

Law on Transitional Justice and National Reconciliation

In the name of the people,

President of the Republic:

After examining the Constitution of the Republic of Yemen and the initiative of the Cooperation Council for the Arab Gulf States and the implementation mechanism of the transition process signed in Riyadh on 23/11/2011.

Based on Law No. (1) For the year of 2012 on the granting of immunity from legal and judicial prosecution.

Given the urgent need to put an end to the causes of division and conflict between members of the Yemeni society and aware of the suffering of many members of the community as a result of past and present political and their right to justice and adequate reparations.

In recognition of the need to understand the mistakes of the past in order to build a better future for all and ensure that no violations of human rights will occur

Confirming the commitments made by the political parties to stop all forms of revenge, follow-up, and prosecution, and to reject calls for revenge and approval to take steps towards national reconciliation and transitional justice and to ensure compliance with the standards of good governance and the rule of law and respect for human rights.

In line with the values of forgiveness and reconciliation rooted in the conscience and the being of the Yemeni people.

Complying with resolutions of the Security Council and the Council of human rights relevant to Yemen and in particular the UN Security Council Resolution (2014) for the year 2011.

And after approval of the Council of Representatives.

We have issued the following law:

Chapter I

Label, definitions, objectives and scope of work

Article (1) This law is called (the law of transitional justice and national reconciliation)

Article (2) For the purposes of applying the provisions of this law, the words and phrases contained in this Act shall have the following meanings unless the context requires another meaning:

- Initiative: the initiative of the Cooperation Council for the Arab Gulf States.
- Mechanism: the mechanism for implementing the transition process in Yemen, on the initiative of the Cooperation Council for the Arab Gulf States.
- Committee for interpretation: The Committee in charge with the interpretation of the initiative of the Cooperation Council for the Arab Gulf States and the implementation mechanism of the transition process.

- Government: Government of the Republic of Yemen.
- Law: Law of transitional justice and national reconciliation.
- Commission: The Equity and Reconciliation Commission established under this national law.
- Transitional justice: restorative justice, none judiciary, for the detection of truth and reparation to victims and preserving national memory and preventing the recurrence of serious violations of human rights in the future.

Article (3) This law aims to achieve the following:

- 1 - Emphasizing on having a political transition in Yemen based on the principles and values of tolerance and forgiveness and national reconciliation and the rejection of all forms of violence revenge and prosecution
- 2 - Taking the necessary measures towards the implementation of transitional justice, which includes shedding light on the actions of political parties during the period covered by the provisions of this law and ensuring material and moral compensation and support to those who suffered during that period, through moral reparations in order to achieve redress and reconciliation
- 3 - Contributing in the development and enrichment of the culture of dialogue and in establishing the elements of reconciliation, building the civil nation based on the rule of law and erase the effects of violations of human rights and prevent their recurrence in the future.

Article (4) The provisions of this law apply to each of the affected , who have suffered and had their rights violated by the actions of political actors, whether from the government or the opposition, resulting from the political conflict dating from 1994 and until the issuance of this law.

Chapter II

The Equity and National Reconciliation Commission:

Article (5)

A - established under this law, an independent non-judicial Commission called (the Equity and Reconciliation Commission) which aims to create a national reconciliation among the members of the Yemeni society after the legacy of political conflicts from 1994 until now, also to reach equity, compensation and reparation rights for those who have seen their rights violated or have suffered from those conflicts.

B - The Commission shall enjoy legal personality and financial disclosure to the independent exercise of its functions.

Article (6)

A – The Commission consists in a body of nine members men and women who must be:

- 1 - Highly specialized and qualified in the field of work of the Commission.
- 2 - Of high moral standing and recognized for their integrity and their commitment to human rights and enjoy the confidence of the people.
- 3 - None of them must have worked in the police or other security agencies or armed forces or any other armed formations during the past five years.
- 4 - At least three members must be independent of any party to the recent conflict in 2011.

B –The Commission is constituted by the decision of the President of the Republic upon nomination by the Committee of interpretation established by paragraph (25) of the implementation mechanism of the transition process in Yemen, on the initiative of the Cooperation Council for the Arab Gulf States. The Commission must issue a decision within a period not exceeding one month from the issuance of this law and must have a constitutional oath before the President of the Republic immediately following its formation.

C –The Commission chooses in the first meeting, a Chairman from among its members.

Article (7) The Commission works to achieve the goals established for it through specialized committees .The Commission in order to achieve those objectives and tasks should exercise the following functions:

A. Investigate all credible allegations of all human rights violations resulting from the conflict between the government and the opposition during the period from January 2011 until the date of issuance of this law, and the actions taken by the authorities, groups and armed factions which exercised de facto authority during that period, paying particular attention to issues that have affected the vulnerable groups in society such as women, children and others.

B. Listen to the victims of gross human rights violations, receive complaints, and provide an atmosphere of sympathy and welcome during the hearings which may be public or confidential, as preferred by the victims.No legal or illegal effects shall affect the witnesses or whomever has been listening to their statements in those meetings, the Commission shall engage the concerned state agencies to provide witness protection.

C. Assure compensation and reparation for victims of human rights violations that occurred because of political conflict from January 2011 until the promulgation of this law or those that have occurred since 1994. This measure includes the restitution of seized properties to their owners, regardless of whether the perpetrator was the government or other armed groups exercising control over the area, and to compensate the heirs of those who died as a result of these violations, and ensuring education for the children of the victims.

D. Ensure treatment and rehabilitation of patients due to the recent conflict and the bearing the costs of providing treatment abroad when it is not available in Yemen.

- E. Disclose the truth of what happened during the period covered by the provisions of this law by all means deemed necessary to reveal the truth.
- F. Search for forced disappearances that were unaccounted for, according to reports and complaints submitted, and determine the fate of the victims.
- G. Examine the responsibilities of state agencies or any other parties having violated human rights during the past period, to identify the causes and suggest treatments that prevent their recurrence in the future.
- H. Prepare and implement awareness programs and plans aimed at establishing the elements of reconciliation and openness and to spread the values and culture of equal citizenship and respect for human rights.
- I. Take measures to rehabilitate and reintegrate all the victims whose rights are covered by this law.

Article (8) for the purposes of the implementation of the assigned task of the Commission, in accordance with the preceding Article, The Commission shall have the following powers and authorities:

- A. To summon witnesses and listen to them and get the official required documents, to look at the archives. The government should oblige any person called upon by the Commission to appear before it and to provide the requested measures.
- B. Access to information by all means and from any source it considers reliable.
- C. Make all investigations and inquiries and investigations as it deems necessary to uncover the truth.
- D. To develop a procedural manual that includes procedures for acceptance of claims, complaints and evidence. Such procedures should remain simple and transparent.
- E. To develop and implement all necessary standards to compensate the victims of abuse, taking into account the following:
- The compensation can be material and moral or only material depending on the nature of each case.
 - The compensation includes incidental damages, and lost wages.
 - The estimated compensation is as provided for in the laws in force or as the Commission deems appropriate.
- F. The right to inspect the places where the violations took place when needed and the confiscation of the means and tools used in such violations, if any.
- G. To form specialized committees as needed to carry out its functions, and to consult with relevant experts and specialists.
- H. To adopt and implement financial and administrative regulations as it deems necessary to carry out its functions.

Article (9)

A - The Commission shall exercise its functions and powers impartially and independently without any interference in its work or influence in its decisions.

B - The Commission shall prepare a list governing its meetings and shall issue decisions by a majority of its members.

Article (10)

A - The Commission shall receive complaints and allegations of violations of human rights, starting from the month following the issuance of the decision to form the body and shall continue to receive such complaints for a year.

B - The Commission shall decide on complaints and allegations received from the end of the period for submission and shall the period of deciding shall not exceed twenty-four months from the end of the submission.

C - The government is to pay the compensation set out in the Commission's the decisions within three months from the date of issuance of the decision to grant.

Article (11)

A - The Commission shall prepare reports on its activities as follows:

1 - A progress report submitted to the national dialogue conference in time to be discussed at the conference sessions and take the necessary recommendations.

2 - A comprehensive report since the establishment of the Commission and until the end of its mission, on the facts and findings it has reached, this report shall not be judicial in nature and must include the following:

- The reasons that led to human rights violations in the past and recommendations to avoid repetition in the future.
- The steps that can be taken to promote national reconciliation and the protection of individual rights and in particular the rights of women and vulnerable groups and improve their conditions.
- Recommendations, proposals and actions that support and promote democratic transformation and contribute to building a civil state based on the rule of law, good governance, equal citizenship and institutional reform in order to ensure non-recurrence of grave violations of human rights in the future.

B - The government shall, within three months from the date of issuance of the comprehensive report from the Commission, prepare a plan and work programs to implement the recommendations and proposals, submitted by the Commission. The program will be presented to the House of Representatives for discussion during the one month of submission and the Council shall review the government's commitment to its implementation every six months at least.

Article (12)

A - The Commission shall have an annual budget of its own and submit it to the Council of Ministers and have it acknowledged by the House of Representatives. It shall be

included in the general budget of the state, the government's first budget should invest to perform its work in conjunction with the issuance of this law.

B –The government must seek international assistance and support and request a meeting with international donors to establish a fund to finance the settlement and compensation under this law.

Chapter III

Promote and protect human rights

Article (13) for the purposes of future protection of human rights and to promote those rights, the government must draw from the lessons of the past and the results of the Commission's work and encourage wider participation in the national dialogue conference. The conference will as well as tasks to be discussed according to the mechanism studied, discuss steps for reconciliation and transitional justice including:

A. Considering the causes of tensions and conflicts and disputes that have taken place in Yemen during the past years and make the necessary proposals to eliminate them.

B. Identify the causes of past human rights violations and benefit from the progress report of the Commission and propose recommendations and treatments to prevent the occurrence of such violations in the future.

C. Provide guidance in additional steps to achieve national reconciliation, forgiveness, tolerance, and other steps of transitional justice.

D. Study the situation of vulnerable groups and propose steps to ensure the enjoyment of their rights and enable them to perform their role in the development and construction of the modern civil state.

E. Consider the steps that can be taken to improve the performance of all institutions and public officials in the field of human rights and in particular the judiciary, police, security services, prisons, and armed forces.

F. Consider the possibility of establishing an independent body for civil service working on institutional reform of all state institutions be it civil, military or security so as to achieve the objectives of this law.

G. Actions that promote public understanding of the recent past, including preserving the collective memory, the memory of the victims and restore trust between the members of the community.

Article (14) to promote and protect human rights and prevent violations in the future the government must:

A. Establish a body or a national institution for Human rights, independent and impartial, in accordance with international standards and principles such as the Paris Principles, working as an entity to receive complaints and investigate human rights violation. As well as educating on Human rights issues in the future, with the participation of women in this entity, in a ratio of at least 20%. This entity / institution should be created within a

period not exceeding six months of issuance of this law.

B. Review of international conventions and instruments related to human rights to which Yemen has been a Party and work to harmonize national legislation with those conventions and join the instruments and conventions that have not yet been ratified.

C. Ensure the partnership and cooperation with international bodies, councils and regional human rights organizations and local civil society organizations working in this field.

D. Submit an annual report to the Parliament on actions taken by them to preserve and promote human rights at the national level.

Chapter IV

Final Provisions

Article (15) The Commission completes the tasks it was entrusted within a period that does not exceed four years from the date of issuance of this law, and the Council of Ministers decide on the mechanism of liquidation of the rights, obligations and assets of The Commission and its employees.

Article (16) The Commission may mandate staff from public service units to work with them, according to the criteria and conditions it deems appropriate. The Commission is also entitled to contract with local and external experts to perform some tasks as required by the nature of their work.

Article (17) the official media must cooperate with the Commission in the preparation and implementation of awareness programs to publicize the activities of the Commission and to deepen national unity and reject the culture of revenge and retribution.

Article (18) This Law shall come into force from the date of issuance and shall be published in the Official Gazette.

The Presidency of the Republic - Sanaa

Abed Rabo Mansour Hadi

President of the Republic