial demands. The Judges Club is a voluntary association with representation in all governorates. Statistics about the percentage of the judiciary who are active members, or who regularly follow the club's instructions to strike, were not available, but membership is widespread throughout all governorates. The Southern Judges Club is a spin-off of the Judges Club, organized because southern judges and prosecutors felt that their complaints and demands were slightly different from those of the Judges Club and were not fully represented by the Judges Club.<sup>37</sup> Despite its name, it has no specific secessionist agenda or ties to southern opposition groups.

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***In Ibb, inadequate numbers of staff in the districts outside the main urban area reportedly led to typical three-month wait times between court sessions.***

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Members of the Judges Club in Sanaa noted that the initial strikes in 2011 were called in coordination with the demands of protestors in Change Square, as well as demands for greater recognition for judges' and prosecutors' rights and for judicial independence. A strike was called December 31, 2011, and continued (with imperfect compliance) for the first three months of 2012, according to Judges Club leadership.<sup>38</sup> The strikes accelerated in 2013 as demands for benefits and compensation were not met and NDC debates over the judiciary and other proposed reforms raised concerns among club members. Strike demands throughout 2013 included greater judicial independence;<sup>39</sup> more work allowances, enforcement of administrative rules regarding promotions and advances, and security protection for judges; and opposition to proposals in the NDC to amend membership of the Supreme Judicial Council.<sup>40</sup>

In addition to judges' strikes, courts and judicial staff have been affected by general protests or civil disobedience, which have been common during the last two years. In many southern governorates, but particularly Aden, the biweekly days of civil disobedience called by al-Hiraak—in which schools and local businesses are ordered closed in protest over the southern issue—have shut down courts in some districts (not all judges respect the al-Hiraak boycott) or made it difficult for citizens to reach them twice a week.<sup>41</sup>

The duration of these strikes varied, with some lasting for days, some for weeks, and some called on an open-ended basis “until demands are met.”<sup>42</sup> In addition, the duration varied significantly from one governorate to another, and even from one court to another, because some judges did not participate when strikes were called or did not participate for the entire time. Another cause of the variation was that some judges participated and returned to their home governorates during this time. In these cases, they took longer to return when the strike ended.

Because of the different motivations for these strikes and the varying level of compliance, the impact on court closures varied greatly from one governorate to another. According to the qualitative interviews, the governorates of Hodeida, Ibb, and Hadramawt were the most affected. In these four governorates, judges' strikes were estimated to have led to judicial absences and to some courts being closed as much as 60 percent of the time in 2013. The greater impact in these governorates appeared closely tied to specific local political and security factors. For example, in Hadramawt, by the end of 2013, judges' strikes went on longer and had a greater impact because of the deteriorating security and escalating political instability. Judges' strikes together with regular and increasing numbers of civil disobedience actions resulted in courts being open only a maximum of two days per week by the end of 2013 (see box 1). In Lahj, increasing insecurity and the combination of both judges' strikes and strikes or civil disobedience related to the southern issue led to high levels of staff absenteeism and court closures. In Hodeida, those interviewed argued that increased threats to judges and low morale led to more judges striking, for longer periods. In the GoS, the combination of judges' strikes and other strikes or work interruptions as a result of ongoing political events (such as the NDC) led to significant staff absences.

At the other end of the spectrum, in Taiz, where judges and prosecutors participated in the judicial strikes less often, or for a more limited period, strikes were estimated to halt work for no more than two months total over the course of 2013, the longest consolidated strike taking place from May 20 to June 10 (in many governorates). The prosecutors interviewed noted that even during the strikes, most work continued, but new cases were not accepted.<sup>43</sup>

Many individual judges rejected the strikes or tried to continue work despite them. As one southern judge noted, “We don't like the strikes but we feel they are forced upon us by the situation.”<sup>44</sup> Another senior judge in Aden argued that the high number of strikes and their failure to trigger a larger response were symptomatic of wider problems in terms of lack of respect for the

### **Box 1. A Case Study: Judges' Strikes and Civil Disobedience in Hadramawt**

In Hadramawt, strikes started at the beginning of 2012. Initially, they lasted one day, then, after April, two days a week—Mondays and Tuesdays—then later in the year entire weeks. Judges' demands in Hadramawt have focused on personal security arrangements and judicial independence from other branches. At the beginning of 2013, normal work resumed, but then strikes began again in March and April, culminating in the new Southern Judges Club declaring a strike for the entire month of May (though some courts did not participate). The recent political tensions have introduced a new strike and closure schedule. Sundays and Mondays have been declared days of strike. Wednesdays have been civil disobedience days since 2012, so that by the end of 2013, only Tuesdays and Thursdays remained as working days in Hadramawt, unless a judges' strike was called that also limited those days.

judiciary. "One reached four months and the courts were closed but the government did nothing. In any other country if the judiciary would strike for two days there would be uproar. But eventually we felt shame and we came back."<sup>45</sup>

Finally, although the most prominent strikes have surrounded political and judicial demands, individual judges or court staff have also gone on strike in protest of specific local incidents. For example, in early 2013, in the Ibb West primary court, a prominent local sheikh, who was also a member of parliament, did not like a court ruling, and confronted and (allegedly) tried to attack the judge who issued it. This triggered a three-month strike of courts and prosecutor's offices in Ibb because judicial and prosecutorial staff saw the sheikh's behavior as an attack on judicial independence. Judges at Aden's court of appeals and criminal court interviewed in March 2014 noted that a strike was about to be called because, while in the course of judicial business, two judges were stopped and harassed at an unauthorized checkpoint manned by security forces. Despite complaints, neither the governor nor the security director took action to discipline the perpetrators, so judges were threatening to strike until the matter was dealt with.

At times the population has also blockaded or shut down courts in protest of conduct by court or government staff. In the Yafus primary court (Jabal Habashi district) in Taiz, a security official assigned to support court enforcement was abusive and predatory toward the population, sparking a multiweek popular protest that forced the court to close until he was removed.<sup>46</sup> In Lahj, court staff noted that popular anger at the government and the court, some of which was driven by pressures over the southern issue, some by frustration at what was viewed as an overly politicized judiciary, had led to protests at the primary court that effectively closed it down several times during 2013.

### ***Other Causes of Absenteeism***

In addition to strikes and political protests, a number of other causes contributed to absenteeism, predominantly insecurity, but also low demand, low morale, and an aging staff.

In some districts or some governorates as a whole, the appearance of a judge was rare. This was most acute in the more insecure districts or governorates and in governorates without a strong history or use of justice services. For example, in governorates such as Marib and Shabwa, interviewees said that judges appeared rarely because of a combination of insecurity and lack of demand from the population. In Marib, only the judge assigned to the Marib City primary court and the deputy of appeals prosecutor reportedly attended work regularly, according to staff and citizens interviewed. In Shabwa, the appearance of a judge outside the main court in Ataq was uncommon,

and even in Ataq, judges and prosecutors were frequently absent because of security concerns and low case volume (none appeared for work over the course of the research despite repeated visits). The judge assigned to the Asseyd primary court, in Shabwa, died in October 2012 and has not been replaced. The court continues to review contracts and perform notary functions.

Before 2011, Abyan had a small but professional judicial staff that held sessions regularly. However, because of the conflict in 2011 and the continuing lack of state control and limited government presence, as of the time of writing, five of the nine primary courts remained closed (no staff attendance) and the other four operated on a limited basis. Staff were often afraid to report to work or to engage fully in their duties. To give a sense of how this affected staff attendance, in Zinjabar district, two of the three judges live in Aden and reportedly attend court only a few days a week. The third judge, who oversees criminal cases, does not attend at all, reportedly out of fear of revenge from convicts he sentenced but who escaped when the prison was damaged in fighting in 2011. Attendance of prosecutors and staff is similarly sporadic, and those who do appear do not engage in interrogation or refer cases for prosecution but primarily work on noncontroversial administrative work because it is unlikely to make them a target of criminal or armed groups. As of early 2014, the court of appeals for Abyan handles only administrative or minor cases, in part because the head of the court resigned in early 2013, reportedly because of threats to his security, and had not been replaced.

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***As of early 2014, the court of appeals for Abyan handles only administrative or minor cases, in part because the head of the court resigned in early 2013, reportedly because of threats to his security, and had not been replaced.***

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Staff are also less likely to brave the security risks of appearing at court or otherwise going about their work because demand is very low in many governorates, most prominently in Marib, Shabwa, and Abyan. Demand for justice services in 2012 was so low in Marib, Abyan, and Shabwa that not even one case was generated on average for every thousand people.<sup>47</sup> In many districts, the presence of the judiciary is not broadly welcomed, and staff are dissuaded or intimidated from appearing regularly. On a visit to Lawder district in Abyan, researchers found citizens incredibly hostile to the idea of state justice; they longed instead for the return of the sharia-inspired justice of AAS. “The first thing that grabbed our attention was that many citizens showed no awareness about the location of the primary court or the prosecutors offices facilities at all. Some responded sarcastically and some with astonishment that we were looking for a court.” Researchers eventually found the court (which was located in a rented apartment in a luxury housing building) closed, and noted that it was not likely to reopen soon because of the surrounding popular hostility to formal justice. The only judge assigned to Lawder still appears in the district, but irregularly, and staff follow suit.

Although demand and staff presence are lowest across the board in Marib, Abyan, and Shabwa, equivalent pressures of low demand or high insecurity may result in staff absenteeism in districts across Yemen. Both absenteeism and work constraints in response to security threats grew notably over the course of 2013 in Lahj and Hadramawt. Many outlying districts in Hadramawt, Hodeida, Ibb, Lahj, Taiz, and even Sanaa have long had low reliance on formal justice for dispute resolution, and may have case demand relative to that of Marib or Shabwa. In these more remote districts, judges or prosecutors frequently work limited hours or days of the week—not necessarily to the displeasure of the surrounding community.

Another factor limiting staff presence was the prevalence of judges or prosecutors with homes outside the governorate where they were assigned. Judges may be assigned anywhere under the rotation system of appointment, but would not necessarily uproot their families every few years, particularly to move to a governorate with security risks or otherwise considered a less desirable posting. If staff consider home to be in a different government, when stoppages in work occur—

a result of security issues low case demand, or strikes, for example—they are more likely to return to their home governorate, to return less speedily when work resumes, or simply to work remotely most of the time. In Marib, the appeals court is not only understaffed—only one judge is empanelled, as opposed to the three required by law<sup>48</sup>—but the judge also lives in and spends most of his time in Sanaa City. The judge assigned to the Hareeb and al-Joobah primary courts of Marib spends most of his time in his home province of Shabwa, and court staff send documents to him to sign or review. Many if not most of the judges and lawyers who were working in Abyan still operated at least part-time from Aden. Although most pronounced in Abyan, Marib, and Shabwa, judges or prosecutors living in a different governorate from their judicial posting is a broader phenomenon and results in significant absenteeism and delays in work across many governorates. It was also reported to be a persistent problem limiting judicial presence in Hodeida, Lahj, and Ibb.

Finally, significant staff absenteeism was also caused by low morale or a poor work ethic, and enabled by a lack of accountability. In all governorates, staff absences were significant without any apparent cause. Throughout the study, court staff noted that judges, prosecutors, or staff who were sick or simply not motivated to do their work stayed home, with no obvious consequences. Judicial inspection has always been weak, but it has gotten worse over the last two years of political uncertainty and state weakness, court staff said. As one researcher studying overall institutional decline in the last three years remarked, “Under Saleh, there were incentives to at least produce the semblance of a functioning judiciary. . . under [the current regime] it’s not clear those incentives are still present.”<sup>49</sup>

Another problem on the horizon is the aging of qualified personnel, which is already affecting staff quality and presence. In Hodeida, many of the staff on the roster are beyond the retirement age but have not retired. They are frequently sick or do not report to work. One interviewee at a district level estimated that as few as one in five staff members show up regularly. Although Aden had some of the highest overall numbers of staff per court, those interviewed noted that a significant portion of the most qualified staff were at or nearing the retirement age and that their departure (without replacement of similarly qualified staff) would significantly weaken the system.

### *Consequences of Staffing Issues*

The most common consequence of staff shortages or absenteeism was halted court sessions or processes. Absences of judges or prosecutors tended to have a greater effect, but even support staff absences could halt court processes or functions. Researchers observed an entire day of Hodeida North’s court shutdown because the transcriber (*qalam al-kottab*) was absent. Absences led to much longer case processing times overall—one of the largest complaints that citizens had about formal justice processes (see photo 5).

Even where staff shortages or absences did not completely shut down court processes, they often led to improper application of criminal procedure or the law. In Hadramawt, many basic staff positions are not filled, resulting in delays or violation of procedural requirements. For example, Article 119 of the Criminal Procedures Law requires staff to record the minutes of all interrogation processes. However, most prosecutor’s offices lack appropriate staff, and to comply, prosecutors must do it themselves, which many consider time-consuming and distracting. Many have stopped taking minutes at all, unless absolutely necessary. As a result, interrogation files are few and incomplete, which is a violation of Yemeni law. The lack of staff to conduct investigations appropriately was a much larger problem. As one of the judicial staff in Mukalla said, “Now you find guards who have no education or even training conducting an investigation.” The irregular

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Photo 5. Disputants awaiting outside a courtroom in Taiz City.

application of criminal procedure because of staff shortages or lack of knowledge was also mentioned frequently in Ibb. Staffing at prosecutor's offices was a broader complaint raised in several governorates, but a more in-depth study of the prosecutor-general's office is needed to fully ascertain the shortcomings.

National-level data obtained, which could not be accurately verified at a governorate level, indicated 5,898 staff assigned to courts nationwide (excluding judges), and 1,936 staff assigned to prosecutor's offices (excluding prosecutors themselves).

Throughout all governorates, staff complained of too few assistant judges or claims review specialists to absorb the burden of initial case review, which was noted in most governorates as a major factor impeding efficient case processing. In the past, when a claim arrived before the court, one of the judges (typically the head of the court) was required to review it to certify that all documentation was present and that the claim was justiciable. This is time-consuming and detracts from the time available for judges to hear cases. In addition, court staff noted that a specialist may be better than a judge would be at ensuring that the documentation is correct or is presented in a way to streamline the processing later. Following the 2010 amendment to the Civil Procedure Law,<sup>50</sup> Article 104 now allows a *qalam al-kottab*, under the supervision of the head of the court or a specialized judge, to perform this review. However, many courts did not appear to know about this change, and the review was still conducted by a head judge, with resulting delays in case processing.

### **Staff Quality**

Finally, in addition to concerns about adequacy of staffing, concerns about the quality and training of staff were among the most common complaints in the five governorates with the best-functioning judiciaries: Aden, Sanaa, Taiz, Hodeida, and Ibb. Many interviewees were concerned about judges' understanding of Yemeni law, treaty provisions, and comparative best practices from other countries. One organization that engaged in training judges in the last two years and that had

worked on similar training with other judges in the region gauged the knowledge to be among the lowest they had yet encountered.<sup>51</sup> Of the judges trained in their programming, only an estimated 5 percent (predominantly those from Aden) demonstrated adequate knowledge and professionalism at the beginning of the course.

Some of the concerns about the overall quality of the judges appeared to be inspired by the fact that assistant judges—who are the lowest rank, and are new graduates from the High Judicial Institute—were taking on the functions of a full judge without adequate experience or supervision. This explanation is somewhat supported by the available information on assistant judges throughout the system. Although in theory, given the number of graduates annually, assistant judges should be spread throughout the system, assistant judges were specifically mentioned in only a few large courts. In Taiz, seven assistant judges were available to the court of appeals, and one or two were in the larger courts of Taiz West, Taiz East, Attaizyah, and Saber al-Mawadem. In Ibb, one assistant judge was staffed to each of the four large courts of ad-Dhihar, Baadan, Assyani, and Yareem. In Aden, one assistant judge was available at the court of appeals, Seera, al-Buraiqah, and special criminal primary courts and two at the Sheikh Othman primary court. Assistant judges were referenced in Hadramawt, but no numbers were given. The lack of assistant judges in most governorates may in fact be because these judges are being directly assigned as full judges, bypassing several more years in training as an assistant judge or in the prosecutor's offices.

Many interviewees thought that support staff would benefit from basic skills training, such as instruction in typing or case management processes. More detailed study of skills provision and deficiencies in initial or continuing training for the different support staff roles is needed to assess and address some of these weaknesses.

## Case Management

Of all the functions and issues analyzed in this study, case management processes were the most similar across all governorates. Even in governorates with a limited working judiciary, when cases were filed and processed, they followed the same procedures (see photo 6).

Under Article 104 of the Civil Procedure Law,<sup>52</sup> when a claim arrives before the court, it must be reviewed to certify that all documentation is present and that the claim is justiciable. If

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Photo 6. Case processing in Sanaa.

acceptable, it will then be officially registered and assigned to a judge or transferred to the relevant section—civic personal affairs, or criminal. As cases are received, they are manually recorded in a series of fourteen registers, organized by case type or by type of process (see table 10). The final verdict is also recorded in brief in the registers. Files are kept locally and archived locally and sent to the Ministry of Justice only if requested.

Yet, though the procedures were common across all governorates, so was poor implementation. Those interviewed in nearly all courts said that time-consuming and convoluted case documentation slowed down court processes. The slowness of the judicial system is a frequent complaint in all governorates and a major factor influencing why many citizens prefer nonstate dispute resolution.

The reasons for poor case processing are diverse, from staffing to resource to security issues. Poorly qualified staff led to inefficient and inaccurate case management. Deficiencies in staffing numbers—because of a lack of total staff, qualified staff, or in some cases staff not showing up to work—led to incomplete case documentation and archives and slow case processing times. In many governorates, not enough staff had training in case management to process cases according to regulations.

**Table 10. Fourteen Common Registers**

Appeals record سجل قيد الاستئناف	Records appeals of criminal verdicts at the primary court level.
Announcements record سجل الاعلانات	Registers all data in the announcements and summons; records the recipient's name and signature
Civic register السجل المدني	Records civic cases, also recorded in the general register
Criminal register السجل الجنائي	Records criminal cases, also recorded in the general register
Daily business register سجل اليومية	Registers session dates, assigned sessions, and decisions made during sessions
Exchange register سجل التناول	Records the handover of files from the ameen asser (secretary) to the judge, noting whether the case is for examination or verdict issuance
General register لسجل العاما	Lists all cases and requests
Incoming record سجل الوارد	Records all incoming communications
Incoming cases record سجل القضايا الواردة	Records the details of requests and cases filed with or referred to the court
Outgoing record سجل الصادر	Records all outgoing communications
Personal affairs register سجل الاحوال الشخصية	Records personal affairs cases, also recorded in the general register
Rulings archive record سجل ايداع الاحكام	Records details such as case rulings, dates of completed rulings when issued, disputants' names, and the name of the staff member who filed the record
Rulings drafts record سجل قيد مسوات الاحكام	Keeps a copy of the handwritten drafts of rulings issued by judges; a limited record, only the verdict recorded



Case management is also negatively affected by insecurity and resulting absenteeism. For example, in Lahj, documenting cases, including filing a dispute, case registration, scheduling a court session, and notifying disputants, used to happen in one day. Now, because of the judge or other staff being absent so much, it takes weeks or months. In al-Habeelain, one interviewee noted that “if a citizen wants to submit a claim, he would wait for weeks till a judge appears for initialing the document, and then would wait again for the staff in charge. The sessions cannot be done for the same reasons, so citizens give up and look for other alternatives.”

In Jaar, Abyan, possibly the most extreme case of files being lost or archives damaged, members of AAS took over the local court and prosecutor’s office in 2011. When they were pushed out, they looted the buildings, destroyed and burned files of relevance to AAS’ members and supporters, and threw most of the rest away. Some files were reportedly taken by a former supporter of AAS, who later went over to join one of the pro-government popular committees, but the whereabouts of these files is not known.

Without a more detailed review of case processes conducted regularly over a longer period, it is difficult to characterize some governorates as better or worse than others in terms of case management and tracking processes. The one exception is Aden, which appeared to have not only stronger case management systems but also simply stronger administrative processes across the board.

### *Backlogs and Incomplete Cases*

All of these factors—understaffing or underqualified staff, absenteeism, poor case management processes, and other factors leading to court closures—can result in a high rate of incomplete cases per year and a large accumulated case backlog. This is a significant factor across Yemen’s judicial system, but long case processing times and a heavy backlog were mentioned most frequently and appeared most severe in Lahj and Sanaa (both city and governorate), and to a lesser degree in Taiz (see photo 7). In Sanhan, Sanaa, for example, staff estimated that high volumes of cases for the number of judges (also a result of judge absenteeism) and slow processing led to case processing times of well over a month on average, and to many cases not being decided by the end of the year. In Lahj,

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***In Lahj, documenting cases, including filing a dispute, case registration, scheduling a court session, and notifying disputants, used to happen in one day. Now, because of the judge or other staff being absent so much, it takes weeks or months.***

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Photo 7. Staff engaged in case management at the Qalam al-Kottab office in an urban court in Taiz.

**Table 11. Percentage of caseloads carried over from prior years and incomplete in 2010, 2012, and 2013**

Governorate	2010		2012		2013	
	Carried over	Incomplete	Carried over	Incomplete	Carried over	Incomplete
Lahj	<b>61.5</b>	<b>78.0</b>	<b>82.3</b>	<b>81.7</b>	<b>77.4</b>	<b>82.0</b>
Abyan	<b>58.9</b>	53.7	<b>99.2</b>	<b>99.4</b>	<b>79.4</b>	<b>80.3</b>
Sanaa and Al-Jawf	45.3	47.0	<b>73.3</b>	<b>71.5</b>	59.8	66.9
Sanaa City	<b>52.8</b>	<b>56.9</b>	61.1	60.4	48.3	52.0
Shabwa	39.9	42.6	65.6	68.9	<b>73.1</b>	<b>79.5</b>
Ibb	50.6	<b>55.4</b>	63.8	66.3	58.9	65.8
Taiz	51.1	52.8	62.1	66.7	56.5	58.3
Hodeida	42.3	49.5	53.6	57.9	48.8	51.4
Hadramawt	39.5	37.0	50.1	52.2	50.6	54.5
Aden	34.0	37.1	49.4	49.5	43.3	41.7
Marib	24.8	12.0	41.4	47.3	38.4	60.2
<b>Average</b>	<b>47.4</b>	<b>50.5</b>	<b>61.7</b>	<b>63.0</b>	<b>54.5</b>	<b>58.0</b>

staff noted that cases took years to complete, and that often by the time they reached trial they were thrown out for incomplete documentation or for having passed the time limitations on a case.

Ministry of Justice data largely support the qualitative data. The rate of case incompleteness for 2010, 2012, and 2013 (2011 data did not disaggregate by governorate), suggests that case backlogs and case incompleteness are highest in Lahj and Abyan, followed by GoS and Sanaa City. In Lahj, 78 percent or more of the caseload was uncompleted in each of the years examined. In Abyan, incompleteness has been a long-standing issue that grew much worse after the judiciary was effectively halted in 2011. In 2012, 99.4 percent of cases were not completed in Abyan, and 80.3 percent were not completed in 2013. Meanwhile, in GoS, the rate of incomplete cases hovered between 47 and 71.5 percent over the three years examined.

Although some governorates stood out for having a higher share of backlog cases and higher rates of incompleteness, the average rate of incomplete cases over this period across all governorates ranged from 50.6 percent in 2010 to 63 percent in 2012. The percentage of caseloads each year that stems from prior years is also consistently high, 61.7 percent in 2012 and 54.5 percent in 2013. Table 11 compares the caseload coming from prior years and complete for each of the years 2010, 2012, and 2013 for each of the ten governorates and Sanaa City. The three highest percentages for each year are in boldface, and the fourth highest in italics.

### *Case Tracking*

In terms of tracking the overall number of cases in the system, those received by courts each year should be readily available in the registers in each court at a local level. Each court forwards information about the types of cases received and decided per district to the governorate level annually. Each year, the statistics about the cases (but not the case files themselves unless requested) from a governorate level are then sent on to the Ministry of Justice, which compiles and produces a comprehensive report analyzing these statistics. In theory, the report is then made public through the ministry's website, but at the time of research, records were only available through 2009, and obtaining data for subsequent years was one of the most difficult and time-consuming parts of this research.

In theory, this is how cases are supposed to be tracked. In practice, irregularities, particularly at the local level, are the rule. At the primary court level, case tracking was inconsistent. Staff reported that many files were lost or not tracked as they were supposed to be. In the courts visited, the number of cases reaching or decided in each court was generally either not available or appeared to be only haphazardly collected. This was primarily because of staff shortfalls, but also sometimes due to a lack of space,<sup>53</sup> or specific security threats or damage to the files or registers themselves. This happened in all governorates to some degree but was the worst in governorates or courts with extreme staffing shortages or security threats. In Hadramawt, a general lack of support staff led to files being frequently lost or requisite material never documented. Even in Aden, which had some of the best administrative tracking and data available at a governorate level, when researchers went to the local primary courts, the only available figures were for the total number of cases, not disaggregated by type, and the records appeared thinner than the annual reporting of cases would have suggested.

Although lost files or poor recording practices likely lead to underreporting of cases, other incentives may lead to overreporting. Across governorates, interviewed staff were highly sensitive about sharing case numbers because they viewed them as a barometer of their performance. Thus there may be incentives to inflate case numbers. Lacking consistent or strong monitoring and accountability mechanisms, any under- or overreporting of numbers is unlikely to be caught.

The overall lack of public transparency regarding case tracking reinforces the weak internal accountability for the accuracy of these types of processes. Court staff were reluctant to share overall case numbers, some suggesting that the material was not available or could not be shared with the public. In several governorates, staff said they could not release information without a letter from the Ministry of Justice, even though this information should be publicly available. In GoS, one staff member told the researcher, “These are court secrets.” In Hodeida, case numbers were not available. When asked, judges and court staff were extremely nervous and insulted the researcher. One said privately that because so many courts had been closed because of judicial strikes, staff were concerned the numbers would reflect poorly on the court’s performance. In Shabwa, staff told researchers that they could not share information on case numbers because it was a sensitive issue; what had been collected and was ultimately shared, however, was so inconsistent that it did not appear reliable enough to be useful.

Part of the reluctance to provide case statistics may have been either because the research was conducted just before the end of the judicial year, and statistics had yet to be fully calculated and summarized, or because the staff was reluctant because the researchers had not received a Ministry of Justice authorization letter. Nonetheless, evidence suggests that unwillingness to be transparent about case data is a larger problem. Prosecutors, lawyers, and citizens who were interviewed noted that court staff were frequently unwilling to find case files on request, either because they wanted a bribe or, some said, were too lazy. The researcher in Ibb noted that a citizen requested a file of a case involving himself from six months earlier. “The administrative clerk looked at the mess of papers scattered around his desk and the files [spread open and scattered] on the shelves next to him. He just had a ‘no way’ expression on his face,” the researcher observed.

### *Processing Procedures*

Case documentation and record keeping were not electronic, with the exception of the GoS court of appeals and the court of appeals, Seerah primary court, and the special administrative court in Aden, which all used electronic record keeping to some extent. In most of the governorates, at least in the major courts and courts of appeal, the decisions were typed on computers and the printed

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***In the courts visited, the number of cases reaching or decided in each court was generally either not available or appeared to be only haphazardly collected. This happened in all governorates to some degree but was the worst in governorates or courts with extreme staffing shortages or security threats.***

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copy of the decision was given to disputants and kept in the file. However, in the rural districts of nearly every governorate, decisions still tended to be handwritten. The lack of electricity and equipment shortages created issues in efficient and timely processing of cases for which computers were used—either in tracking or in typing decisions. Table 12 presents a summary of case management issues across the governorates studied.

**Table 12. Case Management Issues**

<b>Abyan</b>	<ul style="list-style-type: none"> <li>• Manual case management, decisions mostly handwritten; courts in major cities before 2011 could type decisions on computers and print for disputants at disputant's expense</li> <li>• Numerous records and case documentation looted or destroyed in 2011</li> <li>• Oldest recorded case in the registry dates to 1968, when most courts were established</li> </ul>
<b>Aden</b>	<ul style="list-style-type: none"> <li>• Largely manual case management, but electronic in the court of appeal and two primary courts</li> <li>• Best administrative tracking and case management of any governorate; some archived records dating to British period</li> <li>• Oldest records are of marriages and divorces registered in 1829; the oldest record of a ruling text dates to 1830</li> </ul>
<b>GoS</b>	<ul style="list-style-type: none"> <li>• Largely manual case management, but court of appeals has a partially electronic system, final decisions being archived in a computer database</li> <li>• Many files in Sanhan have been and continue to be lost</li> <li>• Oldest records in Hamdan court filed between eighteen and twenty-three years ago; oldest records in the court of appeals date from 1995</li> </ul>
<b>Hadramawt</b>	<ul style="list-style-type: none"> <li>• Manual case management; most final decisions typed on computers and printed for disputants at disputant's expense</li> <li>• Lack of support staff widespread; files have been lost and requisite material has gone undocumented; tracking ad hoc and unreliable; number of cases reaching the court or decided more or less not available</li> <li>• Case registry reportedly has records available since 1938 (unverified)</li> </ul>
<b>Hodeida</b>	<ul style="list-style-type: none"> <li>• Manual case management; final decisions generally typed on computers and printed for disputants and record keeping</li> <li>• Unusual reluctance to share information about number and type of cases, suggesting either poor tracking or lower than usual performance</li> <li>• Case registry reportedly has records dating back to the 1980s (unverified)</li> </ul>
<b>Ibb</b>	<ul style="list-style-type: none"> <li>• Manual case management; no available information on use of computers to track cases or type decisions</li> <li>• Lack of qualified support staff and verification judges slows case processing and leads to invalidation of cases</li> <li>• Oldest recoded case the Land Deeds and Authorization Record of 1947</li> </ul>
<b>Lahj</b>	<ul style="list-style-type: none"> <li>• Manual case management; in large cities and courts, decisions may be typed on computers and printed for disputants and record keeping; handwritten decisions the norm in rural districts</li> <li>• Plan to set up electronic system several years ago never implemented</li> <li>• The oldest case reportedly tracked dates back to the time of the Abdali sultanate, although the more general records and registers date back to the 1950s</li> </ul>
<b>Marib</b>	<ul style="list-style-type: none"> <li>• Manual case management; decisions mostly handwritten, then typed on computers and printed for record keeping and for disputants in court of appeals</li> <li>• General civil case records available dating to 1976</li> </ul>
<b>Shabwa</b>	<ul style="list-style-type: none"> <li>• Manual case management; decisions mostly handwritten; main Ataq court may type some decisions on computers and print for record keeping and disputants; computer-typed decisions may be available in other courts when open</li> <li>• General civil case records available dating to 1980s</li> </ul>
<b>Taiz</b>	<ul style="list-style-type: none"> <li>• Mostly manual case management; in all but a few rural districts decisions typed on computers and printed for record keeping and for disputants</li> <li>• Court of appeals now tracking cases electronically</li> <li>• Steps in case management process the most common opportunities for corruption</li> <li>• In Taiz West registry, some case records available dating to 1979, oldest court of appeals case to 1990</li> </ul>

## Corruption and Accountability

The final issue that bears some discussion is the effect of corruption and, correspondingly, accountability mechanisms. Although other studies address corruption in Yemen exhaustively, it is worth discussing briefly here because it affects so many of the other issues in this study.

Corruption was noted in all governorates as interfering with court functionality and access to justice but was said to be most problematic in the wealthier, more developed governorates of Taiz, the GoS, Hodeida, and Aden. Significant levels of political corruption exist in and with regard to the judiciary, including embezzlement of judiciary funds; nepotism and cronyism in judicial, prosecutorial, and other staff appointments; and the use of political influence to subvert or influence the proper application of the law.

Corruption has long been regarded as a critical weakness in Yemeni government institutions. According to Transparency International, Yemen ranks 167 out of 177 countries on its perception of corruption index.<sup>54</sup> Studies on corruption in Yemen have recommended strengthening judicial independence, restructuring judicial authorities, and strengthening transparency in its practices and enforcement mechanisms within the judiciary such as the Judicial Inspection Board and the public funds courts (neither of which appear to have addressed the issue).<sup>55</sup>

Corruption is one of the main reasons why the public lacks trust in the judiciary and prefers to resolve disputes or conflicts outside the courts. A 2006 Yemen Polling Center survey in five governorates—Sanaa City, Taiz, Aden, Hodeida, and Saada—found that 65 percent of respondents believed the judiciary to be the sector most subject to bribery.<sup>56</sup> Most average citizens are deterred from raising a case because of widespread petty or transactional corruption at all points of the formal justice process—bribes demanded by officials for performing according to or otherwise implementing regular procedures, rules, and regulations. “These people are the gateway to the judiciary system,” one court staff member said, describing the negligence and the arrogance of the staff if the disputants refuse to pay *qat cash* (the local phrase for petty bribes because it reportedly pays for the daily use of *qat*) (see photo 8).



Photo 8. The use of *qat cash* was a sign of rampant petty corruption in Taiz, Sanaa, Hodeida, and Aden.

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***In Taiz, lawyers said that corruption was so widespread and so deeply entrenched that money was demanded at nearly every step of the process.***

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The most frequently reported type of corruption was support staff requesting disputants to pay them to complete regular court processes. Staff solicit payment from parties to the case to register a claim, set a session date, copy minutes of a session, draft the verdict text, or perform other functions that are part of their regular jobs. When they are not paid, they neglect processing the case so that it will not move forward or are careless with records or other aspects of their job related to that case. This type of petty corruption was most frequently mentioned in Taiz, GoS and Sanaa City, and Aden, where it was considered one of the main issues bedeviling the local judicial functions. In Taiz, lawyers said that corruption was so widespread and so deeply entrenched that money was demanded at nearly every step of the process. For example, some court staff denied disputants necessary court documents until they paid bribes, which significantly delayed case processing times. Lawyers suggested that Taiz was the worst in terms of petty corruption.

Allegations are frequently leveled that judges take bribes to decide in favor of one disputant or another, or will hold a case indefinitely until a bribe is paid. In Taiz, court staff from one court noted that the head judge manipulated the assignment of cases to take advantage of rent-seeking opportunities. A judge with influence over the case assignment may make sure that a case featuring significant business interests is assigned to him or her. It is also common for judges in Yemen to resolve disputes outside the court and beyond their official duties, acting as informal arbitrators or mediators. Interviews in Taiz and GoS specifically mentioned that most of the bribes were made through these informal channels, but this phenomenon may well extend to other governorates.

In governorates with more developed court systems and more available local funds, misuse or embezzlement of financial assets and operational costs was an issue. In the district primary courts in Aden, lawyers reported corruption in managing financial resources, including allocations for operational costs as well as fees and other cash paid that is not registered (expert fees, guarantees, and the like). In Hodeida, a court staff member said the discretionary parts of salary payments (salary deductions in punishment for absence, bonuses, fuel allowances) were embezzled by staff. The small amount of operational expenses in the governorates where the judiciary was less developed or less well supported may have de facto limited such practices in those governorates. As one court staff member in Zinjibar district of Abyan noted, “The resources are too small—YR 100000 for operational costs—so how can they be stolen?” However, embezzlement, and financial mismanagement have been serious problems within the Abyan Reconstruction Fund, which might otherwise have contributed to rebuilding or restoring damaged judicial facilities in Abyan.

In several governorates, interviewees were also concerned that politicization of the judiciary undermined performance. By politicization, interviewees suggested that rather than being seen as independent from other political actors, judges are seen as acting at the behest of other political actors or as political actors in themselves. This undermines trust, and (if the allegations are true) results in application of the law according to political favoritism, identity politics, or other personal motivations. Within this research, claims of politicization of the judiciary were strongest in Lahj, Hadramawt, and Ibb. In Hadramawt, politicization of the judiciary was said to exacerbate judicial strikes and judicial shutdowns. In Lahj, staff who managed human resources for courts across the government firmly said that there is political influence and interference “to the degree that even the smallest staff member is affected.”

Judges who issued rulings that exposed corruption or otherwise angered ruling powerbrokers, political parties, or governing officials found themselves transferred to less desirable postings in other governorates. The staffing of courts and prosecutor’s offices is highly centralized in the Ministry of Justice, which is in charge of the assignment, transfer, or removal of judges and prosecutors. Judges and prosecutors are supposed to be rotated every three or five years.<sup>57</sup> Because of

this highly centralized control, most interviewees asked about it said that political influence over appointment or removal decisions happens primarily at a national level. Nonetheless, in many governorates, lawyers and court staff gave examples of judges or prosecutors who were believed to have been removed because they issued decisions that did not favor the position of powerful individuals at a local level. This included removal or transfer forced by both governmental and nongovernmental actors.

Although corruption is formally defined as actions taken by public officials, the deep patronage networks within Yemeni governmental institutions and the significant role played by nongovernmental actors (or governmental actors acting outside their official duties) also contribute to misuse or subversion of public authority. Examples were provided of nongovernmental actors forcing the transfer or removal of judges, albeit through informal channels. A judge in Hadramawt was reportedly transferred to another governorate after he ruled against a prominent businessman in a civil dispute. In Sanaa, judges reported high levels of interference in the governorate. As one staff member of the Hamdan court described it, “Influential figures in districts exploit [their influence] and come to courts with armed men and interfere in the judicial processes.” Although this issue is certainly a long-standing and even endemic feature of the Yemeni justice system, many court staff argued that the problem had grown worse over the past two years.

In many of the governorates, judicial actors described heavy interference by security actors. In addition to threatening judges, security actors themselves—according to numerous reports—actually took part in assaults or threats against judicial actors in Aden and Hadramawt. In Hadramawt, judges noted that when a security official is charged with a crime, law enforcement and the investigation departments will frequently refuse to detain the official.

### *Judicial Oversight and Accountability*

Weak quality control and accountability mechanisms are common problems across all governorates. During our research, researchers noted an overall climate of secrecy and suspicion rather than of transparency and accountability. Court staff were reluctant to share information ranging from the number of cases resolved, to the number of staff employed, to financial management processes. One of the successful reforms following the 2011 crisis and transition was the passage of the Access to Information Law, which was designed to create pressure for greater transparency and accountability among governmental actors. Researchers asked some officials about this law but they were not aware of it or even had any sense that the information gathered in the course of their public duties should be available to the public.

Judicial inspection is not undertaken regularly. Although it was reported to still take place in Aden, Lahj, and Hadramawt, it was rarely mentioned or was not done on a regular basis in other governorates. In Shabwa, court staff in the court of appeals said that the last judicial inspection they remembered was in 2011. Judges, prosecutors, and lawyers are well aware of the deficiencies, and improving monitoring and accountability was one of the most frequent recommendations court staff made.

Even when judicial inspection takes place, it may not play the role intended for it. It is frequently influenced as much by the personalities in charge as by objective standards. When staff performance is evaluated, inspectors pay more attention to the quantity of work (number of cases) rather than the quality (in terms of application of the law or responsiveness to citizen demands). Over the course of this study, the information collected suggested serious, frequent, and widespread deviations from criminal procedure and violations of Yemeni law, but little evidence suggested that judicial inspection reviewed malpractice or misconduct meaningfully.

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***Judicial inspection is not undertaken regularly...In Shabwa, court staff in the court of appeals said that the last judicial inspection they remembered was in 2011.***

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Photo 9. Lack of public accountability and transparency with respect to judicial information was a serious issue across all governorates and must be addressed for citizens, like these observing a Sanaa City court session, to feel ownership in the justice system.

Court staff noted that judicial inspection was more likely to be used to interfere with judicial decisions or to punish staff who had angered powerful political actors than to hold staff accountable for performance. In Lahj, staff said judicial inspection was used for political interference. They gave the example of a disciplinary action against a primary court judge in Lahj after he issued a court sentence in mid-2013 against influential military officials for engaging in murder, organized crime, and other illegal activities, and then ordered the investigation of the minister of defense and other top military officials for covering up those crimes and activities. A prosecutorial staff member in Marib noted, “If they want to exclude someone or make trouble for them, they would organize an inspection and create a problem for the individual.” In Shabwa, an example was given of a judge who initiated a process against land grabbing against powerful local leaders in Aden and Lahj, and was then placed under judicial inspection for a different matter. In Ibb, lawyers and citizens interviewed said that the judicial inspection officials do not seem to respond to claims raised by ordinary citizens against corrupt judges. In one of the district visits in Hodeida, staff and citizens interviewed noted that the chief prosecutor never followed up on complaints by citizens who did not have connections to press the issue.

### **Conclusion: A System in Crisis**

Although Yemen’s justice system has never been strong, the picture drawn by the data is of a justice system in crisis. Many of the issues highlighted, from poor facilities to corruption, are of long standing. Nonetheless, in a climate of increasing insecurity, little effective management or accountability, and a deteriorating rule of law, each of these issues has grown worse over the past two years. The overall sentiment expressed by lawyers, judiciary staff, and citizens interviewed was that the justice system had significantly weakened since 2011: enforcement of the law was weaker; attacks on judicial actors and facilities had risen; absenteeism, corruption, and political interference and intimidation had increased; case management processes had slowed; judicial oversight was even more limited; and facilities had deteriorated.

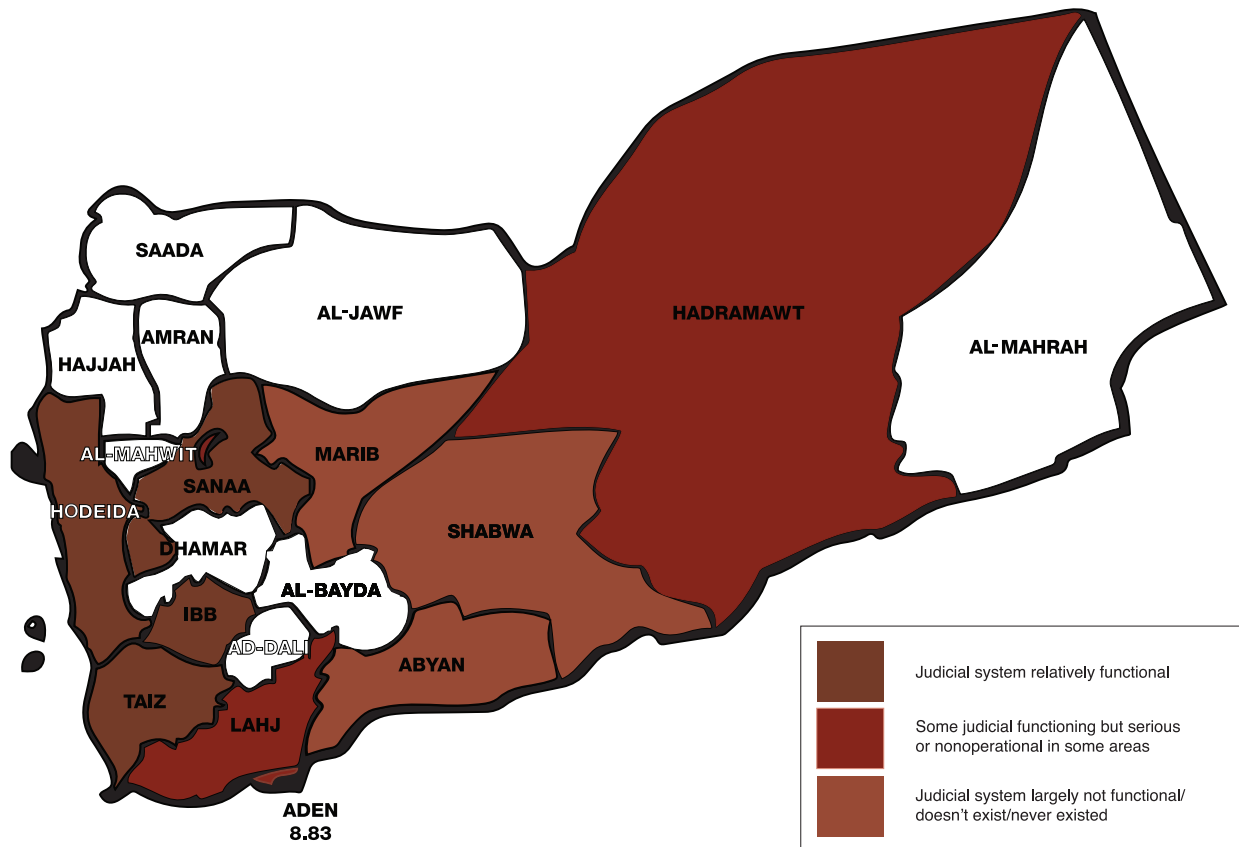


As a result of all these factors, half of the governorates in the survey had few to no judicial functions (see map 5). In three (Marib, Abyan, and Shabwa), the judiciary was virtually not present except for notary services or irregular resolution of minor cases: in Abyan only four courts had nominally reopened following the 2011 shutdown; in Shabwa only one court seemed to open with some regularity; and in Marib no court was regularly open. In two other governorates (Lahj and Hadramawt), functionality was so low that many courts were estimated to be open no more than 40 percent of the time. Even in the five functioning governorates, courts were frequently closed for long periods because of insecurity, political disturbances, strikes, or other factors. For example, in Hodeida and Ibb, these issues may also have resulted in courts in some districts being closed up to 60 percent of the time.

As judicial functions have declined, citizens have increasingly turned away from courts to resolve their disputes and relied instead on nonstate, community dispute resolution mechanisms. This finding is supported not only anecdotally by lawyers and citizens interviewed but also by case data from 2010 to 2012.<sup>58</sup> The number of cases for all governorates, not just those in this study, declined from 193,500 in 2010 to 175,600 in 2011 to 157,314 in 2012.

The 2012 data are not a perfect barometer because in many areas of the country the lingering effects of the 2011 crisis resulted in state functions and services being halted or a lack of state control through the middle of 2012. At the time the research was conducted, 2013 nationwide data had not yet been published by the Ministry of Justice. However, preliminary 2013 case data, which

Map 5. Overall Functionality of the Judicial System



may yet be subject to change, suggest that the number of cases rebounded somewhat, though not back to the levels in 2010. The number of cases in 2013 was 175,213, still a 9 percent decline from 2010 but significantly better than in 2011 or 2012.

From 2010 to 2012 the number of new cases brought each year declined from 27 to 99 percent in the governorates studied, and 41 percent overall (see table 13 and map 6). The preliminary 2013 data suggest a measurable rebound, though still a 22 percent decline in new cases from 2010. The biggest impact has been in the areas most affected by security, particularly across the southern governorates; least affected is the relatively more secure Tihamah region from Hodeida down to Taiz. The full table listing the number of cases and illustrating declining numbers for all governorates is given in annex 5.<sup>59</sup>

**Table 13. Decline in New Cases, 2010 to 2013**

Governorate	2010	2011	2012	2013	Percent Decrease, 2010 to 2012	Percent Decrease, 2010 to 2013
Abyan	1,251	344	12	299	99	76
Aden	12,239	9,242	6,640	8,517	46	30
GoS/Al-Jawf	5,254	1,486	2,266	4,031	57	23
Hadramawt	5,769	4,934	3,276	3,345	43	42
Hodeida	9,843	8,478	7,210	9,423	27	4
Ibb	7,895	7,633	5,143	6,561	35	17
Lahj	2,611	1,637	1,179	1,594	55	39
Marib	540	216	139	215	74	60
Sanaa City	22,995	17,635	12,871	18,978	44	17
Shabwa	420	137	115	59	73	86
Taiz	13,032	10,094	8,464	10,672	35	18
<b>Total new, all governorates*</b>	<b>102,075</b>	<b>77,001</b>	<b>60,306</b>	<b>79,677</b>	<b>41</b>	<b>22</b>

\* Also includes cases from other governorates not part of this study, as well as other military and administrative cases.

Developing constructive responses or reform strategies is challenging not only because of the scope and long-standing nature of many issues but also because of the overlapping nature of the factors obstructing justice. This tends to reinforce institutional weaknesses and prevent non-holistic interventions from succeeding. Figure 1 illustrates how some of the key factors combine to disrupt judicial functions in the ten governorates and Sanaa City. For space and visual clarity, not all of the factors could be represented. Facility and case management issues are not represented, for example, nor are some other factors related to staffing, such as low morale, politicization of the judiciary (Lahj, Hadramawt), especially weak or limited numbers of support staff (Hodeida, Hadramawt), or judges working remotely from their assigned courts (Marib, Abyan, Hodeida, Ibb). The Need to Reinforce Strengths circle does not match one of the categories mentioned

Map 6. Decline in New Cases, 2010–2012

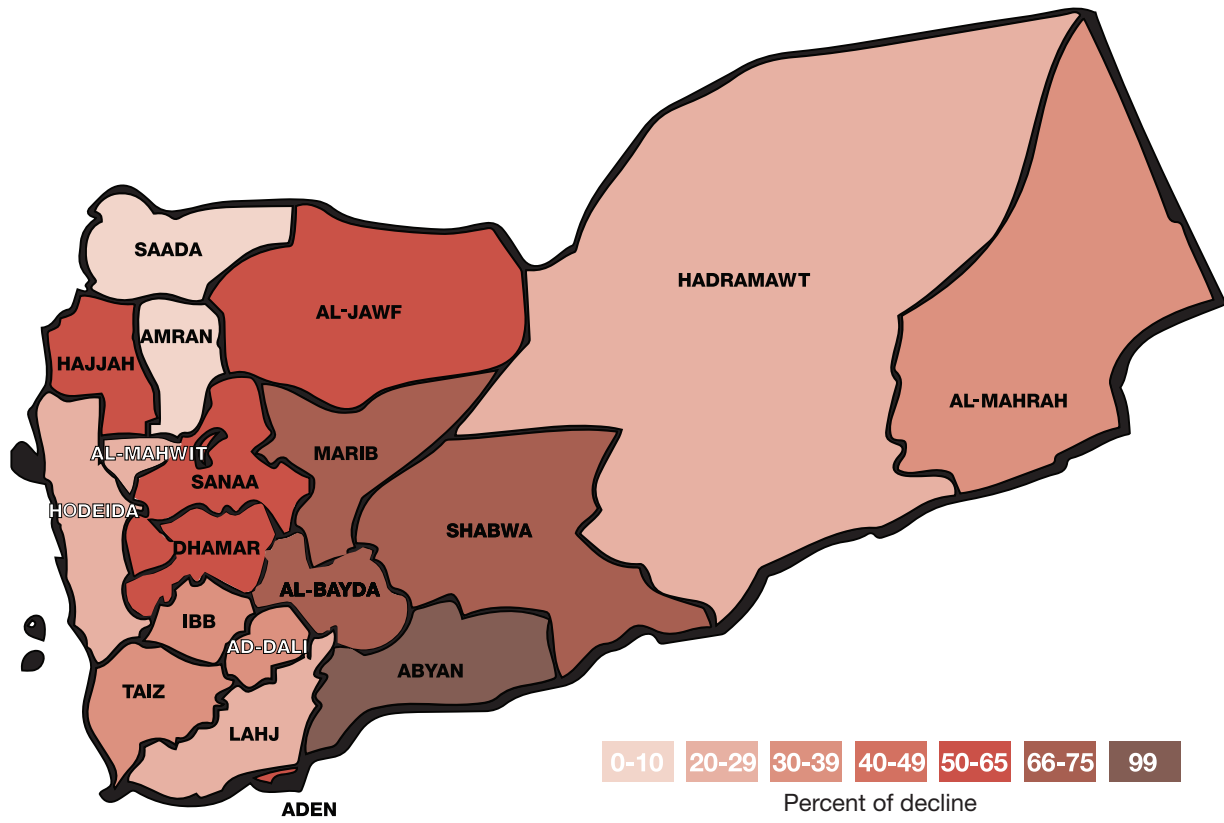
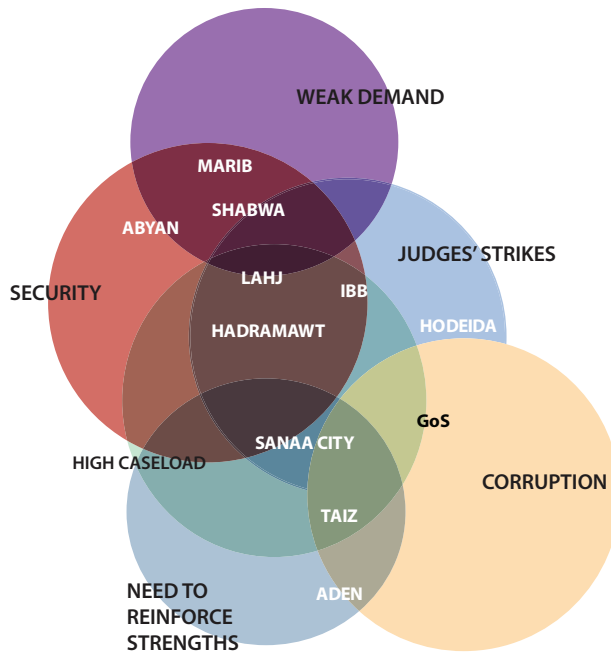


Figure 1. Key Disruptive Factors



earlier in the report but is an important factor to keep in mind for areas like Aden, Taiz, and Sanaa City. In these governorates, the judiciaries have some relative strengths but the judicial system is under pressure from all the other factors. In this period, there is as much of a need to reinforce and build on existing strengths and assets as there is to address critical deficiencies.

Because these issues combine to block justice functions differently in each governorate, a one-size-fits-all strategy for justice development is less likely to be successful than one that takes into account how this combination of factors affects justice delivery on a governorate-by-governorate basis. Nonetheless, the information collected does offer some insights into how some of the thematic issues or common factors raised might be addressed.

### *Addressing Security Concerns*

Security was the biggest factor contributing to the decline in judicial functions since 2011. Abyan was the most affected, and the judiciary will continue to be largely inactive until some level of state-enforced security and rule of law returns. In Hadramawt and Lahj, significant dips in security are also crippling or eroding confidence in what were previously somewhat functional judicial systems. Even areas that have long had a weak state presence and control—Marib and Shabwa—have been affected and show signs of declining judicial functions.<sup>60</sup> Major cities and urban areas such as Aden and Sanaa City were also seriously affected.

Until a more certain and sustainable political situation is established, which in turn will enable security threats to be countered and regular rule of law to be enforced and respected again, it will be difficult to entirely reverse the deterioration in the justice system. In governorates where insecurity is most dire, investment of resources in other areas such as staffing, facilities, or processes may be blunted. For example, even if the facilities in Abyan were rebuilt or repaired, which they undoubtedly need after conflict damage between 2011 and 2013, the judiciary will still not function well unless state-enforced rule of law and better security are established.

Similarly, although staff needs should be addressed in governorates such as Hadramawt, Ibb, and Lahj, unless the deteriorating security conditions are halted, if not partially reversed, addressing staff needs alone will not resolve the weaker judicial functioning since 2011. This is true particularly because of the direct effect of security issues on judicial staff. Staff interviewed in this study repeatedly requested greater protection of court facilities and staff in all governorates. Although this may help, there is no way to protect judicial staff at all times, and as many of the incidents identified in this research suggest, many of the attacks take place outside the courts, at the homes of judges, prosecutors, and lawyers.

This does not mean that no efforts should be made to improve justice functions in insecure areas. In the long term, strengthening and reasserting a state-enforced rule of law, to include effective and respected judicial functions, will be the only way to promote sustainable security in such areas. However, it does mean that donors may need to be more patient about timelines for change and take greater account of the negative effect of ambient security concerns, both in assessing results and in designing programming.

### *Infrastructure and Facilities*

Facility construction and maintenance continued in this period but did not keep up with needs (a long-standing issue), and certainly not with the level of facility damage and destruction that accompanied fighting and civil disturbances in the last two years. Facility and infrastructure deficits have the biggest effect on justice provision in Abyan, but also significantly

undermine the justice systems in Hadramawt, Lahj, and beyond. Many courts, prosecutors, and administrative offices were inappropriately designed or equipped to carry out the functions required, and serious health and safety hazards were present in many facilities. Deficits such as lack of places to hold criminal defendants or lack of means to transport them were estimated to increase criminal case processing times (often to an extent that violated criminal procedure and rights protections) as much as or more than did other interruptions to court processes caused by strikes or insecurity.

Investment in facilities and resources has long been a request from members of the Yemeni judiciary to donors. Donors, however, are often reluctant to invest in facilities when other systemic weaknesses, such as ongoing conflict and instability, corruption, or poor practices, would continue to inhibit justice functions. These concerns about infrastructure investment are merited in Yemen; however, in some governorates, some investment in facility and infrastructure may be necessary to improve judicial functions. In Sanaa, for example, a relatively functional and secure judiciary exists, but needs reinvestment and dedication of resources, particularly to reduce the proportion of judicial facilities housed in rented apartment buildings. Similarly, though the many overlapping problems in Lahj and Hadramawt may be difficult to untangle, poor facilities are certainly a major obstacle and must be addressed if the judicial functions are to improve.

Because poor, inadequate, destroyed, and unusable facilities are frequently in areas that have undergone or are facing periods of conflict or security crises, decisions about whether facility or infrastructure investment are merited often coincide with the dilemmas over responding to security concerns. In Abyan, for example, it may be difficult to make progress on the justice system without restoring a baseline level of adequate facilities. However, because the continued lack of state presence or control and resulting insecurity are also key issues there, such an investment may only make sense in combination with a renewed Government of Yemen commitment to address broader security issues. In addition, because of the overlapping concerns caused by prolonged insecurity, it also may take longer to see the benefits of facility infrastructure. Although Abyan's judiciary suffers from a lack of usable facilities, justice provision is also hampered by the prolonged displacement of staff, ongoing absenteeism owing to security concerns, overall citizen lack of confidence in state services, and greater intimidation and rule of law violations by armed groups in the area. Rebuilding facilities is undoubtedly a necessary first step, but it may take time for these other issues to be addressed and for the normal use of the facility to resume (and thus its measurable impact by most donor metrics to manifest).

In addition, investing in infrastructure may not be worthwhile on its own, but if partnered with other types of programming—awareness raising, technical support to judicial staff, or improvement of case management processes—it may be an important tool for conditioning certain reforms and enabling them to happen. For example, short of large building or rehabilitation projects, many of the facility and infrastructure challenges relate to equipment deficits—from the lack of backup generators to inadequate storage facilities for case management. It may be wise to consider such equipment assistance in coordination with other process or system reforms, for example, to case management or staffing processes because it might provide incentives for state reinvestment in these areas and enable staff to do their job better.

Depending on the governorate, signs of new construction or reinvestment may also renew popular confidence in the judiciary. They might be tied to public legal awareness campaigns or other popular outreach efforts that address other issues, such as low demand for or confidence in the judiciary or low legal awareness. Further, such efforts may also renew confidence within the judiciary by giving those in the field a sense of pride and status in their jobs. All of the interviews with judges, prosecutors, and lawyers in this report suggest that many feel besieged, disaffected,

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**Infrastructure investment can also send an important signal to the surrounding population...Citizens interviewed in areas where facilities had been destroyed, damaged, looted, or taken over by armed groups noted that if the state was not even willing or able to protect and maintain its own facilities, they had little confidence that it would or could enforce and protect citizens' rights.**

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unappreciated, and undersupported. Low morale, although often overlooked by donors, can have (and has) a significant effect on staff attendance, efficiency, and honest dealing.

Infrastructure investment can also send an important signal to the surrounding population, and thus contribute to greater reliance on a state-backed rule of law in the long term. Citizens interviewed in areas where facilities had been destroyed, damaged, looted, or taken over by armed groups noted that if the state was not even willing or able to protect and maintain its own facilities, they had little confidence that it would or could enforce and protect citizens' rights. In such areas, citizens were more likely to say that they would take matters into their own hands (including through use of force) when they had a dispute. In contrast, in the few areas where reconstruction or recent facility investment had begun, some of those interviewed noted that this gave members of the judiciary and citizens hope that things might improve in the future.

### *Staffing and Legal Education*

The political uncertainty in this period also manifested strongly in the impact on staff presence, motivation, and efficiency. Judicial strikes—most directly connected to ongoing debates about government and judicial reform in the context of transition—were as much of an inhibitor to courts' being open on a day-to-day basis as insecurity. The field research in Hadramawt and Lahj suggests that the impact of judicial strikes may have been so severe that many courts were fully open and hearing cases only 40 percent of the time in 2013, with only a slightly less acute impact in Ibb and Hodeida. Given the level of political activity and protests in the capital, Sanaa City and governorate were also heavily affected, although without specific estimates on how much.

Beyond the judicial strikes, there are more deep-seated concerns with judicial personnel quality and quantity. The highest caseloads per available judges (suggesting more dire understaffing) were in Hadramawt and Taiz, closely followed by Hodeida, Sanaa City, and Lahj. Lack of qualified support staff, particularly in certain critical points as during initial case review, is an issue across the board. Too few, aging, or otherwise incapacitated support staff, which appeared most problematic in Hodeida and, on the horizon, in Aden, slows some judicial processes or stops them altogether.

Investment is sorely needed to help preserve existing levels of expertise and strengths among judicial staff. Investing in long-term education and staffing issues is something that can be done in this difficult transition period, and will make it more likely for future reforms to gain traction. Long-term programming strategies, such as investment in judicial education and training, are merited and can be taken now, notwithstanding the political turbulence. This will be the only long-term solution to personnel problems of understaffing and underqualified staff, which are particularly acute in the high-population, high-case-volume governorates such as Taiz, Hadramawt, Sanaa, Ibb, and Hodeida.<sup>61</sup>

In governorates with lower case volume, such as Shabwa and Marib, the larger challenge is to develop local levels of legal awareness and expertise. It is important not only to educate the larger population about legal rights and the role of formal justice but also to develop a cadre of local judges, prosecutors, and lawyers from these governorates. In the long term, a stronger justice system must be locally rooted and championed by local leaders and actors. Such reforms may already be necessitated by the recent outcomes of the NDC, which called for a federal structure including the decentralization of the judiciary to a regional level.

### *Case Management and Processes*

Staff involved in case management frequently said that it would be improved if they had an electronic rather than a paper-based system; however, the frequency of power shortages, the lack of working computers, and other infrastructure shortfalls suggest that electronic documentation may pose as many problems as it would solve, at least until other issues are addressed. The lack of electricity already hampers the existing computer-typed or partial electronic recording that does exist. For example, in the al-Mashanah primary court, Taiz (which typically types all decisions on a computer) staff noted that at least one factor affecting delays in issuing decisions in thirty days, as required by law, is the frequent power cuts, which forces them to wait or to revert to handwriting decisions. During follow-up research on detention facilities in Taiz, the full number of detainees in the central prison was not available for several days because the prison had moved to partial electronic tracking and the computers were temporarily down.

The primarily manual record-keeping methods are still working and are remarkably standardized given the diversity in Yemen's justice system. However, case management at a local level is irregular, and continues to slow down court processes to a level that discourages citizen use of the formal justice system and makes courts incapable of keeping up with the caseload. A more practical short-term investment may be to improve the quality of case management staff and to increase the resources they are allocated to manage, process, and archive the paper-based system. Where court files or processes were more organized, it tended to be due to the personal initiative, efforts, and sometimes resources of the staff assigned to that court. For example, the court of appeals archive in Taiz was well organized, its papers archived to the mid-1970s. However, they were not always like that; the individual in charge of the archives noted that when he started his work, he found sacks full of papers. He added that he had proposed a plan to improve the archives but that it was turned down due to lack of staff and resources.

Examples of positive interventions that could be taken now include modest resource or equipment support that would improve the space and quality of archiving, or improving training for staff. Training should be provided not only for the lower-level staff actually engaged in archiving but also for upper levels of the system who oversee such processes. An overall case management system that prioritized both the quantity of work submitted or recorded and the quality of work could provide important incentives for improvement in performance. This could be tied to greater efforts to improve public transparency and responsiveness.

### *Monitoring and Accountability*

Many staffing issues are long-standing, but the political uncertainty and lack of institutional management and control in this period have exacerbated many of them. One of the key causal factors has been the lack of accountability, which has thrived in this climate of political uncertainty. Judicial oversight has certainly never been a strong point of Yemen's justice system, but accountability has been singular in its absence since 2011. This has led to a further deterioration in existing weaknesses in staffing presence and performance, case management processes, and corruption. Lacking oversight or enforcement, absences due to low morale or personal truancy have increased and contribute to lower numbers of available staff.

The weaker monitoring and enforcement has also exacerbated past corruption and quality-of-performance issues. Most interviews suggested that corruption has worsened, and is now pervasive in the larger judicial systems in Taiz, Sanaa (city and governorate), and Hodeida, and to a

lesser extent in Aden and Hadramawt. Instances of embezzlement were also reported in the larger, better-developed judicial systems (Taiz, Sanaa City, Aden).

Many of the final recommendations of the NDC focused on improving government accountability and addressing corruption. However, these demands have so far largely focused on institutions other than the judiciary. The major demands from the judiciary in this transition period have related to judicial independence. Although political interference has contributed to corruption and misapplication of the law, judicial independence alone will not resolve existing deficits in accountability mechanisms. The judicial inspection and accountability mechanisms appear to be among the most dysfunctional within the judicial management structure, and only partly the result of political interference from other actors. Thus to the extent that transitional reforms are implemented, judicial independence and accountability should be equally prioritized. Greater investment in regular monitoring and accountability and strengthening the position and scope of existing mechanisms such as the public assets courts and other internal mechanisms are critical, and would reinforce or enable reforms in other areas, such as improvements to staff quality or case management processes.

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In addition, for improvements in accountability to take hold, more should be done not only with the internal judicial mechanisms but also to increase popular leverage for accountable judicial action. One of the more concerning findings of the study was the widespread perception among many judicial actors that data that are and should be publicly available under Yemeni law were court secrets. Although obtaining data for research raises slightly different issues, researchers observed the same closed attitude in the court staff's dealings with the public when citizens sought information about their own cases.

A stronger sense of public accountability must be ingrained in both judicial staff and members of the public through practical experience working with and responding to the public. Collaborative court monitoring projects or court staff training that includes some combination of collective learning with civil society representatives have been used with some success in other countries. Officials were reluctant to share public information and considered it proprietary. For a freedom of information law to work, government officials must know about it, and know how to respond to it. Further, journalists and civil society must know how to use the law, and begin putting in requests and testing it so that government officials begin to recognize it and respect it. This type of programming—requiring not only technical assistance within the government but also civil society engagement to create public checks and balances—will be extremely important in the coming period. Particularly in governorates such as Taiz, Aden, and Sanaa, there are not only large corruption and governance issues but civil society is ready and capable of demanding improvement. Further analysis of the NDC recommendations or other proposed transitional reforms may suggest other programming opportunities.

### ***Further Research and Next Steps***

On each of the issues discussed in this report, the goal was to do a spot-check of major issues or patterns. For each category, a deeper exploration of the reported problems is needed. Some of this should take the form of regular monitoring and the institution of accountability mechanisms. Assessments such as this one can gather some insights into issues such as absenteeism, but regular monitoring and accountability mechanisms are needed to fully appreciate and then address such issues. The same is true for measuring case management processes.

There is a greater need for research and analysis into several of the areas preliminarily explored in this study, including prison facilities and systems as a whole; the challenges and



pressures on the prosecutor general's office; a systems-based analysis of due process challenges throughout the system; and examination of the accountability structures and mechanisms within the judicial system. In addition, as noted at several points, this report tried to capture some basic observations and metrics, many of which are strongly influenced or caused by deeper political or cultural dynamics. These were beyond the scope of the report but merit much greater attention in designing programming.

Although this report is focused only on the justice sector, the overall findings of a significant decline in service delivery and institutional functioning likely also apply to other state institutions during this period. This dramatic deterioration should raise significant concerns about the health of Yemen's institutions coming out of this transition period. That case numbers rebounded in 2013 demonstrates some level of resilience, but much more must be done to shore up government institutions in this critical period.

The list of problems facing Yemen's justice sector is certainly daunting, but some signs are encouraging. Both the judiciary and the population show interest in positive reform. Many dedicated judges, prosecutors, lawyers, and citizens are deeply invested in making reforms. The most trenchant critiques within this report stem from the self-reflection and criticism of judicial actors, many of whom would like to be working in a system that is less corrupt, more accessible, and more efficient than at present. The population itself desires and frequently demands a functioning state system, even in governorates such as Marib that have traditionally relied more on nonstate solutions such as tribal arbitration. Thus, although this assessment found the justice system at its worst levels in years, it argues that something can and should be done even during this difficult transition period.

## Recommendations for Donors and the Government of Yemen

- Because local dynamics can strongly shape the type of investment or programming appropriate for addressing weaknesses and gaps in the justice sector, tailoring development strategies to the specific needs and resources of target governorates and working closely with local staff are recommended.
- An important long-term priority should be expanding the justice system to be accessible to populations that now have virtually no access to justice. This is most acute in Marib and Shabwa but also true in many outlying districts of other governorates.
- Although this must be a long-term goal, a first step is recruiting and training a next generation of judicial staff from the areas that are currently under-served, where such qualifications are in limited supply.
- To address outstanding issues in all governorates, greater efforts must be made to invest in judicial education. This would not only help address ever widening gaps and shortfalls but is also one of the more feasible areas of rule of law investment at this time.
- Training must be provided not only for future judges, prosecutors, and lawyers but also for current staff. The need for greater training on law and application of the law among judges and prosecutors, and training in functional skills for court staff, is considerable.
- Training for future judges and staff should focus not only on the High Judicial Institute in Sanaa but also, and particularly as decentralization takes effect, on judicial centers outside Sanaa.
- In addition, given the scope of training needs and the need to expand geographic outreach, the GoY and supporting donors might focus more on establishing regular training

centers outside Sanaa that could provide training on a periodic basis to all staff. Such institutional developments may have a broader impact than a series of ad hoc, uncoordinated trainings through small CSOs, which have been more prevalent in past rule of law initiatives in Yemen.

- Some equipment and courthouse refurbishment may be necessary but should be provided where other issues present in a governorate, such as insecurity, would not nullify the effects. Infrastructure investments should be coupled with other initiatives, such as investment in staff or legal awareness, so that they might also boost confidence and contribute to other nonmaterial judicial development efforts.
- Moving too quickly to developments that can not be sustained should be avoided. This would include potential development projects such as moving a functioning, primarily paper-based case management and tracking system to an electronic one before issues of power and equipment shortages are resolved.

## Annex 1. Field Data Summary Tables

This annex includes some of the additional information obtained in the field research that was not included in the body of the report because it provided either a level of detail or a slightly tangential detail that was not central to the main discussion points.

### Courts Closed during Research

Three districts were generally visited in each governorate. Of the governorates, all three district courts were open only in Hodeida. The following courts were found closed when visited:

- Sanaa: Sanaa East, Sanaa West
- Aden: Khor Maksar, Mansoorah, Buraiqah
- Abyan: Jaar, Khanfar, Zinjabar (operating at limited capacity from Aden)
- Lahj: Al-Habeelain
- Shabwa: Ataq primary, Nissab, As-Said
- Hadramawt: Mukalla West, Sayyun
- Marib: Al-Joobah, Hareeb, Marib City
- Taiz: Yafrus (Jabal Habashi district)
- Ibb: As-Sabra

### Prosecutor's Offices

As a rule, a prosecutor's office is established for each primary court and special court, and at the appellate level. However, low-population and low-demand districts are more likely to be covered by a prosecutor's office located in another district. For this reason, in most governorates the total number of prosecutor's offices is less than the number of courts. For example, Ibb has nineteen primary courts, but only twelve prosecutor's offices. Seven of the primary courts are covered by prosecutor's offices in other districts. Additionally, there are five prosecutor's offices for each of the special courts, and a prosecutor's office for appeals, and the appeals court prosecutor. A deputy prosecutor is assigned to the main central prison facilities in each governorate, and typically also to the central branch of the Ministry of the Interior Criminal Investigation Department (CID). National-level data cited 1,190 prosecutors, roughly five per hundred thousand people.

**Table A1.1 Prosecutor's Offices to Population and Districts**

Governorate	Population	Districts	Courts	Prosecutor's Offices
Abyan	543,000	11	11	11
Aden	752,000	8	13	15
Hadramawt	1,292,000	30	22	18
Hodeida	2,697,000	26	23	18
Ibb	2,635,000	20	22	18
Lahj	900,000	15	14	14
Marib	296,000	14	4	1
GoS	1,142,000	16	13	9
Sanaa City	2,216,000	12	15	26
Shabwa	585,000	17	14	10
Taiz	2,969,000	23	21	13

Note: Total number of courts includes primary, special courts, and courts of appeals (one in each except for Hadramawt, which has two). The Supreme Court is not included in the count for Sanaa City.

### Court Accessibility

Insofar as 70 percent of the population live outside urban areas, the roads and transportation are in poor condition and travel is insecure, accessibility of courts can be an issue. The research conducted for this study suggests that most governorates have a reasonable spread of courts. Even in districts with no court, citizens can reasonably access courts in nearby districts in most cases. The four governorates with the biggest gaps in court coverage per district are Marib, Hadramawt, and Hodeida. Except in Marib, interviewees largely did not describe this lack of coverage as a problem because the population in districts without courts reportedly had a low demand for cases. This, though, in itself poses a chicken-and-egg problem: is demand low because courts are not accessible, or was a court not placed there because there is low demand?

### Number of Judges

One additional metric to help evaluate the adequacy of staffing, or to get a relative sense of staffing inequities from one governorate to another, is the number of judges per population. Table A1.2 lists the average number of active judges per population for each governorate in the study. The number of active judges is based on the number provided by judicial staff at a governorate level, which was typically drawn from local human resources or payroll registries and verified with personnel based on their knowledge. The population estimate is the GoY 2012 population estimate.

The total number of judges in ten governorates and Sanaa City based on the data collected was 518. Collectively, this suggests an average of 3.2 judges per hundred thousand people. This number is lower than the average derived from national-level data. Information obtained from the Ministry of Justice suggested that 1,006 judges are active in Yemen, roughly double the 518 recorded in the study. National level figures on number of judges were not broken down by governorate.

**Table A1.2 Judges per Population**

<b>Governorate</b>	<b>Population</b>	<b>Judges</b>	<b>Judges per 100,000</b>
Aden	752,000	70	9.0
Sanaa City	2,216,000	134	6.0
Taiz	2,969,000	70	2.4
Hodeida	2,697,000	69	2.6
Hadramawt	1,292,000	17	1.3
Ibb	2,635,000	75	2.3
GoS	1,142,000	40	3.5
Lahj	900,000	29	3.3
Abyan	543,000	15	2.8
Shabwa	585,000	12	2.1
Marib	296,000	3	1.0
<b>Study total</b>	<b>16,027,000</b>	<b>518</b>	<b>3.2</b>
<b>National data total</b>	<b>24,527,000</b>	<b>1,006</b>	<b>4.1</b>

A word on methodology and the origin of these numbers is important in understanding and weighing these different estimates. Although this study surveyed only half of the governorates in Yemen, it included the major urban populations and more developed judicial systems, so one would expect the totals in the study to be higher than half the national numbers of judges. The discrepancy may have several explanations. At a local level, judges who did not appear regularly (in some cases for months or years) were no longer considered active and were not included in local data, but the evidence suggests that because of slow processing, they may not have been eliminated from the national-level roster. Where judges have resigned, quit, or passed away, their resignation sometimes takes a long time to process in the system, officials said. For example, in one district in Shabwa, the judge had died one and one-half years before but his replacement had not been assigned at a national level. Thus, although he did not count toward the pool of judges at the local level, it may be that he still appeared at a national level. Similarly, the national count may be higher if there was a pool of judges who were included in the national-level rosters but who had not been assigned, or who were engaged in administrative work at a national level. That said, the fault may also lie in the governorate-level data collection. Although not common, there were governorates in which the data collected on judges omitted one or two courts, or where the number of judges was interpreted as an approximation. For example, in Taiz, the number of judges per court was generally available, except for the special criminal court. It is worth noting that in general in this study, where there were discrepancies between the national and local-levels, most officials stated that the local-level information was the more accurate data and should be relied on.

### Typical Salaries

These figures are as reported by court staff in each governorate, typically the human resources office of each court of appeals.

**Table A1.3 Typical Judicial Salaries**

Governorate	Judges		Admin. Staff	
	Maximum	Minimum	Maximum	Minimum
Abyan	471,000	265,000	n/a	n/a
Aden	350,000	120,000	141,000	43,000
Hadramawt	100,000	70,000	70,000	40,000
Hodeida	180,000	100,000	80,000	40,000
Ibb	329,866	265,166	100,000	80,000
Lahj	471,000	140,000	n/a	n/a
Marib	400,000	350,000	120,000	100,000
Sanaa	200,000	150,000	100,000	60,000
Shabwa	475,000	185,000	145,000	650,000
Taiz	300,000	250,000	120,000	55,000

Note: 1 USD = 214.90 Yemeni rial.

## Annex 2. Questions for Justice Mapping

1. Spread of courts
  - a. How many courts are in the governorate and where are they located?
  - b. Are there district courts in every district? If not, in which districts do they exist and in which do they not exist?
  - c. Where available, identify how long ago the court was established (in years).
  - d. What special courts exist in the governorate: commercial (Sanaa, Aden, Taiz, Hodeida); administrative (Sanaa); special criminal court (Sanaa); special press and publications court (Sanaa); public funds courts (Sanaa, Aden, Taiz, Hadramawt, Hodeida, Ibb, Lahj)?
2. Overall functionality (frequency of courts open or closed)
  - a. For the courts and prosecutor's offices visited, were they open or closed? If closed, why, and do such closures happen regularly?
  - b. When open, do courts/prosecutor's offices function well? If not, or if they are not functioning at full capacity, why? For example, is the court not functioning because of inappropriate staffing or high absenteeism? Do other issues impair court functioning?
  - c. How do court staff think that functionality in the courts visited compares with functionality in other courts in the governorate?
3. Facilities
  - a. What is the physical condition of the judicial facilities visited? Are the courts or other buildings in disrepair, not usable, or not adequate? (Take photos if so; can also include supporting administrative buildings.)
  - b. Are the buildings in which the courts hear trials or in which administrative work is conducted appropriate for that type of work?
  - c. Are they owned by the state or rented?
4. Staffing
  - a. What is the staffing situation for judges, prosecutors, and administrative support? How many judges are assigned for each court? How many prosecutors? If available, how many administrative staff?

- b. Are the staff numbers appropriate for the volume of cases/work levels?
  - c. Are there known issues relating to quality or lack of training?
  - d. More generally, how do staff issues or numbers affect the functioning of courts in your governorate?
5. Type of cases and volume of cases
- a. Are numbers of cases available for the last year? For 2012? For 2011?
  - b. What is the nature of the cases in the formal system: criminal (major or minor), civil, personal, and so on?
  - c. Are statistics available on how many of each type of case were dealt with in the governorate in 2011? 2012? 2013? Are such records kept?
  - d. Do judges specialize in a type of case in a particular governorate?
6. Case management
- a. Does a case management system exist in the governorate? What is it like, and how is it used?
  - b. Are records electronic or purely paper?
  - c. What is the level of detail of the records kept (examine them)?
  - d. How long has the governorate had a case management system, and are older records still preserved (and if so, does preservation depend on the type or nature of the case)?
7. Financial management
- a. What is the nature of the financial management system for justice actors? Have particular issues arisen?
  - b. How much does a judge earn in the governorate? A prosecutor? An administrative clerk?
  - c. Who pays for the necessary work-related travel or expenses?
8. Security
- a. Have there been security risks specific to members of the judiciary (i.e., threats or attacks)? (Note: this question should not ask about general security in the governorate.)
9. Corruption and political influence
- a. Describe any local issues with corruption.
  - b. Do local actors (members of political parties, prominent sheikhs, or community leaders, etc.) have any influence on which judges or prosecutors are appointed? Do they influence judges' decision making?
10. Law and order and security infrastructure
- a. Are there central prisons in the governorate? What is the current status of prisons?
  - b. How many police stations exist in the governorate? Where are they generally (i.e., distributed evenly throughout, found only in certain parts of the governorate, found only in the main city, and so on)?
  - c. Are police generally recruited locally or do most come from other parts of the governorate?
  - d. Are there other military or security services active in security in the governorate (such as CSF or other parts of Yemeni military)? If so, which parts of the security service do they belong to, and what is the general division of labor (that is, how do they divide security tasks)?
  - e. Are parts of the governorate generally beyond the reach of state institutions?

### Annex 3. Judicial Decrees for Special Courts

**Table A3.1 Decrees Establishing Special Courts**

Court	Decree	Date	Location
Commercial primary court	Presidential Decree of the President of the Republic/Chairman of the Supreme Judiciary Council No. 22 for 1997— establishing specialist commercial courts that are assigned with deciding commercial claims and commercial disputes (handwritten date on the side says 170 for the year 2010)	December 30, 1997	Capital Secretariat, Aden, Hodeida, Mukalla, Taiz
Administrative primary court	Resolution of the Supreme Judiciary Council No. 777 for 2010—establishing specialist courts to oversee administrative disputes [within the jurisdiction of] primary courts in the Capital [Sanaa City] and Aden	October 11, 2010	Capital Secretariat, Aden
Public assets primary court	Presidential Decree of the President of the Republic No. 3 for 1996—establishing the public assets courts and determining their jurisdiction; Supreme Judiciary Council Resolution No. 129 for 2009—establishing specialist public assets courts in Ibb and Lahj	1996, amended in 2001 and 2003	Capital Secretariat, Sanaa, Aden, Hodeida, Hadramawt, Taiz, Ibb , Lahj
Tax primary court	Decree of the President of the Republic No. 18 for 2003—establishing two tax specialist primary courts in the capital and Aden and determining their jurisdictions	August 31, 2003	Capital Secretariat, Aden
Traffic primary court	Decree of the President of the Republic No. 27 for 2003 to establish traffic specialist primary courts and determining their jurisdictions	December 27, 2003	Aden, Taiz, Hadramawt, Hodeida, Dhamar
Juvenile primary court	Decree of the President of the Republic No. 28 for 2003—establishing juvenile specialist primary courts and determine their jurisdictions	December 27, 2003	Taiz, Hadramawt, Ibb, Hodeida, Dhamar
Media and publications primary court	Supreme Judiciary Council's Resolution No. 130 for the year 2009—establishing primary courts assigned with deciding cases of press and media	May 11, 2009	Capital Secretariat
Specialized criminal primary court	Supreme Judiciary Council's Resolution No. 130 for the year 2009—establishing primary courts and organizing the specialized criminal courts	May 11, 2009, effective July 23, 2009	Aden, Hodeida, Hadramawt

### Annex 4. Summary of Cases, 2010 to 2013

These tables present partial, translated excerpts of annual statistical case data from the Ministry of Justice.

**Table A4.1 Caseload per Governorate (Primary and Appellate Courts), 2010**

Type of Case	Existing or New	Sanaa City (Amana)	Aden	Hadramawt	Taiz	Hodeida	Sanaa and Al-Jawf	Ibb	Lahj	Shabwa	Abyan	Marib
Criminal	Prior years	7,860	2,119	1,396	5,723	2,754	1,840	2,998	2,001	134	733	60
	New	7,570	3,445	2,202	5,622	4,179	1,433	3,503	1,558	186	362	141
	Total	15,430	5,564	3,598	11,345	6,933	3,273	6,501	3,559	320	1,095	201
Personal	Prior years	1,718	1,040	396	1,859	972	756	1,166	705	26	272	27
	New	2,372	2,097	950	2,105	1,530	823	1,424	473	32	391	70
	Total	4,090	3,137	1,346	3,964	2,502	1,579	2,590	1,178	58	663	97
Civil	Prior years	4,885	2,231	1,343	4,382	2,902	2,781	3,488	1,185	89	674	41
	New	3,901	2,084	1,555	3,149	2,953	2,175	2,286	517	161	372	134
	Total	8,786	4,315	2,898	7,531	5,855	4,956	5,774	1,702	250	1,046	175
Admin.	Prior years	1,799	745	433	907	565	501	354	282	21	111	50
	New	2,077	921	675	1,102	851	325	475	63	30	126	21
	Total	3,876	1,666	1,108	2,009	1,416	826	829	345	51	237	71
Other	Prior years	2,800	167	194	731	14	0	75	0	9	0	0
	New	7,075	3,692	387	1,054	330	498	207	0	11	0	174
	Total	9,875	3,859	581	1,785	344	498	282	0	20	0	174
Total	Prior years	19,062	6,302	3,762	13,602	7,207	5,878	8,081	4,173	279	1,790	178
	New	22,995	12,239	5,769	13,032	9,843	5,254	7,895	2,611	420	1,251	540
	Total	42,057	18,541	9,531	26,634	17,050	11,132	15,976	6,784	699	3,041	718
	Completed	22,306	11,655	6,005	12,579	8,618	4,793	7,121	1,495	401	1,408	632
	Carried over	19,751	6,886	3,526	14,055	8,432	6,339	8,855	5,289	298	1,633	86



**Table A4.2 Caseload per Governorate (Primary and Appellate Courts), 2011**

Type of Case	Existing or New	Al-Amana	Aden	Hadramawt	Taiz	Hodeida	Sanaa and Al-Jawf	Ibb	Lahj	Shabwa	Abyan	Marib
Primary courts	Prior years	16,720	5,060	3,220	12,737	7,306	6,261	8,617	4,454	273	1,635	87
	New	14,002	7,407	4,286	8,370	6,717	1,486	7,462	1,430	137	344	216
	Total	30,722	12,467	7,506	21,207	14,023	7,747	16,079	5,884	410	1,979	303
Special courts	Prior years	4,567	1,694	293	1,217	1142	0	232	703	0	2	0
	New	3,633	1,835	648	1,724	1761	0	171	207	0	0	0
	Total	8,200	3,529	941	2,941	2903	0	403	910	0	2	0
Total	Prior years	21,287	6,754	3,513	14,054	8,448	6,361	8,849	5,157	273	1,637	87
	New	17,635	9,242	4,934	10,094	8,478	1,486	7,633	1,637	137	344	216
	Total	38,922	15,996	8,447	24,148	16,929	7,747	16,482	6,794	410	1,981	303
	Completed	18,025	9,417	5,163	10,126	88,601	1,298	7,611	1,295	191	466	142
	Carried over	20,897	6,579	3,284	14,022	8,325	6,449	8,871	5,499	219	1,515	161

**Table A4.3 Caseload per Governorate (Primary and Appellate Courts), 2012**

Type of Case	Existing or New	Sanaa City (Amana)	Aden	Hadramawt	Taiz	Hodeida	Sanaa and Al-Jawf	Ibb	Lahj	Shabwa	Abyan	Marib
Criminal	Prior years	6,938	1,995	929	5,409	2,354	2,203	3,024	2,133	74	534	51
	New	3,445	1,028	1,020	2,609	2,186	743	1,945	340	69	0	72
	Total	10,383	3,023	1,949	8,018	4,540	2,946	4,969	2,473	143	534	123
Personal	Prior years	1,926	959	442	1,747	1,153	712	1,217	943	13	250	10
	New	2,063	1,156	581	1,681	1,365	451	1,136	340	5	1	16
	Total	3,989	2,115	1,023	3,428	2,518	1,163	2,353	1,283	18	251	26
Civil	Prior years	4,764	1,199	1,104	4,638	3,011	2,817	3,936	1,247	98	572	25
	New	2,564	474	805	2,159	1,691	872	1,532	248	29	11	33
	Total	7,328	1,673	1,909	6,797	4,702	3,689	5,468	1,495	127	583	58
Special	Prior years	4,085	1,267	296	1,175	869	0	260	892	0	2	0
	New	2,826	974	435	1,385	1,078	0	137	56	0	0	0
	Total	6,911	2,241	731	2,560	1,947	0	397	948	0	2	0
Admin.	Prior years	2,318	910	510	916	914	487	404	262	8	115	9
	New	1,250	548	427	630	569	200	317	72	1	0	8
	Total	3,568	1,458	937	1,546	1,483	687	721	334	9	115	17
Others	Prior years	190	148	4	9	42	0	211	17	26	0	3
	New	723	2,460	8	0	321	0	76	123	11	0	10
	Total	913	2,608	12	9	363	0	287	140	37	0	13
Total	Prior years	20,221	6,478	3,285	13,894	8,343	6,219	9,052	5,494	219	1,473	98
	New	12,871	6,640	3,276	8,464	7,210	2,266	5,143	1,179	115	12	139
	Total	33,092	13,118	6,561	22,358	15,553	8,485	14,195	6,673	334	1,485	237

**Table A4.4 Caseload per Governorate (Primary and Appellate Courts), 2013**

Type of Case	Existing or New	Sanaa City/ Amana	Aden	Hadramawt	Taiz	Hodeida	Sana and Al-Jawf	Ibb	Lahj	Shabwa	Abyan	Marib
Criminal	Prior years	6,709	1,984	959	5,414	2,556	2,245	3,044	2,171	53	354	78
	New	4,891	1,301	1,002	3,430	2,703	1,191	2,826	485	35	1	128
	Total	11,600	3,285	1,961	8,844	5,259	3,436	5,870	2,656	88	355	206
Personal	Prior years	2,040	1,002	440	2,100	1,319	666	1,355	894	6	176	13
	New	3,388	1,536	630	2,288	1,832	712	1,326	481	1	158	32
	Total	5,428	2,538	1,070	4,388	3,151	1,378	2,681	1,375	7	334	45
Civil	Prior years	4,619	1,126	1,151	3,669	3,279	3,279	3,279	3,279	3,279	3,279	3,279
	New	4,220	625	945	2,564	2,340	1,803	1,735	308	15	95	50
	Total	8,839	1,751	2,096	6,233	5,619	4,405	5,875	1,429	80	620	78
Special	Prior years	2,268	1,213	123	1,656	959	0	273	938	0	2	0
	New	4,412	1,785	157	1,471	1,304	0	503	45	0	0	0
	Total	6,680	2,998	280	3,127	2,263	0	776	983	0	2	0
Admin.	Prior years	2,111	934	571	997	825	478	403	303	6	95	15
	New	2,067	3,117	390	900	728	325	123	75	4	45	3
	Total	4,178	4,051	961	1,897	1,553	803	526	378	10	140	18
Other	Prior years	4	245	177	11	35	0	202	20	30	0	0
	New	0	153	221	19	516	0	48	200	4	0	2
	Total	4	398	398	30	551	0	250	220	34	0	2
Total	Prior years	17,751	6,504	3,421	13,847	8,973	5,991	9,417	5,447	160	1,152	134
	New	18,978	8,517	3,345	10,672	9,423	4,031	6,561	1,594	59	299	215
	Total	36,729	15,021	6,766	24,519	18,396	10,022	15,978	7,041	219	1,451	349

The case numbers for 2013 were still being processed at the time of publication, and may change on final release by the MOJ.

## Annex 5. Analytical Charts

Case numbers in annex 4 are compared with the GoY population estimates for all governorates to give a sense of the number of new cases per capita.

### New Cases

The registered level of new cases per population is one way to compare the demand for formal justice services from one governorate to another (governorates in this study are in boldface). The GoY population estimate was available only for 2012. The rate of new cases per capita is estimated for 2010 and 2013 using the 2012 population data. Estimates enable a comparison of changes in the generation of new cases relative to each governorate's approximate population between 2010 and 2013. Because 2010 and 2013 population estimates were not available, these figures cannot be considered accurate estimates per capita for each of these years. The 2013 data were still preliminary at the time of publication and may change.

**Table A5.1 Ratio of New Cases per Thousand People**

Governorate	2010	2012	2013
<b>Abyan</b>	<b>2.30</b>	<b>0.02</b>	<b>0.55</b>
Ad-Dali	3.63	2.41	2.14
<b>Aden</b>	<b>16.28</b>	<b>8.83</b>	<b>11.33</b>
Al-Bayda	2.15	0.69	1.49
Al-Mahra	4.05	2.5	1.99
Al-Mahwit	3.94	3.11	3.47
Amran	2.39	2.15	2.50
Dhamar	2.40	1.2	1.79
<b>GoS/Al-Jawf</b>	<b>3.11</b>	<b>1.34</b>	<b>2.39</b>
<b>Hadramawt</b>	<b>4.47</b>	<b>2.54</b>	<b>2.59</b>
Hajjah	2.73	1.63	1.97
<b>Hodeida</b>	<b>3.65</b>	<b>2.46</b>	<b>3.49</b>
<b>Ibb</b>	<b>3.00</b>	<b>1.95</b>	<b>2.49</b>
<b>Lahj</b>	<b>2.90</b>	<b>1.31</b>	<b>1.77</b>
<b>Marib</b>	<b>1.82</b>	<b>0.47</b>	<b>0.73</b>
Saada	0.51	0.46	0.52
<b>Sanaa City</b>	<b>10.38</b>	<b>5.81</b>	<b>8.56</b>
<b>Shabwa</b>	<b>0.72</b>	<b>0.2</b>	<b>0.10</b>
<b>Taiz</b>	<b>4.39</b>	<b>2.85</b>	<b>3.59</b>

Table A5.2 provides the numbers of new cases for the 2010 to 2013 period for the ten governorates in this study arranged by the highest to lowest decrease from 2010 to 2013. The governorates in this study are listed in bold.

**Table A5.2 Decline in New Cases 2010 to 2013**

Governorate	2010	2011	2012	2013	Percent Decrease, 2010 to 2012	Percent Decrease, 2010 to 2013
<b>Abyan</b>	<b>1,251</b>	<b>344</b>	<b>12</b>	<b>299</b>	<b>99</b>	<b>76</b>
<b>Marib</b>	<b>540</b>	<b>216</b>	<b>139</b>	<b>215</b>	<b>74</b>	<b>60</b>
<b>Shabwa</b>	<b>420</b>	<b>137</b>	<b>115</b>	<b>59</b>	<b>73</b>	<b>86</b>
Al-Bayda	1,534	978	493	1,065	68	31
<b>Sanaa/Al-Jawf</b>	<b>5,254</b>	<b>1,486</b>	<b>2,266</b>	<b>4,031</b>	<b>57</b>	<b>23</b>
<b>Lahj</b>	<b>2,611</b>	<b>1,637</b>	<b>1,179</b>	<b>1,594</b>	<b>55</b>	<b>39</b>
Dhamar	3,964	3,135	1,975	2,955	50	25
<b>Aden</b>	<b>12,239</b>	<b>9,242</b>	<b>6,640</b>	<b>8,517</b>	<b>46</b>	<b>30</b>
<b>Sanaa City</b>	<b>22,995</b>	<b>17,635</b>	<b>1,2871</b>	<b>1,8978</b>	<b>44</b>	<b>17</b>
<b>Hadramawt</b>	<b>5,769</b>	<b>4,934</b>	<b>3,276</b>	<b>3,345</b>	<b>43</b>	<b>42</b>
Hajjah	5,007	3,910	2,994	3,605	40	28
Al-Mahrah	449	456	277	221	38	51
<b>Taiz</b>	<b>13,032</b>	<b>10,094</b>	<b>8,464</b>	<b>1,0672</b>	<b>35</b>	<b>18</b>
<b>Ibb</b>	<b>7,895</b>	<b>7,633</b>	<b>5,143</b>	<b>6,561</b>	<b>35</b>	<b>17</b>
Ad-Dali	2,126	1,675	1,414	1,253	33	41
<b>Hodeida</b>	<b>9,843</b>	<b>8,478</b>	<b>7,210</b>	<b>9,423</b>	<b>27</b>	<b>4</b>
Al-Mahwit	2,425	1,793	1,911	2,133	21	12
Saada	438	519	394	446	10	(+2)
Amran	2,607	1,636	2,353	2,728	10	(+5)
Total new	102,075	77,001	60,306	7,9677	41	22

Note: The case numbers for 2013 were still being processed at the time of publication, and may change on final release. The total new cases figure includes military and government cases, which are classed separately and are not included in the table. Thus the total for each governorate listed in the above table will not cumulatively add up to the final total number for each year.

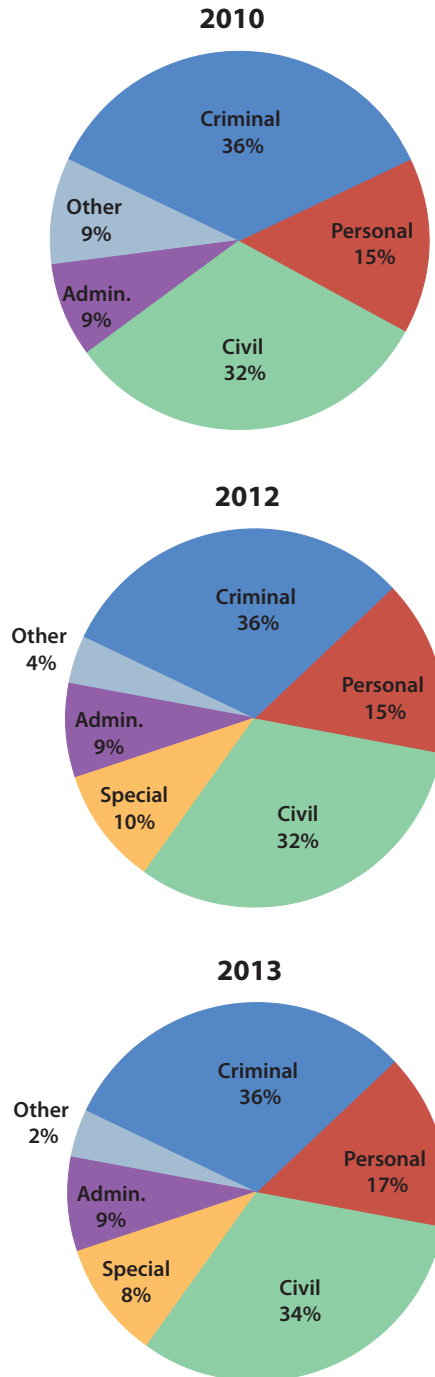
### Division of Cases

Another potentially interesting data point is how the total number of cases breaks down by subject matter, and any noticeable trends or changes from one year to another. This information could help inform decisions about the best ways to support Yemen's justice system, depending on demand per type of case. This was asked in each of the interviews, but the qualitative information was general and did not yield interesting analysis. However, the Ministry of Justice tabulations of case data do disaggregate cases per governorate by type of case for 2010, 2012, and 2013. Although the categories are not entirely consistent across both years, there is enough similarity in categorization to allow some comparison.

As figure 5A.1 suggests, the spread of cases among criminal, personal, civil, administrative, and other cases is relatively the same between 2010 and 2013, with criminal and civil cases each repre-

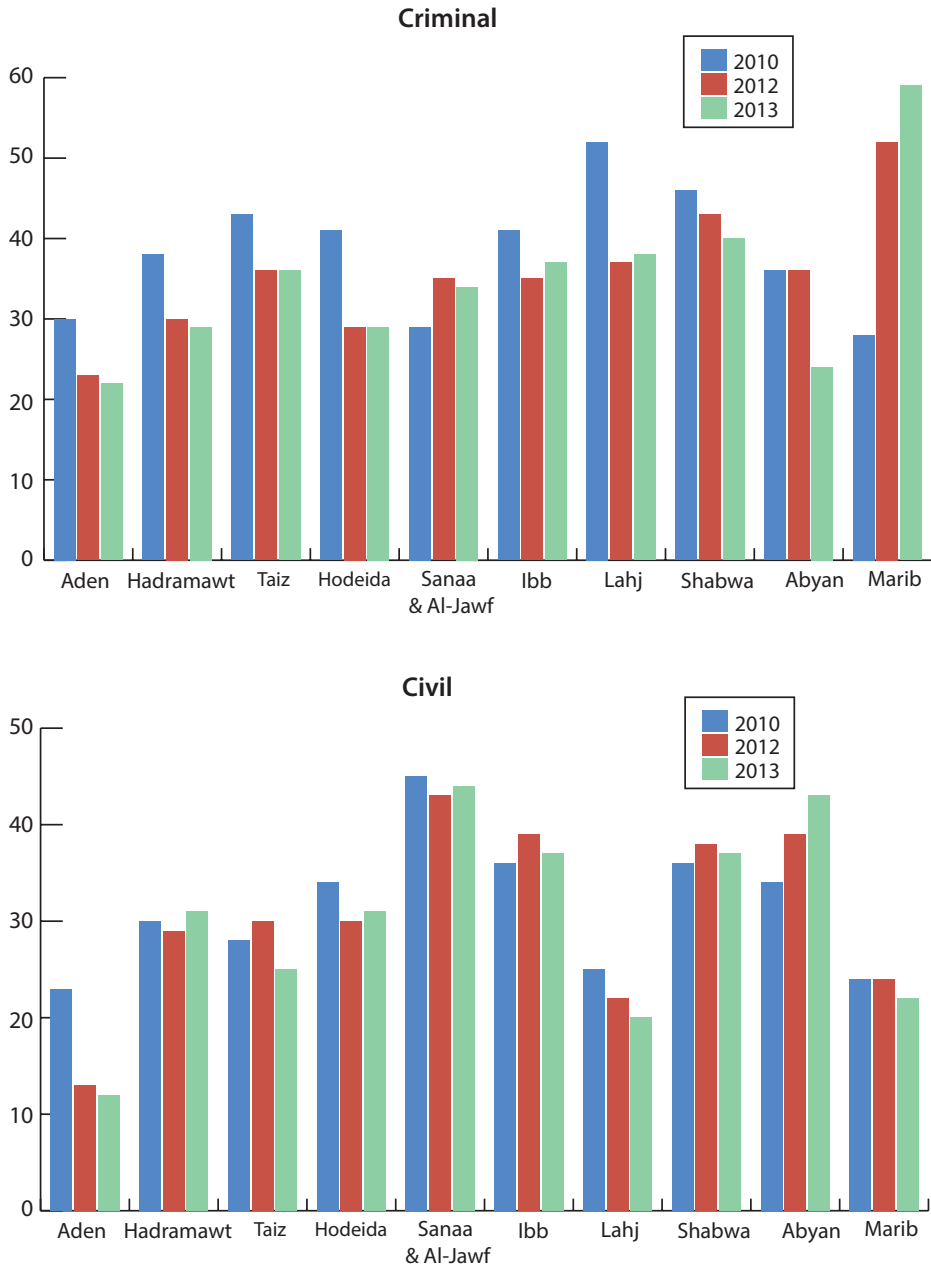
sentencing roughly a third of total cases. By way of explanation, personal cases tend to denote family law cases, and to include inheritance issues. Implementation cases refer to the implementation of prior rulings (whether civil, commercial, administrative, or other). Special cases refer to those heard in special courts. Civil cases involve all other general noncriminal matters. The pie charts are based on all governorates, not just the ten focused on in this study.

**Figure 5A.1 Case Type Distribution**



The differences in which cases increased or decreased between 2010 and 2013 did not vary much by governorate, with the exception of a marked increase (proportionately) in criminal cases in Marib and a marked decrease in civil cases in Aden.

**Figure 5A.2 Criminal and Civil Case Distribution**



## Annex 6. Summary Governorate Statistics

### Abyan



Photo A6.1 Zarah primary court, in Lawder, Abyan.

- Population: 543,000
- Districts: 11
- Profile: agrarian, but some past state presence/development; tribal elements present but not dominant
- Districts visited: 3—Zinjabar, Khanfar, Lawder
- Primary courts: 9—Zinjabar, Jaar, Zarah (Lawder district), Russud, Al-Wedhae, Mwydyah, Al-Mahfad, Jayshan, Ahwar
- Special courts: 1—juvenile primary court in Zanjbar
- Judges: 15
- Prosecutors: 11 offices
- Functionality: low—only four courts operating at minimal levels
- Detention facility: damaged in 2011 and not usable; detainees held in Aden
- State control: largely not present
- Key challenges: facilities destroyed or damaged in 2011; insecurity; absence of state control and rule of law



## Aden



Photo A6.2 Aden court of appeals.

- Population: 752,000
- Districts: 8
- Profile: urban to periurban with culture of rule of law; important port city; epicenter of southern issue
- Districts visited: 3—Al-Burayqah, Al-Mansoorah, Seera
- Primary courts: 5—Sheikh Othman, Tawahi, Al-Mansoorah, Al-Burayqah, Seera (new Al-Mualla court not yet open)
- Special courts: 7—commercial, public assets, juvenile, tax, administrative, traffic, criminal
- Judges: 70, plus 6 assistant judges
- Prosecutors: 15 offices, 104 prosecutors
- Functionality: high—all courts generally operating
- Detention facility present: 1 central prison and 1 separate female prison; both overcrowded and in poor condition
- State reach: variable—law enforcement weak in Areesh, Mimdarah, Bassateen, and Al-Burayqah; strikes and political instability impair overall law enforcement and security
- Key challenges: unrest and strikes, corruption, political influence

## GoS and Sanaa City



Photo A6.3 Special administrative court, Sanaa.

- Population: 1,142,000 GoS; 2,216,000 Sanaa City
- Districts: 16 GoS, 12 Sanaa City
- Profile: urban and periurban, but with rural, agricultural areas
- Districts visited: 4—Sanhan, Bani Bahloul, Hamdan, West Sanaa
- Primary courts: 12 in GoS;<sup>62</sup> 6 in Sanaa City—GoS: Harraz, Aniz, Saffan, Khawlan, Al-Haymah ad-Khilyah, Al-Haymah al-Khariyah, Bilad Arroos and Bani Bahloul, Arhab, Nihm and Bani Hushaish, Sanhan, Bani Mattar, and Hamdan. Sanaa City (Amanah); Sanaa City: Bani al-Hareth, Sanaa North, Sanaa Southeast, Sanaa Southwest, Sanaa East, and Sanaa West
- Special courts: 8 in Sanaa City
- Judges: 40 in GoS, 134 in Sanaa City
- Prosecutors: 9 GoS offices (in Sanaa City except those for districts of Khawlan and Harraz), 26 Sanaa City offices, 232 prosecutors
- Functionality: high—all courts generally operating
- Detention facility present: GoS served by capital's Central Prison
- State reach: extensive—but law enforcement weak in rural GoS (for example, Nimh)
- Key challenges: corruption; high case volume owing to heavy backlog and number of judges; high proportion of rental facilities not designed for judicial needs

## Hadramawt

- Population: 1,292,000
- Districts: 30
- Profile: largest physical territory, predominantly agrarian
- Districts visited: 3—Mukalla, Sayun, Broom Mayfaah
- Primary courts: 16—Mukalla East, Mukalla West, As-Shihir, Ghayl Bawazeer, Addees Asharqiyah, Hajjer, Ghayl Ben Yameen, Sayun, Shibam, Al-Qatten, Thamood, Tarim, Haraydha, As-Saif, Arraydah, Hadibu, and Qulanssya (Socotra)
- Special courts: 5—public assets, traffic, juvenile, commercial, criminal
- Judges: 17
- Prosecutors: 18 offices
- Functionality: low—most courts do not operate normally because of strikes (maximum 2 days per week)
- Detention facility present: with separate female facility; significant, detailed allegations of poor conditions and rights violations
- State control: decreasing—far-flung districts always beyond effective state control/access
- Key challenges: judicial strikes and politicization of judiciary; high case volume per number of judges, exacerbated by many judicial strikes influence

## Hodeida



Photo A6.4 Hodeida North and circuit courts.

- Population: 2,697,000
- Districts: 26
- Profile: important commercial assets due to coastline and port
- Districts visited: 3—Az-Zaidyah, Ad-Duraihimi, Bajil
- Primary courts: 17—Hodeida North, Hodeida South, Jabal Rass, Bajil, Zabeed, Az-Zaidyah, Bait al-Faqeeh, Azzuhrah, Ad-Duraihimi, Al-Marawah, Bura, Hais, Al-Khawkhah, Al-Luhaya, Al-Mansooriyah Assukhnah, Wisab Assaffel, Kamaran
- Special courts: 5—public assets, traffic, juvenile, commercial, criminal
- Judges: more than 69 (excludes special criminal court)
- Prosecutors: 18 offices, 70 prosecutors
- Functionality: moderate—well-developed system hampered by many strikes and understaffing
- Detention facility present: complaints of poor hygiene, no medical care, and high overcrowding
- State reach: long—police and security presence throughout governorate, but law enforcement ineffective or lacking control in many areas
- Key challenges: corruption, inadequate training and staffing

## Ibb



Photo A6.5 Ibb court of appeals.

- Population: 2,635,000
- Districts: 20
- Profile: mostly agrarian but high-population, mid-sized city, well connected to state system
- Districts visited: 3—Al-Dhihar (Ibb West), Al-Mashanah (Ibb East), As-Sabra
- Primary courts: 19—Ibb East, Ibb West, Jebblah, As-Sabrah, Ba'adan, Ashier, Assyani, Dhi Sufal, Hubaysh, Al-Makhader, Al-Qaffer, Yareem, Arradhmanh, Assadah, Annaderah, Al-Udain, Al-Hazem, Al-Fare, Mudaikhera
- Special courts: 2—public assets, juvenile
- Judges: 57, plus 4 assistant judges
- Prosecutors: 18 offices (does not include prosecutors specifically assigned to investigation and security office and to prison), 86 prosecutors
- Functionality: moderate—relatively functioning system but strikes limited openness all but 4 months in 2013
- Detention facility present: with female section; extreme overcrowding has led to overfill from prison being held in newly built temporary detention center
- State reach: moderate—police and security have presence throughout Ibb, apart from the insecure al-Qaffer district
- Key challenges: judicial strikes cutting court functioning, increased crime and poorer enforcement since 2011, political interference and pressure

## Lahj



Photo A6.6 Al-Hawta primary court, Lahj.

- Population: 900,000
- Districts: 15
- Profile: poor and predominantly rural, mountainous areas are tribal, less so near Aden and coast
- Districts visited: 3—Al-Hawta, Tuban, Radfan (al-Habeelain)
- Primary courts: 12—Al-Hawta, Al-Mussaimeer, Yafe, Qarrish (also covering Al-Qaibatah, Habel Jabber, Habel Arraydah, Yahhar, Al-Mahfflahi, and Al-Hadd), Al-Madharibah (also covering Al-Arah, which has had a separate courthouse but one shared judge), Al-Habeelain, and Tawer al-Baha; since 2011, the latter 3 have been operating out of the new court complex in Al-Hawta
- Special courts: 1—public assets
- Judges: 29
- Prosecutors: 14 offices
- Functionality: medium to low—courts operate, but infrequently, and not well
- Detention facility present: old building with a newly built female section; reported poor maintenance and conditions, and low and poorly trained staff
- State control: extremely weak—Al-Qaeda and other armed groups patrol and block roads
- Key challenges: insecurity, court closures due to strikes, crisis over southern and other political issues

## Marib



Photo A6.7 Marib court of appeals and Marib City's primary court.

- Population: 296,000
- Districts: 14
- Profile: rural, tribal, mostly agrarian but oil resources and pipeline
- Districts visited: 3—Marib City, Al-Joobah, Hareeb
- Primary courts: 3—Marib City, Al-Joobah, Hareeb
- Special courts: none
- Judges: 3
- Prosecutors: 1 office
- Functionality: low—courts do not exist or closed
- Detention facility present: poor infrastructure and conditions; female detainees held in unofficial residence with reported abuse
- State control: largely absent—most districts under tribal control; high presence of armed groups (criminal, smuggler, terrorist)
- Key challenges: functional judiciary does not and has not existed in most areas, preference for tribal system, little state presence or law enforcement

## Shabwa

- Population: 585,000
- Districts: 17
- Profile: rural, tribal; one of the physically largest governorates, most of the population of Shabwa live in rural areas and have very little access to basic services; Shabwa has a strong tribal structure, and the majority of the population relies on tribal arbitrators and traditions to resolve conflicts
- Districts visited: 3—Ataq, Nissab, As-Said
- Primary courts: 13—Ataq, Bayhan, Ayen, Essaylan, Rodhoom, Jordan, Assayed, Arma, Maifaah, Arraodhah, Nissab, Habban, Makhah Assufla
- Special courts: none (special cases usually referred to Mukalla in Hadramawt)
- Judges: 12
- Prosecutors: 10 offices, 12 prosecutors
- Functionality: low—no courts visited were open; closures are reported to be widespread and common
- Detention facility present: with one new female section but no female detainees yet
- State reach: weak—with limited police presence; districts difficult to access owing to remoteness, lack of roads or infrastructure, and security issues
- Key challenges: limited state presence, control, or enforcement power; preference for tribal dispute resolution



## Taiz



Photo A6.8 Judicial complex, Taiz City, Taiz.

- Population: 2,969,000
- Districts: 23
- Profile: rural to urban, including most populous city
- Districts visited: 3—Jabal Habashi (Yafrus), Saber al-Mawadem, Sharaab as-Salam
- Primary courts: 16—Saber Al-Mawadem and Mashrah wa Hadnan, Al-Missrakh, Al-Hugariah, Al-Mwasset and Al-Maffer, Attaziah, Mocha, Sharaab Ar-Rownah, Sharaab As-Salam, Mawza and Al-Wazeyah, Taiz West, Taiz East, Khadeer and Assillo, Yafrus, Mawyah, Haiffan, and Maqbanah
- Special courts: 4—public assets, traffic, juvenile, commercial
- Judges: 75, plus 12 assistant judges
- Prosecutors: 13 offices, 110 prosecutors
- Functionality: high—all courts generally operating
- Detention facility present: with separate female section; overcrowding of three to four times capacity makes conditions inhumane
- State police and security: present throughout, although access is difficult in some districts, even in Taiz City, especially since 2011
- Key challenges: corruption, high case volume per number of judges



## Notes

1. For more on the complex web of factors feeding the protest movement, and the even more complex set of factors that allowed what was initially a peaceful protest movement to morph into a political crisis that verged on civil war, see, for example, Philip Barrett Holzapfel, “Yemen’s Transition Process: Between Fragmentation and Transformation,” *Peaceworks* no. 95 (Washington, DC: U.S. Institute of Peace, February 2011); Tim O. Petschulat, *Political Change with Pitfalls: An Interim Report on the Yemeni Transition Process* (Berlin: Friedrich Ebert Stiftung, 2012); see also “Report of the United Nations High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen,” Human Rights Council, Eighteenth Session, Document A/HRC/18/21, September 16, 2011, [www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-21.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-21.pdf); Erica Gaston and Nadwa al-Dawsari, “Waiting for Change: The Impact of Transition on Local Justice and Security in Yemen,” *Peaceworks* no. 85 (Washington, DC: U.S. Institute of Peace, April 2013), [www.usip.org/publications/waiting-change](http://www.usip.org/publications/waiting-change).
2. The exact duration of the agreement was twenty-seven months, which included the three months before the February 2012 presidential elections.
3. GCC agreement, Art. 13 (c), [www.al-bab.com/arab/docs/yemen/yemen\\_transition\\_agreement.htm](http://www.al-bab.com/arab/docs/yemen/yemen_transition_agreement.htm).
4. In the past, the president headed the Supreme Judicial Council (SJC), but in response primarily to pressure from donors in 2006, the head of the Supreme Court was made the head of the SJC.
5. Despite these reforms, the president and other executive branch actors continue to play a strong role in the appointment and removal of judges, from members of the Supreme Court down to the primary courts, as interviewees repeatedly attested to in this research. Additionally, the president’s office still holds significant sway over the SJC and, more important from the perspective of many judges, judicial independence is undermined because the Ministry of Justice, an executive branch ministry, retains significant control over a number of financial and administrative functions.
6. In addition to emphasizing the importance of an independent judiciary at several points, the final NDC document included provisions stating that judges are not to be ousted from positions (temporarily or permanently) or transferred to another posting, or forced into early retirement without judicial decision based on a valid reason or rationale as specific by law. See NDC final document, State-Building Committee, Final Plenary Decision, Section 8, 97 (5).
7. For example, the final NDC recommendations suggested that the SJC should have full authority over the judiciary, and membership should be comprised of 70 percent judges, 15 percent from the lawyers syndicate, and 15 percent from academia. See NDC final document, 82, 97–98 (1). It also proposed reforming the high court structure, and outlines specific eligibility and management for the constitutional court. See NDC final document, 98–99 (1)(2).
8. For example, in the NDC recommendations concerning military and security organizations, numerous provisions emphasized that security actors must respect the rule of law, and must not conduct certain activities (for example, searches or detention) without a search warrant or as specified by law.
9. Primary field research was conducted in October, November, and December 2013, and secondary and follow-up research was conducted in January and February 2014. All field researchers were Yemeni, and most were lawyers or had some relevant legal experience. The research team was managed and led by Nadwa al-Dawsari, with significant support from Fuad al-Harithi.
10. See, for example, Erwin van Veen, “From the Struggle for Citizenship to the Fragmentation of Justice: Yemen from 1990 to 2013” (The Hague: Clingendael Institute, 2014), [www.clingendael.nl/sites/default/files/Yemen%20-%20Fragmentation%20of%20Justice%20-%202014%20-%20Erwin%20van%20Veen\\_0.pdf](http://www.clingendael.nl/sites/default/files/Yemen%20-%20Fragmentation%20of%20Justice%20-%202014%20-%20Erwin%20van%20Veen_0.pdf); April Alley, “The Rules of the Game: Unpacking Patronage Politics in Yemen,” *Middle East Journal* 64, no. 3 (summer 2010); Laila al-Zwaini, “The Rule of Law in Yemen: Prospects and Challenges” (The Hague: HiiL Rule of Law Quick Scan Series, September 2012), 50, [www.hiil.org/data/sitemanagement/media/QuickScan\\_Yemen\\_071212\\_DEF.pdf](http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_071212_DEF.pdf); HiiL Innovating Justice, “Building Rule of Law in Yemen: A Need for More Focus on Informal Justice Processes,” April 22, 2010, [www.hiil.org/insight/building-rule-of-law-in-yemen-a-need-for-more-focus-on-informal-justice-processes](http://www.hiil.org/insight/building-rule-of-law-in-yemen-a-need-for-more-focus-on-informal-justice-processes); Brinkley Messick, “Prosecution in Yemen: The Introduction of the Niyāba,” *International Journal of Middle Eastern Studies* 15 (1983). For a more general introduction to Yemen’s history and political dynamics, see Paul Dresch, *A History of Modern Yemen* (Cambridge: Cambridge University Press, 2000).
11. Erica Gaston and Nadwa al-Dawsari, “Dispute Resolution and Justice Provision in Yemen’s Transition,” Special Report no. 345 (Washington, DC: U.S. Institute of Peace, 2014); Nadwa al-Dawsari, “Tribal Governance and Stability in Yemen” (Washington, DC: Carnegie Endowment for International Peace, 2012), [http://carnegieendowment.org/files/yemen\\_tribal\\_governance.pdf](http://carnegieendowment.org/files/yemen_tribal_governance.pdf).
12. The names of the primary courts or the primary court jurisdiction sometimes differ from the name of the district in which they are located.
13. In Aden, new cases dropped from 12,239 in 2010 to 6,640 in 2012. In Sanaa City, they dropped from 22,995 in 2010 to 12,871 in 2012. See excerpt of Ministry of Justice data for 2010 and 2012 in annex 3.
14. Hadramawt is the largest physical territory in Yemen, and many rural districts are disconnected and difficult to reach because of rough terrain and poor roads. This makes it difficult for citizens in districts without a court to access those in nearby districts, though these also tend to be the districts with extremely low demand

- for state justice provision. In Hodeida, which is a smaller governorate, access for citizens in districts without a court was reported to be less of an issue. Despite the access issues, the number of cases per capita in Hadramawt is on par with Taiz and Hodeida.
15. During the 2011 crisis, Taiz was effectively divided by armed groups, half of them beyond government control. Since then, more armed groups and gangs have been present in the city, and has increased criminality but government control largely resumed.
  16. Courts for the neighboring, very tribal governorate of al-Jawf are located in the territory of the Governorate of Sanaa, and they share the court of appeals, so the Ministry of Justice groups statistics for the two governorates together. GoS citizens can use the special courts for Sanaa City, and some GoS prosecutorial resources are physically located in Sanaa City.
  17. This is reportedly because these courts received a greater share of international programming and funding.
  18. Absent a special criminal court in Taiz, some cases in Taiz's jurisdiction have been tried in the special criminal court in Aden, the Taiz governorate assuming the costs and responsibility for transporting defendants there for trial (interview with Taiz governor, March 4, 2014).
  19. Ministry of Justice, "Judiciary Annual Statistical Report 2012," 58, [www.moj-yemen.net/ehsaiat/2012.pdf](http://www.moj-yemen.net/ehsaiat/2012.pdf).
  20. As listed on the Government of Yemen's website, the estimated population for 2012 was as follows: Aden 752,000; Sanaa City 2,216,000; Taiz 2,969,000; Lahj 900,000; Ibb 2,635,000; Hadramawt 1,292,000; Hodeida 2,697,000; Abyan 543,000; Marib 296,000; Shabwa 585,000; GoS 1,142,000; al-Jawf 547,000.
  21. Interviews suggested the al-Jawf courts have not been operating at all since 2011, though this could not be confirmed.
  22. The population of the GoS is 1,142,000, and for al-Jawf, 547,000.
  23. The 5.6 estimate is based on 2012 rather than 2010 population numbers, which are not available.
  24. See, for example, Gaston and al-Dawsari, "Waiting for Change," 21–25; Erica Gaston, "Sustainable Security in Yemen: Popular Committees in Abyan," USIP blog, June 14, 2013, [www.usip.org/publications/sustainable-security-in-yemen-popular-committees-in-abyan](http://www.usip.org/publications/sustainable-security-in-yemen-popular-committees-in-abyan); Nadwa al-Dawsari, "The Popular Committees of Abyan, Yemen: A Necessary Evil or an Opportunity for Security Reform?," Middle East Institute blog, March 5, 2014, [www.mei.edu/content/popular-committees-abyan-yemen-necessary-evil-or-opportunity-security-reform](http://www.mei.edu/content/popular-committees-abyan-yemen-necessary-evil-or-opportunity-security-reform). Although most associated with political control and conflict in Abyan, popular committees are also active in other governorates, notably Shabwa. The findings from this study suggest that in Lahj as well, popular committees contribute to security by maintaining security on the highway, interrupting smuggling activities, and capturing militants.
  25. See Mohammed Jamjoom, "Amnesty Details 'Horrific Abuses' in Southern Yemen," CNN.com, December 4, 2012, [www.cnn.com/2012/12/04/world/meast/yemen-amnesty-report/](http://www.cnn.com/2012/12/04/world/meast/yemen-amnesty-report/).
  26. Risks may be incurred because of the distance to courts and insecurity of roads; because of risk associated with appearing in government facilities in some districts; or because if citizens file a complaint against someone and the state cannot protect them from retaliation, they may be directly threatened or attacked by the person they filed the complaint against. This is particularly true where the case at issue involves an armed actor or a criminal charge, for example, a murder or assault.
  27. Interview with Judges Club leaders (4), February 20, 2014, Sanaa.
  28. A mediation effort was ordered by the defense minister and carried out by local leaders; eventually the judge was released. It could not be confirmed whether compensation was paid or the murder suspect was released.
  29. Judges who mentioned this more frequently seemed to refer to criminal cases, but the case data obtained from the Ministry of Justice largely do not suggest any major difference in delay in resolving criminal versus civil cases (see annex 5 for more on the breakdown of cases by type).
  30. Renovations were funded with support from USAID-OTI implementing partner, following the recommendation and intervention of local officials (who were supported in their request by a U.S. State Department-INL program to empower local officials).
  31. In Taiz, separate research in 2012 found damage to judicial facilities and offices from the clashes that occurred during the 2011 Arab Spring protests and subsequent crisis. However, many of the damage or facility issues were not mentioned in this research and so may have been resolved (Gaston and al-Dawsari, "Waiting for Change").
  32. Interview with appeals prosecutors, March 3, 2014, Taiz.
  33. All of the twelve primary courts are rented, according to court records, except in Aniz, Harraz, Al-Haymah al-Kharijyah, and Al-Haymah ad-Dhilyah.
  34. Interviewees in Aden were also concerned about judge adequacy, but these concerns related more often to the legal knowledge of some judges or having enough reserve judges, which are a luxury in other parts of the judicial system.
  35. Based on the total number of courts in each governorate and total number of judges, an average of three judges would be assigned to each court. In practice, most courts in each governorate had one judge each, but the primary courts in more populated areas, the courts of appeal and some special courts tended to have more judges, typically three to five. By way of example of courts staffed with higher numbers: the Hodeida court of appeals

- reportedly had twenty-four judges; the Aden court of appeals has sixteen; the Taiz West and Taiz East primary courts have nine and seven respectively.
36. See van Veen, "From the Struggle," 34 (citing Harrendorf, Heiskanen, and Malby eds., *International Statistics on Crime and Justice*, European Institute for Crime Prevention and Control, HEUNI publication series no. 64, Helsinki [2010]).
  37. Interview with southern appeals court judge, March 2, 2014, Aden.
  38. Interview with Judges Club leaders, February 20, 2014.
  39. Two issues related to judicial independence were the source of several judges' strikes. First, many of the strikes in 2011 and 2012 surrounded demands for the head of the Supreme Judicial Council to be a separate position from the head of the Supreme Court, and independent of the president's leadership—a reform that was made by presidential decree in August 2012. Second, many strikes in 2012 and 2013 related to judicial independence financially and administratively from the Ministry of Justice. In May 2012, the Supreme Court ruled that the judiciary law was unconstitutional on these grounds, but the ruling has not yet been implemented and the Ministry of Justice continues to oversee most financial and administrative tasks. Interview with Judges Club leaders, February 20, 2014.
  40. The Judges Club objected to the proposed inclusion of lawyers on the Supreme Judicial Council because it would represent a conflict of interest and might create opportunities for greater political party interference, they argued. Interview with Judges Club leaders, February 20, 2014.
  41. Access is particularly difficult in the districts of al-Mansoorah and Meena, where the al-Hiraak is strong.
  42. Interview with Judges Club leaders, February 20, 2014.
  43. Interview with appeals prosecutors, March 3, 2014, Taiz.
  44. Interview with criminal court judge, March 2, 2014, Aden.
  45. Interview with southern appeals court judge, March 2, 2014, Aden.
  46. Before being assigned by the local security director, the security official in question had a reputation for past abuses, including an assault on a citizen in 2008 that went unprosecuted. After being assigned to the court, he and the four officers assigned demanded bribes, even releasing inmates who were sentenced to prison in exchange for money from their families. He reportedly arbitrarily arrested citizens, without a court mandate to do so, and insulted and harassed those who appeared at court. Local citizens surrounded the court, prevented staff from going to work, and prevented the court from functioning for a number of weeks until he was reassigned to another court in their district. The court was closed at the time of research for this reason, and though the protesters were granted their demands and the strike was disbanded at the time of the researchers' last visit in January 2014, the judges had not yet reported back to work.
  47. In Abyan, the demand was also low in 2012 (just over two cases per thousand persons) because of the ongoing instability since 2011, but normally demand would be average compared to that in other governorates.
  48. Reportedly, three other judges were appointed successively to the appeals court over the past two years (to make up a full bench of three, as required by law), but they have never attended.
  49. Interview with independent consultant, January 18, 2014, Sanaa.
  50. A copy of the law is available in Arabic, see [www.bahrainlaw.net/post5631.html](http://www.bahrainlaw.net/post5631.html).
  51. Interview with training organizations, February 22, 2014, Sanaa.
  52. A copy of the law is available in Arabic, see [www.bahrainlaw.net/post5631.html](http://www.bahrainlaw.net/post5631.html).
  53. For example, although the appeals court recently moved to the newly built judicial compound, case archives remained in the old buildings because of space issues, which makes accessing them difficult.
  54. Transparency International website, Country page Yemen, [www.transparency.org/country#YEM\\_DataResearch](http://www.transparency.org/country#YEM_DataResearch).
  55. Yemen Polling Center, "Bribery in Yemen Field Study," August 2006, 12, <http://yemenpolling.org/Projects-en/Bribery-en.pdf>.
  56. See, for example, Glenn E. Robinson, Oliver Wilcox, Stephen Carpenter, and Abdul Ghani Al-Iryani, "Yemen Corruption Assessment" (Washington, DC: USAID, September 2006), vi, 57, <http://yemen.usembassy.gov/root/pdfs/reports/yemen-corruption-assessment.pdf>.
  57. Article 59 of the Law on Judicial Power sets out the rotation system for judges and prosecutors. See also al-Zwaini, "Rule of Law in Yemen," 50; HiiL, "Building Rule of Law in Yemen," 26.
  58. See also Gaston and al-Dawsari, "Dispute Resolution."
  59. The two governorates least affected by the 2011 crisis, Saada and the surrounding areas, are not part of this survey. However, otherwise, the levels of decline seen in the ten governorates selected capture the spectrum of how governorates were affected in the last two years.
  60. Residents argued that the conflict dynamics since 2011 had become more complex such that the tribal system was no longer able to contain it on their own. See Gaston and al-Dawsari, "Dispute Resolution" and "Waiting for Change."

61. Studies and assessments have also long recommended greater training and investment in legal education, without any apparent success. This report recommends the same, and offers some sense of judge staffing numbers and caseload to aid in targeting such programs, but does not delve into the many sociocultural, political economic, and other factors that must inform successful legal awareness programming. Although critical, they are beyond the scope of this report.
62. Three additional courts are located in GoS but serve al-Jawf: al-Kharab, Hazel al-Jawf, and Barrat.



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

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Since the 2011 crisis sparked by the Arab Spring, Yemen has been engaged in a critical political transition. Deteriorating security and political uncertainty during this period have eroded rule of law and exacerbated long-standing weaknesses in state institutions. This report, which is part of a larger exploration into security and rule of law in the wake of the 2011 Arab Spring uprisings, highlights the current strengths and weaknesses of the justice system in ten Yemeni governorates with an eye to reform. Covering personnel issues, case management, facilities and infrastructure, corruption, accountability, and overall functionality, it provides a wealth of data critical for further study and points the way to more responsive programming and justice sector reform generally. While this report focuses primarily on the justice system, the findings should raise significant concerns about the health of state institutions overall as they emerge from this transition period.

## Related Links

- *Dispute Resolution and Justice Provision in Yemen's Transition* by Erica Gaston and Nadwa al-Dawsari (Special Report, April 2014)
- *Yemen in Transition: Between Fragmentation and Transformation* by Philip Barrett Holzapfel (Peaceworks, March 2014)
- *Process Lessons Learned in Yemen's National Dialogue* by Erica Gaston (Special Report, February 2014)
- *Waiting for Change: The Impact of Transition on Local Justice and Security in Yemen* by Erica Gaston and Nadwa al-Dawsari (Peaceworks, April 2013)

