

CDDRL

WORKING PAPERS

Number 122
March 2011

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Working Paper of the Program on Good Governance and Political Reform in the Arab World at CDDRL

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Yemen between Regime Survival and Systemic Change

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23 March 2011

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Abstract

This paper explores the options facing Yemen and President Ali Abdullah Saleh in light of the protests calling for democratic reform in the country in early 2011.

The paper maps out and assesses possible options for President Saleh and proposes a potential roadmap as way to resolve the crisis.

Saleh between Bad Options and Worse Options

The regime of President Ali Abdullallah Saleh has never faced the kinds of existential threats it is facing these days. These threats are qualitatively different from previous ones, in terms of their source, their goals, and their means. Their source is a large segment of the population; though it cannot be ascertained that they represent the majority of the population, they do represent most of Yemen's political trends, geographical areas, and tribal peoples. Their aim is to overthrow Saleh's rule, while their means so far has been peaceful demonstrations and sit-ins. In the previous threats, such as the insurgency in the central regions at the end of the seventies and early eighties, the 1994 war, the Houthi rebellion, the movement in the south, and Al-Qaeda, the source of the threats was specific and the President used to find a number of internal and external parties standing with him in the same trench to face them. However, the current threats specifically target his authority, and the small circle of supporters around him is constantly decreasing. This makes the chances of his success in overcoming them almost nonexistent, especially in light of a regional and international climate that is not going in his favor. As a result of all this, we find that the options for the President in the face of these threats are all bad, but some are worse than others, as will be explained in the following points:

Weathering the Storm till it Passes

President Ali Abdullah Saleh wishes that the current protests are temporary. According to this wish, he can temporarily bend down, to offers the protesters concessions that do not affect his actual power, like his promise of non-extension of his presidential term and non-inheritance (to his son). Afterwards, he would return to the previous policy of extension and inheritance.

Through the current actions of the President, we can say that he believes that what is

happening is only a temporary storm that will soon subside. But this belief, if it is true, is an erroneous assessment of the situation, and wishful thinking at best. The reality on the ground indicates that there are new parameters, the most important of which can be referred to in the following points:

1 - After the revolutions of Tunisia and Egypt, the political forces in Yemen have a strong conviction that regime change in Yemen has become both easy and necessary, and that reforming the current system has become outdated. The number of those who believe this is growing very day and even includes some members of the current regime.

2 - There is an international, and perhaps regional, conviction that the regime of Ali Abdullah Saleh, in its current architecture, has become a part of Yemen's problems, and its continuing along the same lines means more chaos, which requires real reforms or regime change. This means the absence of international and regional support and assistance for the President.

3 – The current situation in Yemen is not sustainable. The economic, political, social, and even psychological conditions of the country cannot bear this state of anxiety and uncertainty for .long.

4 – Yemen's constitutional institutions will soon lose their legitimacy (legitimacy means the full implementation of provisions of constitutional and legal texts): The current House of Representatives will complete its constitutional term on April 27, 2011, after which it will not possess any form of legitimacy or legality.

Through this, we can say that the current protests are not a temporary wave but closer to a popular revolution.

Partially Responding to Reform Demands

The second option for the President is to implement some of the reforms demanded by the opposition, such as the adoption of a proportional system in the parliamentary elections, constitutional amendments that expand the scope of local governance, a reduction in the powers of the President of the Republic, the establishment of a parliamentary system along the lines announced by the President in his recent initiative, and the promise of him not running for re-election in 2013. Yet through examining the current developments, we can say that this option has been overtaken by those developments and is no longer acceptable to the street or to political actors at home and abroad, as waiting until the end of the President's term means the continuation of instability and worse. Because of this, this option seems unviable both for the President and for the general situation in Yemen.

Implementing Radical Reforms

Some local and foreign forces are demanding that President Saleh engages in radical reforms that include removing his relatives from the main functions of the state, specifically the army and the security services, and reducing his absolute powers to control public funds and public office. Although these reforms would not be sufficient for most of the protesters, they are not likely to be implemented in the first place. President Saleh cannot take these steps because he is aware, more than any other, that performing them is a case of political suicide. Saleh's

regime is utterly dependent on those elements: the control of his relatives over state functions guarantees him control of the centers of power and deterrence, while his control over public money and public office has earned him loyalty and followers, without which he risks quickly losing his power. In a non-democracy, as the Arabs say, power is founded on “the sword and the gold”, without which the non-democratic governor is stripped from sources of survival. This is especially the case with President Saleh, who is neither a revolutionary leader as some other Arab leaders claim, nor a tribal or religious leader. He was not even a major military figure before taking power, nor is the instigator of a once-popular political or social project. Therefore, he is permanently in need of ruling through the power of deterrence and the purchase of loyalties, and the withdrawal of such means is de facto loss of his authority that will make his supporters abandon him enable his opponents to attack him.

Ignoring the Protests

It could be speculated that one of President Saleh’s options is to ignore the current protests thereby causing them to fade slowly. However, this option is not available to the President; the protesters realize that they cannot stay in the squares for months, and as soon as they feel that the regime is ignoring them, they will step up the pace of protests. What is making them stay put is that they feel that things are going in their favor. The protest squares in Yemen are seeing more participants from increasing wider social categories. In addition, the continuation of protests spurs outside interest in Yemen, politically and in the media, which is in the interest of the protesters.

Quelling the Protests

It seems that prospects for this option are declining day after day, especially after the Libyan revolution, but it still cannot be ruled out. President Saleh still, in theory at least, has this option, which may include one of two ways: either repression by state forces (army and security forces) or through the use of irregular forces (tribes). Below we will discuss these two options:

Quelling through state forces

In theory, President Saleh controls the armed and security forces, and his influence is strengthened as those forces are run by his relatives. If the President chooses to suppress the protests and end the sit-ins through using those state forces, this will inevitably result in the deaths of dozens of demonstrators at the very least, which will make him face condemnation and rejection both on the local and international fronts. If the death toll rises to a figure in the hundreds, the President becomes vulnerable to international isolation and prosecution as well as to a potentially violent reaction from the opposition.

On the other hand, the state forces in Yemen are known for poor discipline for the multiplicity of loyalties within them, which means that we can expect some members of those forces to refuse to carry out orders or to simply withdraw from service. The President could face an even worse scenario if officers from outside his clan decide to overthrow those belonging to his tribe and join the protesters.

Quelling through irregular forces

Some authoritarian regimes rely on irregular troops to suppress opponents, such as militias and hired thugs or tribal loyalists. If the President decides to resort to this option, what are his real choices? And who would be the tribal candidates for this job? Examining the tribal structure of Yemen, we find that the tribe of the President (Sanhan) is only a small tribe and is a branch of the tribal coalition Hashid, whose leaders (sons of Sheikh Abdallah Al-Ahmar) have already announced they are joining the protesters. As Saleh had already recruited most members of his tribe to serve in the military and security apparatus, it would be very difficult for him to call upon them to act as irregular forces to quell the protesters.

As for his employing of members of other tribes for this task, this option has serious consequences because, on the one hand, Saleh cannot guarantee the loyalty of and total control over those “rented” tribes, since it is well known that the tribes in Yemen are fiercely independent and are characterized by a severe lack of discipline and are open to changing their allegiances quickly. On the other hand, a significant number of the protesters belong to most of the Yemeni tribes in the first place, and therefore, if any tribes engage in a process of repression, they will end up confronting members of their own tribes as well as those from other tribes, which means the involvement of tribes in civil war and tribal conflicts.

Even if the President guarantees the backing of some tribes in the suppression of the protests, he will risk dragging the situation to further violence and chaos, and having the international and local communities hold him responsible for this violence, as in the case President Omar

Al-Bashir of Sudan who has been held accountable for the conduct of tribes (the Janjaweed) in Darfur.

It is not expected that the President would resort to this option as it would have devastating consequences. We have already noted how his limited use of violent thugs to quell protesters has led to internal and external condemnation and to divisions within the regime, so how would the situation be if this repression were more bloody and cruel?

The Samson Option (“Let me die with the Philistines”)

It is in nobody’s interest—including the opposition—to push for this option, which can be summarized as the President’s driving Yemen to civil war after all his other attempts to quell the protests fail. But this option remains unlikely for the following reasons:

1- It is known that President Saleh normally avoids bloody confrontation, and favors compromise when the need arises.

2 – Choosing this option means political suicide for Saleh and his relatives and even his tribe. This option may not be accepted by his family and his tribe, especially as they are, so far at least, not obliged to adopt this option since they are not exposed to threat by tribal opponents bent on exterminating them. Despite its disadvantages, Saleh’s regime is to a large extent not a bloody one and has not engaged in brutality against his opponents, and thus has not implicated his family and his tribe in violence and revenge. In addition, if Saleh leaves power, tribal and social mores would protect his and family’s lives.

Possible Options for Change

A number of options for change are being discussed in Yemen and the next pages will assess those options.

The President to Complete his Constitutional Term till 2013:

This option is preferred by the President, on the basis that it is compatible with the Constitution, and ensures a natural transition of power through elections. However, this option is not possible, but may be impossible for the following reasons:

1 - This option ignores the prevailing street protests. The protesters cannot be imagined to simply withdrawal from the street in a peaceful manner, based on this option, and will not accept any safeguards to achieve it from any party whatsoever.

2 – The opposition no longer trusts the promises of the president, especially because in 2006, the president declared that he would not run for re-election and changed his mind only three days later, so how could anyone guarantee that he would not do the same after 30 months?

3 - Even if we assume that the street would become receptive to the idea of the President's departure in 2013, the same questions that are now being raised will be raised in 2013 such as: to who will the President hand over authority when his family members occupy the key military positions? And can anyone expect fair and free elections in light of the President's continuing absolute control over the military, the security apparatus, and public money?

4 - How will the presidential election in 2013 be conducted when the current parliament will be expires after April 27, 2011? It is not expected that parliamentary elections would be held before 2013 in the case of the continuation of Saleh's presidential term till then under the current crisis. Plus, according to the Constitution, the Council of Representatives in conjunction with the Shura Council has to endorse candidates for the presidency. How would this happen in the absence of a House of Representatives?

Based on those factors, this option remains unviable.

Forming a National Unity Government Led by the Opposition

This option can be summarized as the formation of a national unity government headed by opposition figures, who share government positions with the ruling party, and work on constitutional and legal amendments and prepare for parliamentary elections. This proposal is not possible for the following reasons:

1 – It is not likely to be accepted by the opposition or the protesters in the street, because according to this proposal, Saleh will remain president and his family will remain in control of the government.

2 - Even if the opposition accepted this option, it is not possible to foresee an agreement on constitutional and legal amendments, given the wide gap that separates the current regime and the opposition. Add to that the political and economic situation facing the country, which requires quick and decisive action to confront it, and which cannot be expected from a national

unity government (often called in political science “national paralysis government”, as governments of this kind often do not agree on even the simplest issues, so how would they handle a country facing existential crises like Yemen?).

The Resignation of the President According to the Current Constitution

This option is based on the president's resignation and the enforcement of the current Constitution, which stipulates that the Vice President shall serve for a period of 60 days after which presidential elections take place. This proposal is not possible for the following reasons:

1 - The current Vice President is not acceptable to the broad segment of regime figures and the opposition. There is also a statutory complication, which is that the current Vice President of the Republic was not appointed by a Constitutional resolution after the presidential elections in 2006, and therefore his presence is illegal. In this case, the Constitution gives the Speaker of the House of Representatives the power to conduct the duties of post of President of the Republic. But the current Speaker of the House of Representatives is again not acceptable to the opposition and the protesters in the street. Therefore, the transfer of authority to any of those two mentioned persons will not calm the situation, but may trigger further escalation.

2 - Assuming the transfer of authority from the President of the Republic to the Vice President or the Speaker of Parliament does happen, there are legal and political complications that prevent the holding of elections within the sixty-day period specified in the Constitution, most notably that the current parliament will no longer be legitimate after April 27, 2011, which would

prevent the process of endorsement required of candidates for the presidency. Plus, the current situation is not conducive to the holding of presidential elections.

The Establishment of a Parliamentary System at the End of the Year

This option is based on what President Salen proposed on the 10th of March, 2011 and includes proposed constitutional and legislative reforms to establish a parliamentary system, amending the election law to implement proportional representation, the establishment of local government with full powers, holding parliamentary elections at the end of 2011, and the formation of a new government at the beginning of 2012. Although this option was one of the demands of the opposition in the past, it has now been overtaken by the evolving events, and the opposition has now rejected this option and considers it as an attempt by the President to buy time.

Conducting constitutional amendments under the current these circumstances is not healthy because it will be expedited would end up serving one party's interest over another's. The issues that are now being raised, like forming a new political system and local government and proportional representation need time to be thought through. There is a greater chance to reach better decisions on these issues if the regime changes, as only a climate of freedom and political balance would create a suitable environment to resolve these issues.

Holding Presidential Elections at the End of the Year

The opposition has officially proposed to the President holding a presidential election at the end of the year on the condition of him not nominating himself or of any of his relatives for this post. The president initially refused this option. Although the President later accepted the proposal, this option is no longer acceptable for the following reasons:

1 - Protesters in the street have not accepted this proposal, and the official opposition has not offered it again because it believes the time has passed.

2 - How can presidential elections be held at the end of the year without the presence of a House of Representatives, as it is not expected that parliamentary elections can be held before the end of 2011 under the current circumstances? In addition to that, it is not possible to hold a fair presidential election the presence of the President and his relatives in positions of control over public money and public office.

The Transfer of Power to a Military Junta

This option is based on the President's authorization of a Military Council to seize power, or to submit his resignation to the General Command of the Army. This option is not viable given the nature of the current structure of the army. The Army's current leadership is in the hands of relatives of the President, and handing over power to them means the survival of the current regime under a different name. In the event that leaders from outside the President's family are

brought in, those would not have actual authority over the army. This would make the transition period more complicated.

Military Coup

This option may seem unlikely in the present time, because of the current structure of the army, but it remains possible if some military commanders, with the participation of officers and rebel leaders, force the president to step down, and then assume power. This option carries risks that can be illustrated through the following points:

1 - A military coup means aborting the revolution, because then there would be no real political change in the state, especially if this coup is carried out by military leaders who have political ambitions and political agendas that follow one of the existing political powers. This means that Yemen would enter a phase of authoritarian rule similar that through which Omar Bashir assumed power in Sudan. If this occurs, it would be a large threat to the prospect of democracy than the current situation. As a result, many of the forces involved in the movement for change may find themselves compelled to continue the protests to bring down this government.

2 – A military coup may be accompanied by acts of violence inside and outside the army, which would result in further bloodshed and chaos and in tribal and regional divisions.

The Capture of Cities

This option is based on escalating the protests to include strikes and paralyzing vital state provisions and cutting off roads and control over key cities until the capital is seized. This protesters are exploring using this option if the president refuses to step down. Although this option seems attractive and feasible, it carries a number of risks for the state:

1- This operation is not as safely and smoothly and easily conducted as many believe. The capturing of cities may not be feasible in all areas, leaving some areas under the authority of the regime and others under the authority of the rebels, which means the outbreak of civil war in some way. Add to that that many cities will not be overthrown without violence, which means much bloodshed and the outbreak of tribal and political disputes over the areas that have been captured.

2 - The fall of cities would not be orchestrated by one entity. We would find some areas falling into the hands of forces with multiple and conflicting agendas. Some areas may be brought down by Southern separatists and others in the hands of Houthis while others could fall at the hands of jihadi movements (Al-Qaeda and similar), and other powers are likely emerge during this period of control (tribal, partisan, zonal). All this means chaos and destruction. Even if the regime fell in the end, those who have seized power in certain areas are not likely to hand over their authority peacefully.

3 - The current government may remain remains in control of the capital and some other areas, which again means civil war and long-term divisions. Yemen's fragile economic and

social conditions would not tolerate a situation like this, which means the failing of the state and the collapse of its components.

The Safest Option for Change

(The least worst scenario for the President and Yemen)

Through all of the above, it has become clear that the continuation of the President in his post has become impossible. It is not a question of the president being good or bad, or that the Constitution approval of the President's staying or not, the issue here is that the situation in Yemen is no longer capable of being resolved in the presence of the current President. Since the president is no longer part of the solution, his continuation in power means more chaos. It is also not possible to hold constitutional reforms or parliamentary or presidential elections, with the current President staying in power. Add to that the difficulty of the transfer of power to the Vice President or the Speaker of the House of Representatives according to the current Constitution. Therefore, the required transition of power must happen outside the context of the current Constitution, and must be accepted by the opposition parties and most of the protesters in the street, as well as the international and regional communities. This transition must be done quickly before the situation gets out of control and the following are some of the elements of this change.

This option is based on an agreement between the political powers (the President and the opposition) with regional and international endorsement to conduct an orderly transition of power that would be acceptable to all parties, including the President of Yemen and his family,

and that would prevent chaos and violence, and establishes a new phase for Yemen. The success of this option depends on a number of factors:

1 – The realization and acceptance by the President and his relatives that their stay in power has become difficult, and that the cost of staying is more than the cost of exit.

2 – The acceptance by most members of the current regime and its stakeholders (including non-relatives of the President) that any other options are simply not available and destructive to their interests, which would push them to pressure the President to step down.

3 – The continuation of protests through an increase in peaceful sit-ins and the absence of major incidents of violence that would skew things in other directions.

4 - The success of the revolution in Libya and the turning of regional and international attention towards Yemen while taking advantage of the lessons learnt from Libya's costly and violent experience. This could be achieved if the regional and international communities exercised significant pressure on the President to persuade him to step down under the guarantee of a safe and honorable exit endorsed by those communities. This would happen when the international and regional communities realize that the survival of President Saleh of Yemen in power is complicating the situation and making the country vulnerable to further chaos and instability.

5 – This would be done as soon as possible and before the situation gets more complicated and out of control.

Components of the Safest Option for Change

Given the complexity of the situation in Yemen, which does not resemble the situation in Egypt or Tunisia, in the sense of the absence of a professional army that has wide trust and that is able to handle power during a transition period, the transfer of power in Yemen would entail doing special arrangements as follows:

1 - Establishment of a Presidency Council or a leadership council—no matter the label—that would take over the tasks of the President of the Republic.

2 – This Council must represent the political, geographical, and ideological components of Yemen, so that most of the following parties find themselves represented in one way or another in the Council:

A - Large main parties: Al-Mo'tamar Al-Islah, the Socialist Party.

B - Non-partisan actors: The Southern movement, the Houthis, the opposition abroad.

C - The geographic divisions: The South, Lower Yemen, Middle Yemen, Upper Yemen.

3 - The Council would be required to have no more than 9 members and not less than five.

4 - The Council would be the acting head of state for a temporary period not exceeding two and a half years, and the chairmanship would rotate among the members periodically.

5 – It would be preferable for the members of the Council not to be organically related to the current President, especially those from the leaders of the military, so as not to circumvent the Revolution and be rejected by the protesters.

6 – The members of the Council, in addition to being representatives of the main components of Yemen's political structure, should be moderate figures, and accepted by all parties, which means avoiding the inclusion of controversial and extremist figures with high political ambition in this interim Council.

7 - This Council should work to restore stability and a smooth transition of power, and to arrange state orders. One of the most important functions of the Council is re-ordering the armed forces and security services on the basis of a new suit and while taking the next stage into consideration.

8 – The Council would be entrusted with the task of forming a government of technocrats that would be in charge during the transitional period, as it would be difficult to agree on a national unity government of national unity in these circumstances.

9 – The Council would be delegated with the conducting constitutional amendments, or creating a new constitution, and then holding parliamentary and presidential elections in successive periods.

10 – The transfer of power would result in a guarantee to not prosecute the current President

and his relatives and all former officials who have served during his period of rule, through a general amnesty, issued by the current parliament, and guaranteed by international and regional powers.

11 - Adoption by the Parliament of a constitutional provision to give former heads of State permanent membership of the Shura Council or any alternative board to be formed in the future, which gives the current president permanent parliamentary immunity, which his predecessors would also benefit from: Ali Nasser Mohammed, Ali Salem, and Haider Abu Bakr Al-Attas.

12 – The establishment of a Council to take care of the legislative functions of the government that is due to be disabled. The role of the Council would be oversight of the work of the government and the Presidency Council. This oversight Council would be composed of 101 members, and can be configured as follows:

A - 50 members of the parties, 10 for Al-Mo'tamar, 10 for Al-Islah, 10 for the Socialist Party, 20 for other parties and political blocs.

B - 50 members are divided as such: 20 members for the Elders, 5 members for the Houthis, 5 members for the Southern movement, 20 members for civil society organizations and public figures.

C – There would be consensus among the major powers on the names of the members

and the President of the Council, and all would be appointed through an order from the Presidency Council.

13 - In case the number of members of the Presidency Council is seven, they could be divided as follows:

A - 2 persons representing the Socialist Party and the South and one of them would be close to the Southern movement.

B - 2 persons representing Al-Islah Party, one of whom would be a representative of the lower regions of Yemen and the second representative of the upper areas of Yemen.

C - 2 persons representing Al-Mo'tamar, one of them would represent Upper Yemen Yemen and the second represents Middle Yemen.

D - One person who represents the Houthis and Upper Yemen.

14 – It is possible for the same person to represent more than one entity, for example, to be the representative of the Socialist Party and at the same time a representative of the South and perhaps the Southern movement and so on, depending on the quality of the people, since it would be preferable if members are representative of more than one entity. This does not mean that the selection of those members would form the basis for the establishment of a political system based on sectarian, regional or partisan lines, as membership of the council

should be a special stage in the exceptional transition period and not a permanent solution to power in Yemen.

The aim of the above is to contribute to a road map out of the current crisis, with the least possible losses, especially since the President's staying in power means the continuation of the crisis, and the consequent stagnation of the state and its institutions, and further deterioration of security, economic, and social development.

The presence of a mechanism for the transfer of power, would work to prepare the public and political forces for the phases to come, and would reassure those who are fearful of change, which contributes to easing the transition. In addition, the presence of a road map would make the outside world that is concerned about the change in Yemen involved and likely to support the change and to work to support it and ensure its implementation.

What must be emphasized is that Yemen will not return to what it was before the current events, and the continuation of the current situation portends a violent explosion that may not necessarily be planned by the political forces, but which would be a result of the tension experienced by Yemen. Yemen is now like is a gunpowder keg that could explode due to an accidental spark. The sooner a solution to the issue of transfer of power can be reached, the more serious consequences can be averted. It would be easier to sort this out under the current circumstances than after the situation explodes.