



**European Union
Election Observation Mission
Yemen 2006
FINAL REPORT**



The bottom half of the cover features a dark blue background. On the right side, a portion of the European Union flag is visible, showing the twelve yellow stars on a blue field. On the left side, a hand is shown holding a white ballot paper, with the hand and paper appearing as a lighter blue silhouette against the dark background.



YEMEN

FINAL REPORT

Presidential and Local Council Elections

20 September 2006

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

This report was produced by the EU Election Observation Mission and presents the EU EOM's findings on the 20 September 2006 Presidential and Local Council Elections in the Republic of Yemen. These views have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.

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I. EXECUTIVE SUMMARY

The 20 September 2006 presidential and local elections saw an openly-contested electoral process take place that represented a milestone in the democratic development in Yemen. The elections benefited from the full engagement of all major political parties and were notable for the degree of freedom enjoyed by all candidates to assemble and to express their views so that, for the first time in the political history of both Yemen and the region, an incumbent faced a real challenge at the polls. In spite of the geographical, logistical and security challenges found in Yemen, the Supreme Commission for Elections and Referendum (SCER) administered the elections efficiently and campaign activities took place across the whole country.

These significant and positive developments, however, must be weighed against a series of fundamental and systemic weaknesses within Yemen's political and administrative structures that undermined the democratic nature of key aspects of the electoral process. In particular, the results process lacked credibility to the extent that it was not possible to have confidence in the accuracy of the final results, State resources were used unfairly by incumbents and women were comprehensively excluded from the process. It is essential that these shortcomings are addressed for future elections to achieve further progress towards democratic reform in Yemen. Importantly, steps will need to be continuously taken to strengthen public awareness of the electoral process through civic and voter education as well as institutional capacity development of the SCER and relevant government ministries.

The European Union established an Election Observation Mission (EU EOM) for the 20 September elections. Over two months, the EU EOM undertook a comprehensive assessment of all phases of the elections, including the legal framework, the work of SCER, campaign activities, the election day and the results process in accordance with international standards for election observation. Observers from the EU EOM liaised closely with candidates, political parties, civil society groups, government authorities and international agencies in all 21 governorates in Yemen.

During the campaign period, the SCER took several important measures that sought to promote transparency and political inclusiveness in its work. Election officials tended to work cooperatively and with a good degree of openness. Significantly, the election administration had a multi-party membership at all levels. The composition of the SCER was changed following a political agreement that provided a framework to ensure cross-party participation in the elections. This strengthened the opportunity for transparency of the electoral process. Nevertheless, there were real concerns at the partisanship within the SCER towards the ruling General People's Congress (GPC) and there were instances where opposition representatives on election commissions were sidelined from decision-making. Women were significantly under-represented as members of the election administration.

The legal framework for these elections largely met international standards for democratic elections. The law includes guarantees to protect fundamental freedoms and rights that relate to democratic elections and to ensure the independence of the SCER. Nevertheless, there were numerous examples where the legal framework was not properly implemented or enforced. These omissions raise many questions regarding the commitment of the Yemeni political and legal authorities to put into practice the fundamental guarantees of rights, especially for women. The election legislation contained a number of problematic aspects

that need to be addressed, especially in relation to the registration of candidates and the process for submitting complaints and appeals. There should be a review of aspects of the electoral system ahead of the 2009 parliamentary elections especially in relation to boundary delimitation and to improve opportunities for the representation of women within elected bodies.

Over 9 million voters were registered to take part in the election, including 1.5 million more voters than were registered for the 2003 parliamentary election. The updating of the voter register experienced serious problems, including a refusal by opposition political parties to take part in the process and deficiencies in the provision of resources and training of registration staff. As a consequence, the voter register contained a high number of duplicate entries and ineligible names. A delayed review of the voter register by the SCER led to the deletion of over 200,000 names but this was undertaken in a non-transparent way and prevented proper opportunities for voters and political parties to verify its accuracy.

The elections provided voters with a clear choice between the ruling GPC and the opposition Joint Meeting Parties (JMP). Campaigns were focused around the main candidates for president, the incumbent President Ali Abdullah Saleh and Mr Faisal Bin Shamlan and all sides gave repeated public commitments to participate in credible and peaceful elections. In total, five candidates were registered to take part in the presidential contest and over 20,000 ran for local office but just one per cent of these were women.

The election campaigns were active and generally peaceful. Many well-attended public rallies took place across the country and there were few reports of restrictions on the right to campaign freely. The presidential election campaign wholly overshadowed that for the local council elections. Although all sides respected the right of others to campaign, there were a number of instances where the tolerance of the campaign was undermined by aggressive political rhetoric. Several candidates and supporters of the JMP were arrested on charges that would appear to have been politically motivated. There were credible reports of pressure upon local candidates, especially women candidates, to withdraw their nominations.

The fairness of the campaign was undermined by the systematic and exclusive use of State resources to favour the incumbent. State agencies, especially the police and military, showed overwhelming support for President Saleh and the ruling party. The SCER took no action to enforce legal provisions that prohibit such conduct.

The media in Yemen provided extensive and positive coverage of the presidential campaign and of voter education initiatives. The State electronic media fulfilled obligations to provide access and free airtime to presidential candidates but showed clear bias in the level of its news reporting of the activities of the President Saleh and the GPC-led government. Disappointingly, the local elections were not covered in any depth, partly because of a SCER instruction that restricted the information that media could make available on local candidates. Despite numerous limitations on the freedom of the media in Yemen, there were no reported instances of political censorship or intimidation against journalists during the campaign period.

Women were comprehensively excluded from the 2006 elections. This fact seriously undermined the universality and equality of the electoral process which are fundamental standards for democratic elections. The exclusion of women was most notably reflected in

the very low proportion of women candidates and the considerable pressure they faced to withdraw. Problems were also observed in the approach of political parties, the election administration and the authorities towards women as voters, political party members and electoral administrators. Extensive illiteracy and very limited levels of political awareness amongst women severely hindered opportunities for their inclusion and engagement in the elections. Substantial and urgent progress must be made for Yemen to overcome the obstacles that prevent the equal participation of men and women in elections and their engagement in the wider political and democratic processes.

Voting on election day proceeded well and was generally peaceful. Regrettably, however, there were several reports of violence including five deaths in election-related incidents. Overall, voter turnout was reported to be around 64 per cent. EU observers positively evaluated voting procedures in 82 per cent of the polling centres visited in spite of a large number of irregularities observed. These included acts of intimidation of voters in around 19 per cent of polling centres. There were particular problems with overcrowding and the following of procedures in female polling stations. Counting generally took place in accordance with the law but was often delayed because of problematic counting arrangements.

The procedures for the tabulation and publication of results were inadequate and failed to ensure that results were published in a transparent and consistent manner. The publication of results for the local council elections was especially problematic and delayed. Discrepancies in results data undermined the credibility of the accuracy of the final results of the presidential election but did not affect the overall result of the election that the winning candidate was President Saleh. The serious problems observed during the results process undermined many of the more positive assessment achievements reached elsewhere during the elections.

II. INTRODUCTION

Elections for the President of Yemen and simultaneous local elections for the 21 Governorate Councils and 333 District Councils took place on 20 September 2006. Following an invitation from the Supreme Commission for Elections and Referendum (SCER), the European Union (EU) established an Election Observation Mission (EOM) in Yemen for the duration of the election process. Its mandate was to conduct a comprehensive assessment of the electoral process in accordance with international principles for genuine democratic elections.¹ The Chief Observer was Baroness Nicholson of Winterbourne (United Kingdom), Member of the European Parliament.

The EU EOM was deployed on 12 August 2006. Based in Sana'a, the EU EOM undertook observation in all 21 governorates of Yemen. The EU EOM consisted of 11 core team experts, 40 long-term observers and 68 short-term observers, coming from 22 EU Member States. The EU EOM issued its statement of preliminary findings and conclusions on 21 September 2006.² Upon the release of final official results and the conclusion of the election

¹ See 'International Declaration of Principles for Election Observation' adopted by the EU, the United Nations and others on 27 October 2005:

http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/docs/code_conduct_en.pdf.

² See the EU EOM website (www.eueom-ye.org) and the European Commission's elections observation website (http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/index.htm).

process, the EU EOM closed its operations on 11 October 2006 but retained two Core Team experts in country until 15 October to continue monitoring the publication of local election results.

The EU EOM wishes to express its appreciation for the cooperation, coordination and assistance it received during the course of its work from the following: the SCER, the Government of the Republic of Yemen; representatives of Yemeni political parties and civil society organisations; the Delegation of the European Commission to Yemen; local representatives of EU Member States; the United Nations Development Programme (UNDP); and international observer colleagues, including the National Democratic Institute for International Affairs (NDI) and IFES.

III. POLITICAL BACKGROUND

A: Political Context of the 20 September elections

The 20 September 2006 elections were the sixth multi-party elections held in Yemen since its unification in 1990. With the notable exception of the first parliamentary elections of 1993, previous elections had seen shortcomings such as the absence of real competition, politically partisan activities by electoral authorities, the abuse of public resources by incumbents, electoral fraud, low levels of women's participation, acts of violence and restrictions on fundamental freedoms related to elections. The previous direct presidential election in 1999 had taken place without a credible rival to the incumbent President Ali Abdullah Saleh.³ There has also been public criticism over the conduct of the 2001 local elections for governorate and district councils, which were held simultaneously with a referendum which approved the extension of the presidential and parliamentary terms of office.⁴ In advance of the 2006 elections, the Yemeni authorities had made public assurances to hold an improved and more open electoral contest.

As the only country in the Arabian Peninsula to have representative democracy enshrined in its Constitution, Yemen has been widely regarded as an important potential model for the development of democracy in the region. Yet, while well-established opposition political parties have been able to function openly, the political culture of Yemen since unification has been dominated by President Saleh, around whom almost all political power has been concentrated, and the ruling General People's Congress (GPC). However, in reflection of the traditional tribal groupings that permeate many levels of Yemeni society, the key influential role in political decision-making has tended to be played by sheikhs and tribal leaders rather than by political parties. Consideration of tribal interests is a fundamental aspect of the political process in Yemen, especially over an election period, when the support of the tribe is crucial towards garnering votes from its members.

³ Previously, the President of Yemen was elected by Parliament. In the 1999 direct presidential election – where the opponent to President Saleh came from the GPC and publicly encouraged voters to vote for the incumbent – President Saleh received over 96 per cent of the valid votes cast.

⁴ Local councils have a three-year mandate and new elections should have been held in 2004. The EU EOM was not provided with detailed reasons for the delay. The 2001 referendum increased the presidential term of office from five to seven years and that of parliament from four to six years.

Often referring to the country as a “nascent democracy”, the Yemeni authorities have made repeated commitments to reform and strengthen democratic institutions. In part, these commitments have been made in response to widespread domestic and international criticism of corruption amongst public officials and the opaque and nepotistic nature of governmental structures as well as public dissatisfaction at economic measures. Other major social challenges faced by Yemen include widespread poverty, an escalating population growth and very low levels of literacy; moreover, there have been on-going inter-tribal conflicts and, in recent years, a limited insurgency in some northern governorates.

The 20 September elections were therefore widely considered to be a significant indicator of the level by which the Yemeni authorities have taken steps to meet their commitments to democratic reform and an improved electoral process. Importantly, the elections succeeded in providing for an open and competitive political contest in which all major political parties were fully engaged and where voters were offered a genuine choice between candidates. This marked a major milestone in the democratic development of Yemen and set a significant precedent for future elections. It has also presented a notable opportunity within the region for an incumbent leader to face a real challenge at the polls.

Nevertheless, the electoral process highlighted a number of remaining shortcomings that undermine or adversely influence the wider democratic environment in Yemen. It is hoped that the positive efforts seen during the 2006 elections can be directed to tackle these outstanding problems ahead of scheduled parliamentary elections and new local elections in 2009. Of fundamental importance amongst these is the comprehensive political exclusion of women from the democratic process, which reflects their secondary status in Yemen. The constitutional requirement for a clear separation of powers is challenged by a weak judiciary and a parliament that has limited capacity in, or experience of, democratic oversight over the executive and military or security agencies. Democratisation is also hindered by the fact that Yemen has a fragile civil society, with few independent grassroots movements that seek to promote wider public participation and accountability within government.

B: Key Political Actors in the 2006 Elections

President Saleh has been Head of State in Yemen since 1990 and, prior to unification, was leader of the Yemen Arab Republic (North Yemen) from 1978. As well as holding the position of President, Mr Saleh also is the leader of the GPC – a grouping of different political factions within Yemen – which had won 238 of 301 of seats in the 2003 parliamentary elections and won majority control of all governorate and district councils in the 2001 local elections.⁵ Although up until June 2006 President Saleh had repeatedly indicated that he would not seek re-election, he announced he would do so following a public demonstration that called for his participation.

In an attempt to strengthen and unify opposition to challenge the GPC, five leading opposition parties established in 2004 a combined platform: the Joint Meeting Parties (JMP). The JMP covers the spectrum of opposition politics in Yemen and includes: the traditionalist Congregation for Reform Party (*‘Islah’*), which is composed of various Islamic and tribal interest groups; the Yemeni Socialist Party (YSP), which formerly ruled South Yemen; and

⁵ The members of the upper house, the Consultative Council (the *Shura*), are all appointed by the president. Currently, there are 111 members.

the Nasserite Unionist Party (NUP).⁶ For the 2006 elections, the JMP announced common policies on political and economic reform and jointly selected Faisal Ben Shamlan as its presidential candidate. As he was not aligned to any political party but held extensive political experience, Mr Ben Shamlan was considered to be a credible compromise candidate to represent the five parties. Each of the political parties within JMP also cooperated in the selection of individual candidates for the local elections.

Most of the other 15 political parties registered in Yemen contested the local elections, but although all were notionally oppositional, they were of limited political importance and several were openly affiliated to the GPC.

All of the key actors in the 2006 elections were male with women playing a highly peripheral role.

C: Cross-Party Agreement on Electoral Principles (the '18 June Agreement')

A positive aspect of the 20 September elections was the willingness of both sides to indicate their joint commitment towards holding a credible and peaceful electoral process. A cornerstone of this achievement was the 18 June 2006 agreement between the GPC and the JMP that addressed a deadlock whereby the JMP had threatened not to participate in the electoral process in protest against the perceived bias of the SCER in favour of the GPC. The agreement followed an administrative boycott of the voter registration process by the JMP.

The 18 June agreement included steps that sought to augment cross-party participation in the election administration, including an increase in the representation of the JMP on the SCER, and to provide a more balanced electoral process. This included guarantees on the neutrality of the State media, the military and security forces and a prohibition against the abuse of State resources. The agreement, which contained several provisions that were already included in the election legislation, reflected the lack of confidence the JMP had in the impartiality of the SCER and whether it would ensure that legal guarantees would be properly implemented.

IV. LEGAL ISSUES

A: Legal Framework for the 2006 Elections

The Constitution of the Republic of Yemen (1991, amended in 1994 and 2001) and the General Elections Law (2001) ('the Elections Law') were the primary legal instruments regulating the presidential and local elections. Other relevant legislation included the Law on Local Authorities, the Press and Publications Law and the Penal Code. A series of by-laws, regulations and decisions issued by the SCER are also applicable with the force of law. As an Islamic State, the Constitution establishes Sharia as the source of all law, while customary laws and traditional dispute resolution methods also have a potential legal effect on the

⁶ Islah is the second largest parliamentary bloc with 46 seats, while the YSP has 8 seats and the NUP 3 seats. The JMP also included two non-parliamentary political parties, the Union of Popular Forces and the al-Haq Party.

electoral process. Yemen has ratified six major human rights conventions, including the International Covenant on Civil and Political Rights (ICCPR).⁷

In general, this legal framework provides a basis for the conduct of democratic elections, including guarantees to protect the fundamental freedoms and rights that relate to democratic elections and to ensure the independence of the SCER. Nevertheless, there were numerous examples where the legal framework was not properly implemented or enforced, most notably in relation to the preparation of the final voter register whereby clear legal provisions requiring its completion and publication were routinely ignored. No steps were taken to ensure compliance with clear legal rules that prohibited the unfair use of State resources in the campaign of the incumbent president. More widely, the electoral process raised many questions regarding the commitment of the Yemeni political and legal authorities, as well as others of influence in the country, to put into practice the fundamental guarantees of rights, especially in relation to the equal basis for women to participate in the elections.

There are a number of problematic aspects with the election legislation which need to be addressed ahead of future elections.⁸ Primary amongst these is the need to strengthen the requirement for the prompt publication of clear and detailed election results at every level where votes are counted and aggregated. The current law is inadequate and fails to specify the responsibility of the election administration to publish complete data for both preliminary and final results within a prompt timeframe. This lacuna placed a serious obstacle towards ensuring the credibility and transparency of the results process.

There are also a number of incompatibilities within the Election Law. A key example of this was in relation to the establishment of special polling stations to allow votes for the presidential election to be cast by voters away from their designated polling stations on election day. The Elections Law provides that a voter may cast a presidential ballot at any voting centre in the country simply upon proof of their identification (Article 5) but also provides that a voter can only be allowed to vote if their identity is checked against the voter register for that voting centre (Articles 99 and 100). The legal and practical uncertainty on this issue caused the SCER at late notice to reverse its decision to establish special polling stations nationwide. However, security officials and election officials were still permitted to vote in the presidential election at any polling station using procedures which, though promulgated by the SCER in an official instruction, were incompatible with the law.

As a result of a decision of the Yemeni Supreme Court in 2003, there is further legal inconsistency over the extent of the powers of the SCER to supervise the work of lower electoral commissions. In its decision, the Supreme Court excused the SCER from responding to a claim against the election administration at a district (parliamentary constituency) level on the basis that it considered the SCER and the district commission to be separate legal entities. This decision is inconsistent with the Elections Law that clearly

⁷ The ICCPR (1966) was ratified by the Yemen Arab Republic (YAR i.e. North Yemen) in 1987. The Republic of Yemen is the legal successor to the ratification of such treaties signed by the YAR. In the Yemeni legal system, treaties are incorporated in law at a sub-constitutional level, forming the second highest normative standing after the constitution.

⁸ A comprehensive consultative review of the legal framework for elections was undertaken by the international organisation IFES in 2004. Its key recommendations for improvements to the legal framework are extremely useful but unfortunately were not addressed by the Yemeni authorities ahead of the 2006 elections.

envisages that the SCER should supervise – and thus be accountable for – the work of lower commissions.

The Elections Law is also silent on the powers of the lower commissions at the governorate and district level, whose members are politically appointed, to supervise the work of the SCER technical secretariat, whose staff members were usually closely tied to the local government administration. The work of the Election Security Committees, who played a highly important role in the work of the election administration, is not established by clear legal guidelines.

B: Enforcement of Legal Provisions on Elections

The Elections Law establishes generally sound mechanisms for the enforcement of its provisions. The judiciary has exclusive jurisdiction to resolve allegations of violations of the Elections Law and any voter can lodge a complaint before any court against any act or decision of the SCER. However, in providing for only a judicial challenge to potential problems, these procedures do not allow for opportunities to resolve problems initially through the SCER's administrative structures, which may be more appropriate. In fact, the SCER considers that it has no authority to deal with any complaints and that the appropriate body is the Office of the Public Prosecutor (OPP). However, the latter's role is limited in law to receiving complaints alleging any violation that constitutes a crime. This means that neither the SCER nor the OPP consider that they have jurisdiction to act on complaints that relate to administrative decisions. Unlawful acts or omissions may therefore go without legal redress unless a voter brings the issue to the attention of the courts.

While the law provides for complaints to be fully resolved within 30 days, there is no specified deadline for the submission of complaints relating to the pre-election campaign period. Moreover, it is not clear whether a court has powers to overturn a decision of the SCER given that the Elections Law specifies that “nobody shall be allowed to interfere in the affairs and duties of the Supreme Commission or to restrict its powers and jurisdiction”.

The Elections Law also provides for a series of electoral offences that can be enforced under criminal law procedures by the public prosecutor. Some of these electoral offences are inadequately drafted and may also be open to abuse in that, for example, prosecutions can be brought against electoral officials for “disclosing any information or data that may affect the election process.”

An issue of particular concern during a presidential election was a provision in the Penal Code (Article 197) which provides for prison sentences of up to two years for any act that is considered to be an “insult to the President”. This offence was used as the basis for the arrest of at least 100 supporters of the opposition, including candidates. The prohibition clearly infringes on the freedom of expression of political opponents that is required in a democracy, especially during an election campaign.

Importantly, there is a widespread lack of public confidence in the judiciary to act in an independent manner without political or other external influence in its enforcement of the legal framework for elections. In practice, judges and public prosecutors needed substantial capacity development on their roles in the electoral process. Moreover, the judiciary and the SCER are under no obligation to administer the complaints process in a transparent manner.

No responsible agency was able to provide public information on the number of complaints that were made, nor information on the manner in which the complaints were addressed and resolved.

C: Candidate Registration

A key area in the legal framework that requires improvement relates to the provisions for the registration of candidates for the presidential and local elections.

The Constitution establishes eligibility criteria for presidential candidates⁹. Nominations of candidates who meet the criteria are then voted upon by members of both Parliament and the Shura Consultative Council; only those obtaining over five per cent of votes may be registered as candidates. In contrast, a candidate for a parliamentary or local council seat can simply be nominated by a political party or, in the case of an independent candidate, upon submitting a number of signatures from registered voters.

The procedure for presidential candidate nomination unduly restricts the universal right of Yemeni citizens to seek election and may arbitrarily exclude eligible citizens from standing, even in circumstances where they have notable levels of public or political support.¹⁰ Furthermore, as members of the Shura Consultative Council are solely presidential appointees, it is highly questionable whether they should have a decisive role in determining who should oppose an incumbent president. Given prevailing prejudice that excludes women from political activity and that both parliamentary chambers are almost entirely composed of men, the nomination process presents a clear barrier to prospective female presidential candidates from contesting the election.

The procedures for the registration of candidates for local elections are governed by both the Elections Law and the Law on Local Authorities but these procedures provided local electoral commissions with an unwarranted level of discretion on whether to register candidates. A significant deficiency in these procedures was the absence of any legal right to challenge a decision by a local electoral commission to accept or reject a candidate's nomination. In the case of a refusal to register a candidate, the local electoral commission is under no obligation to give a written statement of its decision.

Given the high levels of illiteracy in Yemen, the requirement that candidates for local office must be literate can exclude many potential nominations, particularly by women.¹¹ In contrast, there is no requirement that presidential candidates must be literate. Although the population of Yemen is overwhelmingly Muslim, the requirement that all candidates must be practicing Muslims excludes the opportunity for the limited number of non-Muslim citizens from standing for local elected office.

⁹ The Constitution (Art.106) requires eligible presidential candidates to be (i) least 40 years old (ii) of Yemeni parents (iii) "to be at liberty to practice his political rights" (iv) of good character, (v) to practice Islam and (vi) not to be married to a foreign spouse.

¹⁰ This scenario occurred in the 1999 presidential election when no opposition nominee was able to garner 5 per cent of parliamentary votes to have their candidature registered. The only candidate who gained sufficient votes to challenge President Saleh was another member of the GPC.

¹¹ The UN Human Rights Committee (General Comment No. 25) indicated that "Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements ... *such as education*" (emphasis added).

D: *Electoral Systems in Yemen*

Presidential Elections

The election of the Yemeni president takes place in a single national constituency. The Elections Law requires that the successful candidate must have won “an absolute majority of *all* votes cast” (i.e. 50 per cent plus one vote) including invalid votes. This is contrary to common international best practice for elections, where the proportion of votes won by a candidate is usually determined from *valid* votes only.¹²

The presidential term of office was extended from five to seven years in a referendum in 2001. However, given that Yemen has a presidential-system of executive government, it is questionable whether this unusually-long interval between elections is sufficiently periodic to ensure that the government is grounded in the will of the people.¹³ Similarly, the length of the parliamentary term of office – six years – is also uncommon. As is common in many countries, the Constitution limits the president from holding more than two terms of directly-elected office.

Local Council Elections

Yemen has a two-tier local government structure, with 21 governorates and 333 districts. Councils are elected at both levels, although central government also appoints governors and chairpersons of district councils who hold significant levels of power within local government.¹⁴ Local councils have a mandate of three years and the term of office of the councillors elected in 2001 had been extended on two occasions.

For the 20 September elections, there were an estimated 7,000 council seats being contested. Each governorate council had between 15 and 30 councillors, and each district council between 18 and 30 councillors, depending on the size of its population. Councillors at both levels were directly elected from over 5,600 separate constituencies on a ‘first-past-the-post’ election method in a single round. While most constituencies elected one councillor, around 820 of the council constituencies had ‘multiple-member’ constituencies of between two and 12 councillors each. The number of councillors per constituency was not prescribed by the Elections Law but, rather, was determined by the SCER in rough proportion to the size of the estimated population.

The delimitation of parliamentary and local council constituencies in Yemen is the responsibility of the SCER and is a highly contentious issue relating to elections. The Elections Law does not stipulates the criteria for the drawing of constituency boundaries

¹² It is notable in the final results announced by the SCER on 23 September that, contrary to the Elections Law, the proportion of votes won by candidates was announced from the total number of valid votes only. The Elections Law uses a criterion of ‘valid votes only’ to determine the proportion of votes won by candidates in parliamentary and local elections.

¹³ Article 21(3) of the Universal Declaration of Human Rights: “*The will of the people shall be the basis of the authority of government ... expressed in periodic ... elections*”. A directly-elected presidential term of office of seven-years is found in only a few countries including Kazakhstan, Uzbekistan and Gabon. The president of Ireland is directly elected every seven years but does not have executive authority.

¹⁴ Following the 2006 elections, President Saleh has indicated that the Law on Local Administration may be amended so that governors and district council chairpersons are indirectly elected by the local governorate and district councils.

beyond that parliamentary constituencies should be equal in population, and that local constituencies should be equal to within a five per cent margin.¹⁵ There are also no procedures established in law for the procedures to be used for demarcation. The SCER was unable to undertake a review of local council constituencies ahead of the 20 September elections and there was limited public confidence, especially amongst the political opposition in Yemen, that the boundaries reflected an acceptable level of equality between constituencies.

By its nature, the majoritarian electoral system used for the local council elections can produce results that are highly unrepresentative of the popular vote, whereby political parties or candidates that win a sizeable proportion of votes can fail to win any seats in an elected assembly. This problem can be overstated where the majoritarian system is used for multiple-member constituencies. The system produced proportionally unrepresentative results for governorate and district council elections on 20 September and may similarly do so for the 2009 parliamentary elections. Moreover, a majoritarian constituency system can create serious political obstacles for women candidates to be nominated and elected. In contrast, other types of electoral system – which would require Constitutional change if adopted for parliamentary elections but would require only legislative amendment for local council elections – can provide more effective opportunities for promoting the participation of women as candidates, such as through the use of all-women candidate lists or reserved seats. With these two factors in mind, it may be useful for there to be a consultative review on a more representative electoral system for future Yemeni elections.

V. ELECTION ADMINISTRATION

A: *Structure and Composition of the Election Administration*

The SCER headed a five-tiered election administration with a clearly defined hierarchical structure. There were 21 Supervisory Committees (SCs) at the governorate level¹⁶ and 333 Main District Committees (MDCs) for each administrative district. There were 5,620 local constituencies, each with its own polling centre, headed by a First Sub-Committee (FSC). Polling Centres consisted of at least two polling stations (one male, one female) each of which was administered by a Sub-Election Committee (SEC). There were 27,010 polling stations established for election day. The SCER also maintained a Secretariat to administer technical aspects of the election preparations that had a parallel structure to the SCs and MDCs with branch offices in each governorate and staff members in each district.

The SCER is a permanent body established by the Constitution and the Elections Law. Importantly, its independence from the Government of Yemen is protected by law and its members are required to act impartially and without bias. The Elections Law is clear on the powers and responsibilities of the SCER, although it provides much less detail on the role of the SCs and MDCs.

The SCER is composed of nine commissioners, all of whom are male, appointed by the president from a short-list of 15 candidates selected by parliament. Although in practice the

¹⁵ In its delimitation of boundaries, the SCER can “take into consideration geographic and social factors”.

¹⁶ The SCER Secretariat has branch offices in each of the governorates, except in Hadramawt where it has two ‘sub-governorate’ branch-offices.

SCER consists of representatives of political parties, the Elections Law is silent on the criteria for appointment or the entitlement of political parties to be represented on it. The composition of the SCER was increased from seven to nine commissioners following an amendment to the Elections Law in July 2006. This change reflected the 18 June agreement between political parties that sought to address a potential deadlock whereby the JMP threatened not to participate in the electoral process in protest against the perceived bias of the SCER towards the GPC. The two additional commissioners appointed by the SCER represented the JMP. For the 20 September elections, the SCER consisted of four representatives from the GPC, four from the JMP and one from the National Opposition Council (NOC).¹⁷ The SCER Chairman represented the GPC and the Vice-Chairman the JMP.

Each SCER commissioner is appointed to head one sector of the SCER Secretariat e.g. technical operations, legal issues, media, external relations etc. Although this structure allowed a SCER commissioner to oversee the work of that particular sector, it limited the opportunity for other commissioners to have insight into the broader work of the SCER. The SCER Secretariat consists of professional civil servants and, within the structure of the SCER, is only required to report to the SCER Chairman. The coordination of election day was coordinated by a central Operations Room, headed by a the Deputy Chief of Staff of the Army.

Lower-level commissions were each composed of three members. The 18 June agreement also established a formula for political representation within these commissions, with GPC supporters holding 54 per cent of positions and the JMP the remaining 46 per cent. The SCER – which appoints SCs and MDCs – appeared to respect fully the agreed formula in the appointment of lower commissions and all commissions were composed of three members of at least one GPC or JMP member. Members of polling committees were nominated by political parties but, despite the 18 June agreement, the nominations of representatives by the JMP was delayed.

Separately, the election administration also included an *ad hoc* Election Security Committee (ESC) structure at the national and local levels with responsibility all security issues related to the elections. The ESCs included representatives of the SCER, central government or the local authorities and security agencies. Following the 18 June agreement, the national ESC was headed by a JMP nominated SCER commissioner; however, in practice, he had little supervisory power over its work and no authority over ESCs at the governorate or district level. ESCs were present at every polling centre and consisted of police and military personnel. The extensive and important role of the ESCs is not adequately governed by legislation or internal procedures and the extent that their powers are supervised by election commissions is not clear.¹⁸

¹⁷ The NOC is a GPC-affiliated political coalition of parties with a small representation in Parliament. Its leader, Mr Saeed Abdo was registered as a presidential candidate who, ahead of election day, declared his support to President Saleh.

¹⁸ ESCs are temporary bodies that consist of members of the SCER secretariat along with members of existing governmental Security Committees. These are permanent bodies formed at governorate and district levels that comprise of the commanders of all executive forces (including the police, army and intelligence services) plus the head of telecommunications. The Supreme Security Committee is headed by the Minister of Interior and also includes the SCER Chairman. At a local level, Security Committees are chaired by Governors and District Chairmen who are currently appointed by the president.

Women were significantly under-represented and systematically marginalised in the election administration. No woman served as a member on any of the 22 SCs. Women held less than five per cent of the positions on MDCs. No woman is reported to have served on any of the 5,620 FSCs. While in most cases female polling stations had all-women SEC members, there were a number of reports by EU observers that men worked as polling staff in some female polling stations. At a practical level, this had an impact on the operation of female polling stations, especially in relation to whether women voters were willing to unveil for identification purposes when in the presence of male election officials.

The change in the composition of the electoral commissions after the 18 June agreement was a notable improvement in providing for a more-balanced level of political representation within the election administration and thus allowed for the opposition JMP to participate in and have a greater degree of internal oversight over the work of the SCER. This significantly strengthened the opportunity for transparency of the electoral process. The change also ensured that there would be cross-party participation in elections that may otherwise have been boycotted because of the partisanship displayed by a previously politically imbalanced SCER.

While in general the politically-balanced composition of the election administration was a positive aspect of the 2006 elections, further steps will need to be taken to address continuing concerns that there is institutional partisanship within the SCER towards the GPC, especially in relation to the work of the SCER Secretariat and the ESCs, as well as institutional gender-based discrimination. The 18 June agreement envisaged that SCER commissioners would be replaced with appointees from the judiciary for future elections. This proposal is intended to strengthen confidence in the independence of the SCER, although there is also little public trust in the political impartiality of the judiciary, especially in relation to elections. Moreover, the proposal does not address the issue of membership of lower-level commissions. It is unlikely that such a proposal would be the appropriate measure to ensure that the SCER acts – and is seen to act – without bias.

B: The Administration of the 2006 Elections

Overall, the administration of the 2006 Yemeni elections was undertaken by the SCER in a technically proficient manner that ensured the arrangements for election day were generally well-organised. The SCER ensured that the elections ran mostly to schedule and that difficult operational issues – such as the printing of thousands of different kinds of ballot papers – were generally implemented without problems. This is particularly significant given the geographical, logistical and security challenges found in Yemen. These potential problems were added to because of the extra workload caused by the holding, for the first time, of simultaneous presidential and local elections, which required greater logistical efforts and voter education.

However, the quality of the election administration was seriously undermined by the failure of the SCER to ensure that the procedures for the tabulation and publication of the election results were performed promptly or with coherence and transparency. This failure, which indicated serious structural and systematic weaknesses within the SCER results procedures, challenged the credibility of the election results as an accurate and genuine reflection of the votes cast on election day. Observance of the holy period of Ramadan, which started three

days after the election, strained the capacity of the SCER and its staff during the post-election period.

Significant and welcome steps were taken to promote the transparency of the work of the SCER, including cross-party meetings, daily media briefings and a comprehensive and regularly updated website.¹⁹ Nevertheless, there is no formal framework that requires the SCER to consult with or to share information with electoral stakeholders. The SCER invited the EU EOM to attend its weekly meetings and access was provided to EU observers to all aspects of its work, although a lower degree of openness was shown towards domestic non-partisan observer groups. Full transparency was also hindered by delays in the publication of SCER decisions and the minutes of SCER meetings and there were instances where decisions which were taken late by the SCER were not properly communicated to lower-level commissions and political parties.

Ahead of election day, the SCER met frequently and operated with a mostly consensual approach to decision-making. However, the structure of the SCER – whereby each commissioner was responsible for the work of one sector and reports to the Chairman – meant that its commissioners were not always aware of emerging issues. In practice, this placed the SCER Chairman in a dominant position and, as key areas such as operations or legal affairs were headed by GPC commissioners, JMP commissioners were often sidelined from gaining important information. This was especially problematic during the post-election period when the results-gathering work was fully in the hands of the GPC commissioners on the SCER. Nevertheless, it is notable that SCER commissioners acted cooperatively and professionally with each other and in a manner of collective responsibility, ensuring that the work of the SCER avoided being hindered by partisanship.

There were a number of occasions when lower-level election commission members faced threats or intimidation and acts of violence directed against them because of their work. Regrettably, in isolated cases election officials were killed or injured in these attacks. Such acts are wholly unacceptable within a democratic election and were rightly condemned by all political parties. The Yemeni authorities and others of influence did take steps to strengthen the protection of election officials. The EU EOM commends all election officials who continued their work in the face of such threats and acts of violence.

In practice, the lower level commissions also tended to work in an open and generally consensual manner. The members of the SCs and MDCs generally were well trained, had adequate resources and a good awareness of their role and responsibilities. However, their limited powers to supervise the work of the local branches of the SCER Secretariat meant that the commissions often had few decisions to take. EU observers reported that JMP members on the commissions were frequently isolated in their role because of the close relations between the GPC members and the local SCER secretariat. Polling staff were observed to usually work in close harmony. The training of polling staff was affected by delays in their nomination by political parties.

Despite the improved level of cross-party participation in its work, there remained a clearly prevalent pattern of partisanship within the election administration towards the GPC and against the JMP. This assessment, which was especially notable at the lower-level

¹⁹ See <http://www.scer.org.ye/arabic/indexa.htm>.

commissions, was grounded in the prominent role played by the SCER Secretariat and the ESCs, whose membership consisted of officials who had been appointed by the presidential executive. Moreover, SCER commissioners also continued to display publicly their personal support for candidates and the political parties they represented in a manner that was clearly contrary to the legal requirement of the SCER commissioners to act in an impartial and neutral manner.²⁰

In contrast to the generally positive manner in which the SCER operated during the run-up to the election day, the conduct of the SCER in relation to the processing of results was highly problematic. Of particular concern was the failure to publish full results broken down to district or polling station levels. This information, which was readily available to the SCER, would have allowed a cross-check of the results so as to verify their accuracy. Worryingly, there were also repeated delays in publishing the results of the local council elections because the SCER chose not to enforce the prompt completion of the results process that was also affected by the start of the holy month of Ramadan on 23 September.

C: Arrangements for Special Polling Stations

The Elections Law envisages that voters should be able to cast their ballots for the presidential election at any polling centre. As part of the preparations for the 20 September elections, the SCER initiated arrangements to establish a 'special' polling station in each of the 333 districts which were designed to allow for voters who were away from their designated polling centre to vote anywhere in the country. However, these arrangements did not address a separate legal requirement that a voter cannot vote unless their photo-identification matches their entry on the voter register. Despite being aware of the inconsistency several weeks ahead of election day, the SCER proceeded with implementing arrangements, including printing extra presidential ballot papers and advertising the right to vote at special polling stations, up until 18 September when, at very late notice, the SCER announced that the special polling stations would not operate.

Nevertheless, on 19 September, the SCER issued an instruction to permit electoral officials and ESC members (i.e. military and police personnel) at each polling centre to vote anywhere in the country upon proof of identification as a registered voter. The procedure adopted by the SCER was also clearly in breach of the Elections Law. Moreover, as the wording of the SCER instruction was unclear and issued late, the procedure was applied inconsistently and provided opportunities for voting irregularities: EU observers noted instances where security officials also cast ballots for local elections in places where they were not registered and where no adequate record was kept of who cast such ballots. It is important that steps are taken to ensure that there are adequate opportunities for election and security officials – and other eligible voters who are unable to attend their designated polling stations – to vote on election day but it is also crucial that the procedures are adopted as early as possible, are in compliance with the law and are applied consistently and in a manner that restricts opportunities for fraud.

²⁰ The SCER media briefings routinely included personal statements by SCER members on political issues and the platforms of candidates and political parties. A prominent newspaper advertisement published during the election campaign which was highly complimentary to President Saleh was issued in the name of the SCER and its Chairman although it was not paid for from SCER funds.

VI. VOTER REGISTRATION

A: *The Right to Vote*

Universal suffrage is guaranteed for all Yemen citizens aged over 18 years. A citizen may choose to be registered to vote in one of three possible locations (referred to as their 'voting domicile'): at their usual place of residence, at the place of residence of their family, or at their place of work. It is unusual that persons should have the right to be registered to vote according to their place of work, especially as a place of work is likely to be more temporary than a place of residence. EU observers noted that this provision enabled military personnel to cast ballots in districts where they were only temporarily serving.

A total of 9,247,390 voters were registered for the 20 September elections, representing an increase of some 1.5 million voters since the 2003 parliamentary elections (see Table A below). Despite the constitutional guarantee of universal suffrage, women represented only 42 per cent of the total number of registered voters, the same proportion as for the 2003 parliamentary elections. In nine governorates, the proportion of women voters was substantially lower: in the governorate of Sa'adah, women voters represented just 27 per cent of the total number of registered voters. There exists widespread acknowledgement in the country that women's voting is directed by male family members. There must be more concerted attempts by the SCER, civil society and political parties to increase the number of women who are registered as voters and to raise awareness amongst men and women voters of the rights of women in this regard.

Table 1: Total Number of Registered Voters by Governorate

Governorate	Number of Registered Voters			
	Male	Female	% women voters	Total
Sana'a Capital	544,304	286,752	34.5%	831,056
Aden	167,616	122,289	42.2%	289,905
Ta'izz	616,304	553,679	47.3%	1,169,983
Lahj	182,637	167,473	47.8%	350,110
Ibb	575,085	430,653	42.8%	1,005,738
Abyan	122,494	105,819	46.3%	228,313
Al-Bayda	160,267	104,795	39.5%	265,062
Shabwah	111,933	93,394	45.5%	205,327
Al-Mahara	32,266	20,686	39.1%	52,952
Hadramout	276,586	223,105	44.6%	499,691
Al-Hudaydah	556,061	384,318	40.9%	940,379
Dhamar	331,887	269,924	44.9%	601,811
Sana'a	294,563	201,887	40.7%	496,450
Al-Mahwit	134,788	118,260	46.7%	253,048
Hajja	389,886	290,774	42.7%	680,660
Saddah	225,070	81,393	26.6%	306,463
Al-Jawf	86,146	45,980	34.8%	132,126
Marib	81,010	41,409	33.8%	122,419
Amran	258,342	178,845	40.9%	437,187

Al-Dalah	118,093	98,933	45.6%	217,026
Raymah	81,467	80,197	49.6%	161,664
National Total	5,346,805	3,900,565	42.2%	9,247,370

B: Voter Registration Procedures

The Elections Law provides a generally sound framework for the registration of voters, including adequate procedures for the public to inspect the voter register and for voters to challenge their exclusion or the wrongful inclusion of an ineligible voter. While there are a number of provisions within this framework that could be improved, there is a fundamental problem with the quality and accuracy of the voter register, which contains a sizeable number of ineligible voters caused by the inadequate implementation of the rules governing registration. Many of the ineligible voters could be removed from the voter register if it was subject to an open and cross-party review within a realistic timeframe. Importantly, except for the absence of many women from the voter register, the EU EOM was not aware of any major problem where eligible voters were wrongfully excluded.

The SCER, through the SCs and MDCs, is required to maintain a permanent register of eligible voters that must be updated at least every two years and ahead of scheduled elections. In April-May 2006, the SCER undertook a two-week exercise to update the voter register ahead of the 20 September elections.²¹ However, the updating exercise – the first since the 2003 parliamentary elections – was severely compromised by the refusal of the JMP to nominate their members to join the voter registration committees in protest against the alleged partisanship of the SCER towards the GPC. The staff who eventually served on the registration committees, which included GPC representatives, lacked adequate training.

Despite the adequacy of the framework for voter registration, there is political consensus that the voter register contains significant numbers of inaccuracies, such as duplicate entries of eligible voters and the names of persons who are not eligible to vote, including many minors. In its formal review of the voter register that followed the updating exercise, the SCER identified over 250,000 names that should be removed from the voter register. In a separate informal review of the voter register, undertaken by the Vice-Chairman of the SCER, a JMP representative, around a further 100,000 entries were identified as wrongly included on the voter register.

As a result of the formal review of the voter register by the SCER, some 190,000 names were then deleted by order of the public prosecutor and an additional 25,000 names were removed following court orders. Despite clearly established timeframes contained in the Elections Law that require the voter register to be finalised before an election is called, the review process did not commence until after the elections were called and ran to the end of August. Furthermore, the review process used by the SCER did not follow any established or published criteria and was undertaken in a non-transparent manner.

The prolonged revision process delayed the finalisation of the voter register. The announcement of the total number of registered voters on 2 September took place five weeks after the deadline required by law. The Elections Law requires that the final voter lists for

²¹ No update of the voter register took place in at least one district (al-Hada in Dhamar governorate) reportedly because of a local conflict having prevented the deployment of voter registration staff. This means that the final voter register of 2003 was used.

each district constituency should be posted publicly before an election is called. However, the final version of the voter register was not available to be displayed or distributed until three days ahead of the election when the names of the persons deleted from the voter register was released. This delay effectively removed any practical opportunities for electoral stakeholders, especially political parties, to verify the accuracy of the voter register. Moreover, there was no opportunity for persons to check which names had been deleted and, thus, any voter who was wrongly removed from the voter register had no effective means of challenging the decision or to seek to be re-registered as is their right in law.²² There is no legal requirement for a MDC to inform a voter if they are deleted from the voter register following a challenge from another voter; this means that a person may be removed from the voter register with no chance to prove their eligibility or to appeal against the decision to remove their name.

Separately, the SCER refused the request of the JMP to provide an electronic copy of the final voter register, even though to do so was part of the 18 June agreement. The voter register is readily available in electronic form but the Elections Law envisages only that 'photocopies' are provided. In a legal challenge by a registered voter just ahead of election day, the Court of Appeals in Sana'a ordered the SCER not to distribute the voter register in electronic form.

VII. CANDIDATE REGISTRATION

A: *Registration of Candidates of the Presidential Elections*

Over sixty persons submitted nominations to the Speaker of Parliament to be registered as candidates for the presidential election. Of these, 46 nominees were considered to meet the constitutional requirements for candidacy before proceeding to be voted upon at the combined meeting of members of Parliament and the Shura. Five of the excluded nominees lodged legal complaints with the Yemen Supreme Court against the decision to reject their nomination. Four of the challenges were upheld but the resolution of the cases only came after the conclusion of the registration process.

Only five candidates were registered, having passed the threshold of obtaining five per cent of the combined votes of the members of Parliament and the Shura. As well as President Saleh and Mr Ben Shamlan, the candidates confirmed by parliament included: Mr Yassin Saeed Abdo No'man (from the government-affiliated NCOC who was also the Deputy Minister of Social Affairs); Mr Ahmed al-Majeedi (a member of the opposition YSP but whose candidacy was supported by MPs from GPC); and Mr Fathi al-Azab (a member of Islah, which was seen as a stand-by JMP candidate).

No woman presidential candidate was registered, although the nominations of two women received a total of four votes in parliament.

B: *Registration of Candidates for the Local Council Elections*

²² In one case, a voter from Aden appealed against his deletion from the voter register when he was wrongly identified as a duplicate entry. The court ruled that he should be re-registered but the SCER refused to do so on the grounds that the Elections Law prevented them from adding names after the elections had been called.

A total of 20,592 candidates contested the local elections. The GPC and JMP registered candidates in most constituencies, ensuring a real contest for most council seats. Many candidates stood as independents, although in reality many of them were reported to have a political party affiliation.

Less than one per cent of candidates were women. The political party that nominated the highest proportion of women as candidates was the GPC, followed by the JMP-affiliated Yemen Socialist Party. Over half of the political parties taking part in the local elections, including Islah, the strongest party within JMP, have failed to nominate any women candidates.

There were many reports that potential candidates experienced difficulties in submitting nominations. There is no record of the numbers of nominations received and the proportion that were rejected as the Elections Law does not provide a right to challenge a decision to reject a candidate's nomination.

Over 3,700 candidates who were initially registered later withdrew their nominations during a 10-day period after the close of registration. It is not common practice to have a prolonged period for candidates to withdraw their nominations, not least because it delays the possibility for ballot papers to be printed. There were a number of credible reports that candidates were pressured to withdraw their nominations, especially women and independent candidates. EU observers received a number of credible reports from women candidates that they received pressure to withdraw their nominations. The reports of pressure range from the offering of financial incentives to direct threats against candidates and their families. The pressure is reported to come mainly from political parties (predominantly the GPC), local tribes, civil servants, electoral officials and the candidates' own families.

VIII. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

A: Overview of the Election Campaigns

The election campaigns were active and generally peaceful. All major politicians repeatedly committed themselves to supporting a non-violent and credible electoral process. Notably, there were few reports of restrictions on the fundamental civil and political rights associated with a proper campaign, including the freedoms of assembly, association and expression. Overall, all sides respected the rights of the others to express a critical opinion. These significant and positive developments allowed for a real electoral contest to take place and have established an important precedent for future elections and wider democratisation in Yemen and the region.

The pre-election environment was marked by an intense focus on the campaign for the presidential election. The campaign capacities of each presidential candidate were strengthened by the equal allocation of 25 million Rials (approximately €100,000) from public funds. To a degree, this helped balance the opportunities for campaigning, including access to advertising, although it was clear that President Saleh had substantially more financial resources available for his campaign, as well as use of State resources. There are

inadequate requirements for candidates and political parties to reveal their sources of funding and support in-kind or to account for their campaign expenditure.

All five presidential candidates held events across the country and the public rallies for President Saleh and Mr Bin Shamlan were especially well-attended. As well as public rallies, campaigning involved a range of techniques such as posters and an effective use of media airtime as well as the more-traditional methods of garnering political support in Yemen, through canvassing at private meetings within clans and families. EU observers noted that limited campaigning was aimed at women voters and that only a small proportion of attendees at public rallies are women. Women candidates for local council elections faced particular difficulties in running their campaigns, as the result of discriminatory attitudes against them, which prevented them from competing on an equal footing with men.

All sides claimed to have clearly different political platforms, but – with the exception of the JMP platform to introduce a parliamentary-executive system of government – the campaigns mostly focused on issues of personality, the contest between incumbency and opposition and a shared promise to attack corruption. The campaigns of candidates for the local council elections were totally overshadowed by the presidential contest and, in particular, GPC candidates sought to benefit from their party's connection to President Saleh. The five parties of the JMP ran a unified campaign although the unique influence of traditional structures on Yemen's politics was displayed when the president of Islah, the leading JMP party, declared his personal support for the candidature of President Saleh. Ahead of the election day, two presidential candidates – Mr Saeed Abdo and Mr Al-Azab – indicated their support for other candidates.

There were no reports of significant interference by the authorities in the holding of campaign events. However, the SCER had established regulations whereby it required all campaign materials to have its approval before they could be used; the Elections Law does not provide for this power which could be abused to restrict the freedom of expression. In one worrying case, the owner of a printing house producing campaign materials for Mr Bin Shamlan was arrested and detained by police and campaign materials were seized. In an arbitrary decision without any legal basis, the SCER decided to refuse to pay half of the public funds due to Mr Al Azab on the basis that he had supported another candidate.

Despite the generally positive nature of most of the campaign, there were several instances of aggressive and highly negative campaign rhetoric in speeches, especially by GPC candidates and politicians; in a press conference on the eve of the election, President Saleh made an allegation that connected a bodyguard of Mr Bin Shamlan to a terrorist background.

Tragically, over fifty persons died in incidents at two overcrowded and poorly organised campaign rallies in Ibb and Ta'izz. Regrettably, there were also isolated instances of the violent death of persons connected to election campaigns.

B: Use of State Resources in favour of the Incumbents

A serious flaw in the fairness of the electoral process was the systematic and exclusive use of State resources to favour the campaign of President Saleh. EU observers noted that all State agencies – but especially the military and the police – displayed inordinate numbers of posters that indicated their support to the incumbent. The EU EOM also noted that many governors

and other State officials used State resources – such as the use of buildings and vehicles or the holding of events paid for by public funds – to organise the campaign of President Saleh as well as GPC local candidates; the use of such resources was generally not made available to other candidates or political parties.

The Elections Law clearly prohibits the use of “State capabilities, resources, bodies, mechanisms and equipment...in favour of any political party...or candidate” (art. 143). Such acts are punishable by imprisonment of up to one year. Disappointingly, neither the SCER nor the Office of the Public Prosecutor took any steps to enforce the Elections Law or to seek punishment for clear and repeated violations. Moreover, as the military and police are under a specific obligation to remain neutral from politics, it is highly regrettable that senior officers did not issue instructions for their personnel to refrain from displaying support to candidates.

C: Complaints during the Campaign Period

The EU EOM was not aware of any significant complaints relating to the campaign period. Complaints were mostly made by the JMP in an informal manner and related to the registration of voters, the nomination of local and presidential candidates, the use of State resources, the posting and removal of posters, and campaigning methods that were contrary to the Elections Law and SCER regulations e.g. the use of loudspeakers. As neither the SCER, the Office of the Public Prosecutor and the Courts published details relating to the complaints they received, the EU EOM was not aware of the number of formal complaints submitted, nor the manner in which they were addressed.

D: Arrests and Detentions

The EU EOM was aware that around 100 opposition supporters and 2 candidates were arrested during the election campaign period. In most cases, the persons arrested were detained in custody while awaiting charges and a hearing. These arrests and detentions cast an unwelcome shadow over the campaign, especially as many seemed to be politically motivated. In two cases, the EU EOM was aware that persons were detained by security agencies without charge and without allowing the persons to notify their families, contrary to Constitutional and legal guarantees of the right to liberty as well as similar provisions in the ICCPR.

Provisions of the penal code that proscribe insults against the president were used as the basis for many of these arrests. In most cases, there appeared to be little legal basis for an arrest and in no case were the alleged facts of sufficient seriousness to warrant detention in custody while awaiting charge or a hearing.

E: Voter Education

Voter education programmes are of particular importance in Yemen: there are high levels of illiteracy and an extremely limited level of public awareness of civil and political rights. Public participation in the electoral process is also undermined by the comprehensive and systemic exclusion of women from the political process. The Elections Law specifically provides that the SCER is responsible “[to] educate the public about the importance of elections and invite them to participate therein”. The SCER ran a number of voter education initiatives ranging from media broadcasts to touring theatre groups. However, these

initiatives were inadequate in meeting voter education needs: most projects started late and were focused on urban areas only. There were insufficient attempts to address initiatives towards illiterate citizens or to discuss important issues relating to the electoral process, such as the secrecy of the ballot. The EU EOM was aware that many of the persons and groups delivering voter education had clear political affiliations. Significant steps will need to be taken to develop a long-term, strategic and nationwide civic and voter education programme in Yemen, including opportunities for basic literacy and numeracy to be improved.

IX. MEDIA AND THE ELECTIONS

A. *Yemeni Media Environment*

Television and radio are considered by far the most important source of news information for Yemeni citizens. The electronic broadcast media is all State-run, with one TV network (Public Corporation for Radio and Television) broadcasting two terrestrial channels and a satellite station. State-run radio includes two radio stations with national coverage and some 10 local radio stations. The pan-Arabic satellite channels are widely watched and provide a major information resource for Yemenis. The print media is more diverse with about 45 daily and weekly papers, usually of limited circulation; although some are State-run, most are privately-owned and either independent or affiliated to political parties. There are also several news websites covering events in Yemen.

Ahead of the 2006 elections, the EU EOM was aware of recent credible reports of incidents of prosecutions, harassment and violence against journalists in Yemen that challenge the independence of the media to operate without State and political interference and the protection of the freedom of expression for journalists in Yemen, although the Yemeni authorities have made repeated commitments to strengthen media freedoms. With this in mind, it is notable that there were no reported cases of intimidation or undue pressure upon journalists during the election campaign.

B. *Legal Framework for the Media and Elections*

The Constitution provides for freedom of expression. The Yemeni media is regulated by the Press and Publication Law (1990), which is overseen by the Ministry of Information. The law prohibits the publication of some kinds of material²³. A new draft Law on Press and Publications is currently being discussed which would remove the penalty of imprisonment for offences; however, the current version of the draft law includes a number of potentially problematic areas such as requiring media to have State licenses and journalists to have qualifications, continuing to restrict certain content, and the retention of some criminal offences by journalists.

Under the Elections Law, the SCER assumes control of all State-run mass media during an election period.²⁴ The SCER is also required to adopt rules and regulations concerning

²³ Prohibited material includes that which may: “prejudice Islam; jeopardise national interests; cause tribal, sectarian, racial or regional discrimination; disseminate ideas contrary to the principles of the Yemeni revolution; harm national unity and distort the image of the Yemeni, Arab or Islamic heritage”.

²⁴ Three newspapers which are run by the Yemeni military are not considered State media for these purposes and were outside of the control of the SCER.

campaigning and to provide candidates with the right to present their political platforms. All candidates are entitled to equal access to media and all presidential candidates to equal time and space in the State media. Candidates are under the obligation to present their platforms without defaming their opponents and State media cannot publish any materials relevant to the elections without the approval of the SCER. Specifically, media coverage of the daily activities of the president is not to be considered as election propaganda and is not governed by SCER regulations.

Under these rules, the SCER adopted a generous programme of media coverage for the presidential election including a televised broadcast for each of the five presidential candidates, to be shown twice during the election campaign period. Television was also required to broadcast peak-time coverage of the candidates' rallies on a daily basis and to include coverage of candidates' electoral campaigns in news programmes. The content of all broadcasts was reviewed – and, in some instances, changed – by the SCER.

In contrast, the SCER issued an instruction that specifically restricted local radio stations from referring to information on the campaigns of local election candidates, effectively preventing any State media coverage of the local elections. There was no basis for this instruction in the Elections Law and, indeed, it appeared to be contrary to legal provisions which require the SCER to provide the State media with the complete list of local candidates so that their names and affiliations could be published or broadcast. The instruction unnecessarily restricted the media from reporting on a key issue of political importance and also prevented voters from receiving information on the candidates for local election.

C. Monitoring of Media Coverage of the Elections²⁵

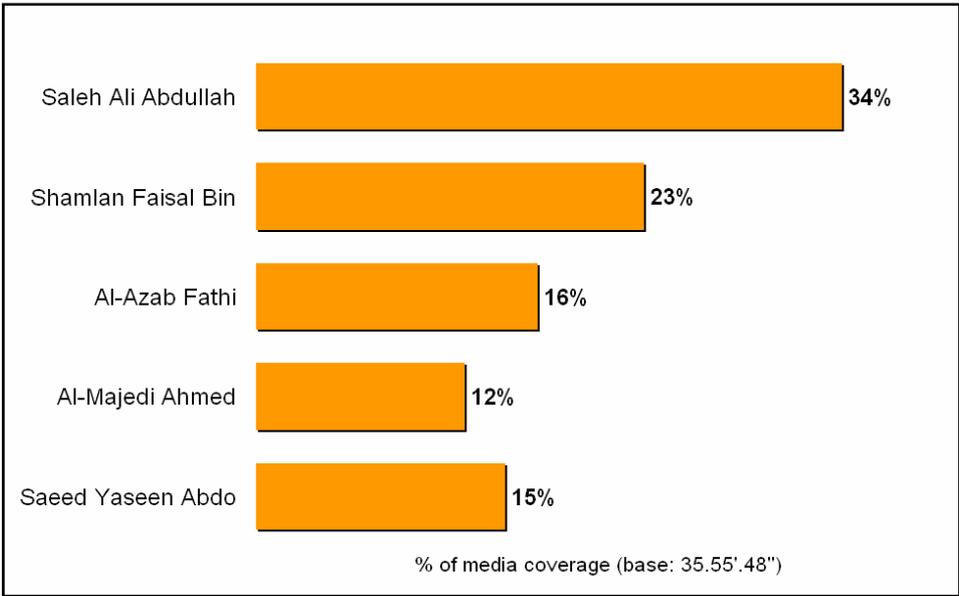
All media in Yemen provided extensive coverage to the elections: e.g. Yemen TV devoted an average of almost 2½ hours per day to election and campaign issues and, during the last ten days of the campaign, some peaks of over 4 hours per day. Almost all media coverage tended to be positive or neutral in its tone. Media attention was overwhelmingly focused on the presidential campaign, although voter information slots were broadcast regularly and carried in the State print media. The pan-Arabic channels gave considerable levels of coverage to the campaign and both of the major candidates were interviewed on Al Jazeera and Al Arabia channels. In contrast, the local elections received very little coverage and local council candidates had no access to the media.

Under the supervision of the SCER, the State media fulfilled their obligation to provide presidential candidates with direct access to address voters, enabling voters to benefit from the opportunity to gain information on the different candidates and their platforms. This was a notable step in Yemen as, previously, the State media has rarely allowed coverage of opposition politicians and policies. The amount of free airtime provided (36 hours) was generous. Overall, the level of access given to candidates was roughly equitable (see Table 2) with President Saleh receiving 34 per cent, Mr Bin Shamlan 23 per cent and the other candidates receiving 16, 15 and 12 per cent each. The percentage of free time for each presidential candidate is not equal as some candidates cancelled few rallies. Also, the SCER

²⁵ The EU EOM monitored a cross section of Yemeni media with a standard quantitative and qualitative analysis of their election coverage. The sample of media included three broadcast media (Yemen TV from 18:00 to 24:00, Sana'a and Aden Radio from 7:00 to 12:00) and 11 publications (Al-Thawrah, 14 October, Al-Gumhurya, Al-Wahda, 26 September, Al-Ayyam, Yemen Times, Yemen Observer, Al-Wasat, Annas, Akhbar Al-Yawm).

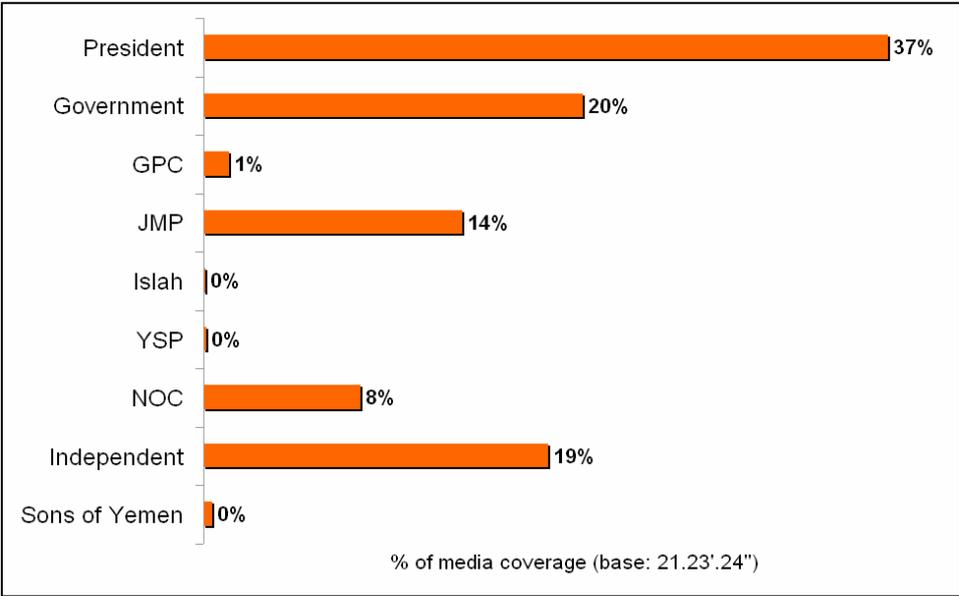
rules did not specify the length of broadcasts such that an election programme for President Saleh lasted for 1½ hours, while another programme for Mr Bin Shamlan ran for 50 minutes. It was noted that the JMP publicly criticised the SCER for editing their broadcasts in what they considered to be a different manner to that used for rallies by President Saleh.

Table 2: Distribution of Free Airtime (Rallies and Election Programmes) among presidential candidates on Yemen TV



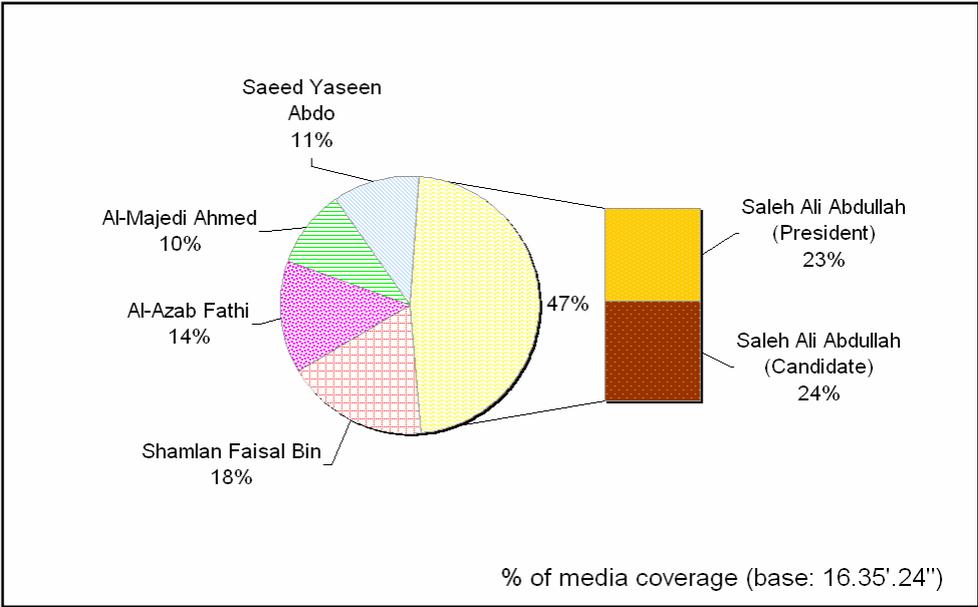
In its monitoring of news reports on Yemen TV (Table 3), the EU EOM noted excessive coverage of the incumbent president and members of the government in comparison to that of other political parties and candidates that goes beyond the levels of benefit of coverage that an incumbent can expect.

Table 3: Distribution of Time (News programmes) among political entities (Yemen TV)



In its distribution of time specifically to presidential candidates in its news reports (Table 4), Yemen TV again gave excessive coverage to the President, reporting more on his official duties (23 per cent) than providing coverage of other candidates. It should be noted that the Yemeni State media is widely reported to provide extensive levels of coverage of presidential activities outside of an election period.

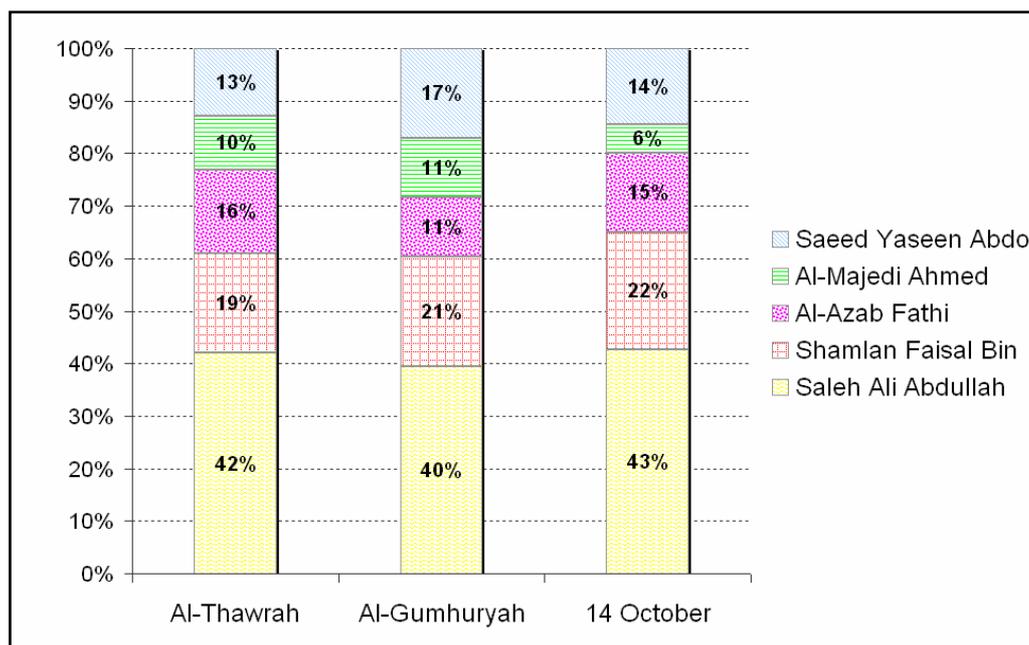
Table 4: Distribution of Time (News programmes) among presidential candidates (Yemen TV)



In its news reports, Sana’a Radio was monitored as giving 48 per cent of its coverage to the President and 47 per cent to the government. Similarly, Aden Radio gave 41 per cent of its news coverage to the President and 42 per cent to the government.

The print media generally covered all major election events by all candidates and major political parties, although tended to show partisanship when doing so. The EU EOM noted several pieces critical of President Saleh were published. The three State-run newspapers offered the five presidential candidates a roughly equitable level of access (Table 5) but, once again, there was a clear advantage provided to coverage of President Saleh.

Table 5: Distribution of Space among presidential candidates (State-run papers)



X. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS

A: Overview of the Participation of Women

Women were comprehensively excluded from the 2006 elections. This fact seriously undermined the universality and equality of the electoral process which are fundamental standards for democratic elections. While the wider legal framework provided a strong basis for equal participation, there was no attempt to ensure its proper implementation to protect these rights.²⁶ The exclusion of women was most notable in the very low proportion of women candidates and the considerable pressure they faced to withdraw. Problems were also observed in the approach of political parties, the election administration and the authorities towards women as voters, political party members and electoral administrators. Extensive illiteracy and very limited levels of political awareness amongst women severely hindered opportunities for their inclusion and engagement in the elections.

Substantial and urgent progress must be made for Yemen to overcome the obstacles that prevent the equal participation of men and women in elections and their engagement in the wider political and democratic processes. There have been a number of positive public acknowledgements by key political figures of the importance of opening up the country's democratic processes to women but these have never been followed up by practical steps to ensure women's inclusion. Women's actual participation is consistently and severely compromised by widespread negativity towards their involvement. This is underpinned by a deep-seated belief – shared by many women as well as men – in their lesser ability and the

²⁶ Yemen has ratified the Convention on the Elimination of All Forms of Discrimination against Women as well as the ICCPRs, both of which proscribe discrimination against women in the exercise of their right to vote and to be eligible for election. However, international instruments are rarely cited in Yemen's domestic courts. The Judiciary is predominantly male.

absence of their right to assume decision-making roles or otherwise engage in public life. The high illiteracy levels amongst women serves to perpetuate such beliefs.

B: Women Candidates and Political Parties

The exclusion of women from the electoral process was most clearly manifested by the low proportion of women candidates (less than one per cent) and of those candidates who won seats. Moreover, EU observers received a number of credible reports that explicit pressure was placed on women candidates to withdraw. EU observers noted that political parties – in particular the GPC despite fielding the highest number of women candidates – were reportedly the main source of pressure; but civil servants, electoral officials, family and tribe were also cited, demonstrating the widespread nature of negativity towards their involvement. Most female candidates ran as independents, a strong indicator of the lack of political party support. The EU EOM was aware that many of these female candidates were party affiliated but resorted to running as independents after their party's refusal to support their candidacies.

Despite the fact that the 18 June agreement called for political parties to support the legal rights of Yemeni women, half of all political parties did not nominate any women candidates. This included Islah from the JMP which adopted a publicly negative stance towards the nomination of women as candidates; a position they ascribe to the conservative religious minority within the party. YSP was the only party which reportedly offered additional support to its female candidates.

All the major parties have women's sectors but their roles are more symbolic than substantive. Despite some very real efforts on their part they suffer from a chronic lack of capacity and empowerment, and are systematically excluded from the mainstream activities of their party. The numbers of women in political parties mean they are in the minority and few women hold official party positions except within their women's sectors.

Women's organizations have repeatedly expressed disappointment and frustration at the lack of official support to women's participation in elections. Shortly before the close of the nomination period for local council candidates, President Saleh made a public call to women to nominate themselves as candidates, promising support for independent candidates from the State budget, appealing to male candidates to withdraw in favour of female candidates and stating that the GPC would nominate 15 percent of female candidates. There was a marked increase in the numbers of women candidates following the President's speech, a fact which demonstrates the influence of political leaders in this regard. There is no evidence that independent candidates received any State funding or that the instruction to male GPC candidates was officially implemented, indeed evidence points to the contrary with reports of verbal intimidation and harassment of women candidates by the GPC on a broad scale. The GPC did not meet its benchmark of 15 per cent female candidates.

Women candidates faced particular financial and social constraints in campaigning and were not able to compete with men on an equal footing, especially as women mostly ran as independents and thereby operated campaigns without the benefit of any institutional support.²⁷ Other challenges faced included highly restricted opportunities for women to

²⁷ A coalition of women's organizations raised and distributed funds to support them with around YR100, 000 (around €415) for each candidate.

canvass publicly or to show their faces on campaign posters for fear of allegations against their morality, a powerful deterrent to women in the prevailing social context. The EU EOM received a number of credible reports that women candidates experienced discrimination difficulties during the candidate registration, including instances where applications were refused by MDCs for no valid reason.

Women's peripheral role in Yemeni politics was likely to be reinforced by the results of the local council elections as only 0.5 per cent of winning candidates are women. A total of 35 women were elected to local councils, all but four of whom were GPC candidates.

C: Women Voters

Efforts to encourage more women to register as voters since the 2003 parliamentary election have not been successful and the proportion of women as registered voters in 2006 remained at around 42 per cent. There exists widespread acknowledgement in the country that women's votes are directed by male family members, a factor which challenges the independence of the female vote. The SCER has not provided a breakdown of the level of voter turnout to identify the participation of women as voters on election day.

Political parties took few steps to campaign for the female vote by addressing them on political matters although some political parties, especially Islah, mobilised extensive support from women through social and charity work. Despite this generally negative stance towards women voters and women candidates, there was no evidence that any candidate or political party lost support from the female electorate, a further likely indicator of the lack of political awareness amongst women.

The access of women to information about the elections and their wider civil and political rights was severely hindered by very high levels of female illiteracy. Although a number of voter education initiatives were specifically aimed at women, many were inadequate in reaching their target audience. Civil society organisations representing women demonstrated a positive enthusiasm and drive to support women in the elections. However, their efforts suffered as the result of a lack of co-ordination and partisanship of key figures as well as the lack of positive female role models.

D: Women and the Election Administration

The SCER has specific responsibility to "take all appropriate measures to encourage women to exercise their electoral rights" (Article 7) and had recently established a Women's General Unit. However, during the election period, the Unit was constrained in the scope and content of its activities and was observed to experience problems in accessing information and from a failure of other branches of the SCER or consult or involve the Unit in decision-making. There were no women members of the SCER and women served as less than five per cent of election officials on the lower-level commissions. The proportion of women on the SCER staff – at just over six per cent – is also low and those are usually assigned low-level positions.

PARTICIPATION OF CIVIL SOCIETY

According to the SCER, a total of over 45,000 individual activists – some from civil society organisations (CSOs) but mostly from political parties – were accredited to observe the elections. The Elections Law and SCER procedures provided an adequate framework to allow for the participation and accreditation of citizens to act as observers of the electoral process and allowed for levels of observation that were a useful contribution towards the transparency of the electoral process. Public confidence is strengthened where domestic election observer groups are independent and objective and operate without affiliation to a political party. Disappointingly, however, many of the accredited CSO observers did not act in this manner. Nevertheless, there were genuine attempts to establish a level of domestic non-partisan observation using credible CSOs or networks of groups, although on election day the groups deployed a relatively small number of observers, many of whom were inadequately trained in their role. While it will be important for future elections that domestic observer groups should widen their deployment and offer better training for their observers, important steps are also needed to strengthen public confidence in the independence and impartiality of such groups.

In addition to election observation, some CSOs also played a role in providing voter education initiatives, but these were also adversely affected by partisanship, inadequate training and delayed implementation. Traditional tribal and religious structures are also relevant to civil society activity in Yemen but, overall, there is a distinct lack of genuine grassroots involvement in the political and democratic processes of the country or the accountability of government.

XI. ELECTION DAY

A: Overview of Voting

Voting on 20 September generally proceeded well and, in most parts of the country, election day was peaceful. Regrettably, a number of cases of violence and disruption of voting occurred, with reports of 5 deaths and 42 persons injured in election-related incidents, and the SCER reported that some five per cent of polling centres either did not open or had voting procedures temporarily suspended. Nevertheless, there were significantly fewer security problems than in previous elections in Yemen. In spite of many instances of crowding at many polling centres, the SCER announced an overall voter turnout of 64 per cent which represented a decrease in voter participation from previous elections.

In almost all cases, the polling stations were administered by SECs which consisted of representatives from both GPC and JMP; these generally worked cooperatively. For the most part, procedures were followed properly although irregularities were observed, a disproportionate number of which occurred at female polling stations. Many polling stations were reported to have opened an hour late and, following an unclear instruction from SCER, three-quarters of polling stations delayed their closing by two hours even though it was unnecessary to do so.

(i) Basis of EU EOM Observation

On polling day, EU observers followed the voting process in 1,050 of the 27,010 polling stations (4 per cent) and in 340 of the 5,620 polling centres (6 per cent) in Yemen. The EU EOM deployed a total of 119 international observers in 56 teams. Eighteen of the 21 governorates were covered; observers were not deployed to three governorates (Al Jawf, Ma'arib and Shabwah) for security reasons.

(ii) *Voting Procedures*

EU observers evaluated the overall conduct of voting positively, with almost 60 per cent of polling centres visited being rated as “good” and 21 per cent as “very good”. The conduct of voting at individual polling stations visited by observers was assessed as equally positive. The understanding of voting procedures by voters and polling staff was rated as “good” in 68 per cent and “very good” in 13 per cent of polling centres visited. Many of the polling staff were well trained and generally followed the established procedures contained in SCER regulations and polling and counting manuals. Key safeguards to ensure the integrity of the vote, including requiring proof of identity with the photograph and applying / checking for the presence of indelible ink were followed in 95 and 92 per cent of polling stations visited respectively. EU observers noted that the locations and layouts of many polling centres were not suitable for access by persons with disabilities.

However, a significant level of procedural irregularities was observed by EU observers in polling centres and polling stations throughout the country and these were particularly prevalent in rural areas and inside female polling stations. The problems reflected a lack of awareness amongst some polling staff and political party activists as well as unwillingness by some electoral officials to enforce legal provisions designed to protect the electoral process.

Of the polling stations visited by EU observers:

- in 20 per cent, breaches of the secrecy of vote were observed;
- in 14 per cent, illegal assistance was given to illiterate voters;
- in 7 per cent, voting by clearly under-aged voters took place;
- in 4 per cent, there were attempts to intimidate voters;
- in 50 per cent of female polling stations, voters were not required to unveil for identification purposes.

Of the polling centres visited by EU observers:

- in 19 per cent, attempts to influence voters were observed;
- in 12 per cent, there was intimidation of voters inside the polling centre;
- in 17 per cent, disorder and/or overcrowding occurred;
- in 32 per cent, there was active campaigning in the vicinity of the polling centre, almost exclusively by supporters of the GPC;
- in 30 per cent, there were campaign materials inside the polling centre, almost exclusively on behalf of the GPC.

EU observers also observed isolated cases of ballot box stuffing, voters voting more than once and vote-buying. The SCER reported some cases of the destruction of ballot boxes or the confiscation of ballot boxes or polling material, sometimes by candidates. The JMP reported to the EU EOM that their committee members were at times intimidated.

(iii) *Female Polling Stations*

On election day, EU observers noted a markedly higher number of irregularities in female polling stations compared to male polling stations. Identified problems that were more prevalent in female polling stations included overcrowding, poor organisation, inadequate room space, inconvenient locations, and general unfamiliarity with procedures by under-trained female polling staff. In particular, men were observed to be present in 38 per cent of female polling stations, which sometimes added to these problems, especially in that women were unwilling to unveil in the presence of men. These factors, when combined, indicate that the election administration gave a lesser importance to ensuring equal voting conditions for women.

B: Counting

Overall, EU observers noted that, while there were real delays in the counting of the votes for local elections, the established counting procedures were followed and were undertaken in the presence of cross-party representation. Significant problems with counting were observed in Amran and Ta'izz, where counting took place in an extremely tense environment. The EU EOM was informed of credible reports from the SCER and political parties of many irregularities with counting in Al-Jawf, Marib and Shabwa.

The counting of votes was undertaken by the three-member FSC which was responsible for the counting of all votes cast in polling centre regardless of the number of polling stations. In many instances, polling centres served thousands of voters, all of whom could cast three ballots. In practice, it was unreasonable to expect that a single counting committee – who had also administered voting on election day – could effectively undertake a prolonged counting process. The counting of votes for the presidential election was treated with priority, but there were clear delays for the completion of counting of local election results; EU observers noted that, at several larger polling centres, the counting of local council ballots took several days. The legal framework does not provide a timeframe for the completion of counting although the Elections Law does require that election results be announced within 72 hours of the end of the voting process.

XII. RESULTS

A. Tabulation and Announcement of Results

After the conclusion of counting of votes for each election in each polling station, the counting committee was required to tabulate and announce the results of voting in that polling centre. Minutes of the results were required to be prepared and signed by all three members of the counting committee as well as other polling staff present. However, the EU EOM is aware that on many occasions, at least one member of the counting committee did not sign minutes. It is not always clear whether the failure to sign was caused by neglect or by disagreement with the results of the count or in protest at irregularities. It is a criminal offence for FSC members not to sign minutes of results and members who disagree with any aspect of the counting process have the right to attach a report to the results protocol. Copies of the minutes of the results were required to be distributed to each candidate or their

representative. There was no requirement for the minutes of the results to be posted at the polling centre for members of the public to inspect.

The minutes from polling centres were to be sent to the hierarchy of electoral bodies, i.e. the MDCs, the SCs and the national SCER. After receiving the minutes, MDCs were required to tabulate and announce the full results for each candidate within each district for each election, including the winners of district council seats. However, the election law is vague on the timeframe for this process. Minutes of these results again were required to be provided to candidates and their representatives but are not required to be posted locally.

After receiving the results from each district, the SCs were required to tabulate the results within each governorate but, by law, were only required to announce the winning candidates. Thus, there was no obligation for SCs to announce the full results, including the votes won by other candidates, the number of invalid votes and other key data.

At a national level, the SCER was required to announce the results of the presidential election within 72 hours of the close of voting. For the local elections, the SCER was under a requirement to “immediately” announce the names of the winning candidates as soon as they were received. There was no legal requirement for the SCER to provide a more detailed breakdown of the results for any election.

EU observers monitored the tabulation process at MDCs and SCs in 17 governorates until 25 September. The EU EOM also observed the work of the tabulation process centrally at the SCER Operations Room until 2 October, when it had reported that all minutes had been received. Overall, the tabulation process was undertaken slowly and results were usually announced based on information that was transmitted by telephone or fax, even in locations where the original minutes were easily available. EU observers experienced real difficulties in obtaining clear information on the breakdown of results at all levels.

B. Publication of Results for the Presidential Elections

The preliminary results of the presidential election, announced by the SCER on 23 September, declared the winning candidate to be the incumbent President Saleh. As no challenge was made within the prescribed timeframe of 72 hours from the announcement of preliminary results, the presidential election results became final on 26 September.

The final results contained significant differences from the partial results distributed to candidates and to the EU EOM on 22 September. These included a drop in the number of votes won by candidates and a huge increase in the number of invalid votes. The total number of invalid votes was 10.7 per cent; to provide some comparison, the proportion of invalid votes in the 2003 parliamentary elections in Yemen was around three per cent.

On 30 September, at the request of the EU EOM, the SCER produced a breakdown by governorate of the final results for the presidential election. The data indicated a wide variance in the number of invalid votes between different governorates, ranging from 1.7 per cent in Al-Jawf to 18 per cent in Aden.

On 11 October, again at the request of the EU EOM, the SCER produced a further breakdown by district levels of the results for the presidential election. The EU EOM understands that

this breakdown was produced after the SCER attempted to verify the minutes of results received from Main Committees and polling centres. The data produced indicated significant differences from the 26 September final results, including a drop in the number of persons who voted, a decrease in the number of invalid votes (from 10.7 per cent to 3.2 per cent) and an increase in the number of votes won by the two leading candidates. It is not clear whether this data will be published.

The information contained in the different breakdowns of the election results show that there were significant discrepancies that undermine the overall credibility of the accuracy of the final results of the presidential election as they were formally announced by the SCER. Nevertheless, the problematic issues would not seem to affect the overall result of the election that the winning candidate was President Saleh.

The SCER did not indicate that it will publish the full results of the presidential election, broken down to each polling station despite the fact that this information is readily available.

D. Results for the Local Governorate and District Council Elections

The process by the SCER for the publication of the results for the local council elections was particularly problematic and delayed. On 30 September, the SCER distributed partial results of the seats won by political parties for each governorate and district council. These results did not reveal the names of which candidates had won seats or the number of votes won by each candidate. Despite an obligation for the SCER to immediately publish local election results, it did not do so as it considered that the results had already been announced by MDCs.

On 2 October, the SCER decided in a full meeting that they would publish results of both local elections on 7 October but this deadline was not met. On 9 October, the SCER announced on State television a summary of the local election results and indicated that full results would be published in newspapers and on its website. At the close of the EU EOM, the results of the local elections have not been published for seven of the 21 governorates (Ta'izz, Ibb, Al Jawf, Lahij, Marib, Amran and Sana'a governorate); some of these governorates were reported to have experienced significant difficulties on election day or during the counting process.

The local election results published by the SCER included the total number of valid votes and the number of votes won by each candidate but they did not indicate the total number of voters who voted and the number of invalid votes. Such data is crucially important in ensuring the credibility and transparency of results and its absence undermines confidence in the accuracy of the local election results.

E: Complaints relating to Election Results

No complaint was lodged with the Supreme Court in relation to the results of the presidential election.

The election law provides that candidates and political parties may lodge complaints with the Appeals Court in every governorate against alleged violations of the rules and procedures for voting and counting in the local elections. The EU EOM attempted to track information, based on reports from EU observers, judicial institutions, political parties and the media, on

the numbers of complaints in relation to the local council elections. The EU EOM was informed that complaints were lodged in Ta'izz (45 complaints), Amran (21 complaints), Hajja (19 complaints), Ibb (17 complaints), Sa'ada (16 complaints) and Marib (15 complaints). A further 98 complaints were reported in 13 other governorates. No complaints were reported in Sana'a City and Aden.

Despite the fact that the SCER is responsible for monitoring complaints relating to the electoral process, it was unable to provide the EU EOM with detailed information on the number of complaints or their nature. The SCER has indicated that, based on the Supreme Court decision related to the 2003 parliamentary elections, it considered that it had no formal role in responding to complaints relating to local elections on the basis that the alleged violations are solely within the responsibility of the MDCs or SCs.

F: Political Overview of the Election Results

The result of the 20 September presidential election has clearly consolidated the position of President Saleh, although many political commentators also highlight the fact that, due to the relatively low voter turnout, he gained the support of only around 44 per cent of the total electorate. The opposition JMP have repeatedly expressed their dissatisfaction with the accuracy of the results of the presidential and local elections. However, in a press conference on 26 September, Mr Bin Shamlan announced that he would not be challenging the results of the presidential election but also stressed that his decision did not indicate an acceptance of the result.

The results of the local elections have also strengthened the position of the GPC in its control of the local governmental structures in comparison with the results of the 2001 local elections. Overall, it would appear that its share of the national vote, estimated at 70 per cent, has also increased from the 2003 parliamentary elections, when it garnered around 60 per cent. The control of local councils has important implications, especially since the announcement of President Saleh on 6 October that governors and heads of districts, who are currently appointed, may be elected to their posts by council members.

The majoritarian ('first-past-the-post') system used for local council elections, with either single- or multi-member constituencies, meant that the distribution of seats on local councils did not reflect the share of votes won by political parties. For example, for the Sana'a City Council, all 20 council seats were won by the GPC and the JMP is unrepresented despite its candidates having won over 22 per cent of the total vote in the city. Less than 0.5 per cent of council seats were won by women candidates. Women will continue to be massively under-represented on local councils.

XIII. RECOMMENDATIONS

The following recommendations to improve the electoral process and related areas are offered for consideration and action by the Yemeni authorities, political parties, civil society and the international community:

Implement Clear and Effective Guidelines for Counting and Publishing Election Results

1. The Elections Law should be amended and the SCER should adopt regulations to establish a clear framework for the tabulation and publication of results at every stage so as to ensure that all results are published speedily, completely and accurately. In particular:
 - i. Greater steps should be taken to ensure that copies of the results from every polling station are displayed at polling centres immediately following the count.
 - ii. Main District Committees should publish copies of the results protocols from polling centres and individual polling stations immediately as they are submitted. MDCs should also immediately publish the protocol of their tabulated results.
 - iii. Partial and preliminary results should be published by the SCER and Supervisory Committees as soon as they are available.
 - iv. When publishing partial, preliminary or final results, the SCER should publish all available data, including results for all candidates, the number of voters who voted and the number of invalid ballots.
 - v. The Electoral Law should be amended to detail exactly what information should be published.
 - vi. When publishing preliminary or final results, the results should be broken down by governorate, district, polling centre and polling station.
 - vii. If publishing partial results, the SCER should clearly identify them as such and provide explanations for any changes when publishing later results.
2. The number of election officials undertaking the counting of votes should be in proportion to the number of polling stations in a polling centre. Counting should be undertaken by trained officials. There should be a realistic and achievable deadline for counting to be completed and for the transfer of results from polling centres to Main Committees.

Strengthen confidence in the capacity, transparency and impartiality of the election administration

3. The Elections Law should be amended to provide for the right of political parties to be represented on the SCER and lower-level commissions and to detail the criteria by which the level of their representation is determined.
4. The SCER should clarify that it has a clear and unambiguous responsibility to supervise and account for the work of all lower-level election commissions. Individual SCER commissioners should have the right to full and updated information on all aspects of the SCER's operations. All members of the Supervisory Committees and Main District Committees should have a similar right to the operation of the SCER within their area of mandate.
5. The SCER should adopt by-laws or guidelines that specify the role and responsibilities of all areas of the election administration; in particular, clear terms of reference are required to outline the work of the branches of the SCER Secretariat and the Election Security Committees (ESCs).

6. The SCER should continue to take steps to improve the transparency of its operations at all levels. In particular, the SCER should be committed to the prompt and complete publication of all decisions, minutes and internal procedures. The SCER should formalise its regular consultative meetings with electoral stakeholders;
7. The SCER should take genuine steps to address and prevent politically partisan behaviour within its structures, including a Code of Conduct for Commissioners and the members of staff of its Secretariat. In particular, SCER commissioners should specifically refrain from making public statements in support of or against candidates.
8. The SCER should develop a long-term, strategic and nationwide civic and voter education programme in Yemen. Other agencies and civil society should be supported to promote opportunities for strengthening basic literacy and numeracy skills countrywide.

Establish effective mechanisms to ensure compliance with and enforcement of the Elections Law

9. An effective and clear procedural framework should be established for complaints against alleged violations of the Election Law, detailing the manner and timeframes by which complaints are submitted, handled and resolved. In particular, the Elections Law should be amended to allow initial complaints to be brought to the attention of the SCER to ensure more appropriate resolution of administrative problems, with a right of appeal to a court.
10. The judiciary and the public prosecutor should establish clear procedural frameworks for the mechanisms by which they will handle election-related complaints. The SCER, the public prosecutor and the judiciary should provide public information on the number of complaints received and the manner in which they are resolved.
11. Article 197 of the Penal Code, which criminalises any act that is considered to be an “insult to the President”, should be repealed.

Reform the Electoral System

12. Consideration should be given to reducing the presidential and parliamentary terms of office to ensure elections take place within a more suitable interval. This would require constitutional change.
13. The Elections Law should be amended and the SCER should adopt by-laws that specify procedures for the delimitation of constituency boundaries and for determining the number of local council seats per constituency. These should include proper opportunities for public consultation on proposed boundaries. The SCER and other Yemeni authorities must take urgent steps to ensure that appropriate boundaries are adopted ahead of the next scheduled parliamentary and local elections in 2009.
14. Consideration should be given to holding a consultative review on reform of the electoral system for parliamentary and local council elections so that :

- i. seats are allocated in a more representative manner to the proportion of votes cast.
- ii. more effective opportunities are provided to allow for the increased representation of women on elected bodies through such systems as reserved seats, closed lists etc.

Improve the Voter Register

15. Ahead of the next formal update of the voter register, the SCER should implement an open and cross-party review of the voter register to identify ineligible names using published and consistent criteria. Persons identified by the review as being wrongfully included should be informed and provided with the opportunity to prove their eligibility. The SCER should remove all ineligible names using methods prescribed by law.
16. The SCER should ensure that the procedures for updating the voter register are implemented in accordance with the law, especially in relation to finalising and publishing the voter register within appropriate timeframes. The SCER should strengthen the training provided to the staff undertaking voter registration.
17. The SCER should ensure appropriate procedures are adopted to prevent under-aged persons from registering as voters.

Improve procedures for candidate registration

18. Consideration should be given towards establishing alternative procedures for the registration of presidential candidates. All eligible candidates should have an equal right to have their nomination accepted, such as through the collection of signatures. Members of the Shura should not participate in selecting presidential candidates. This may require constitutional change.
19. Candidates for local council elections should have the right to challenge a decision to refuse their nomination. Election commissions should provide written reasons for the decision to refuse any candidate's nomination. Consideration should be given to removing the literacy requirement for local council candidates.
20. The Elections Law should be amended to remove or reduce the withdrawal period for local council candidates after they are registered. The SCER and political parties should take steps to protect the rights of candidates, including independent candidates, from harassment and undue pressure not to register or to withdraw.

Promote the equal participation of women in the electoral process

21. Urgent and decisive action should be taken to ensure women are genuinely able to enjoy equal opportunities to participate in the electoral process. The Yemeni authorities, political parties, civil society, religious leaders and others of influence should make a genuine and public commitment to develop and implement a strategic programme that will promote and improve the role of women in every aspect of elections. The programme should include:

- i. A full consultative review of the current and alternative electoral systems for parliamentary and local council elections to identify mechanisms for increasing the representation of women as active politicians in elected office that are appropriate to the Yemeni context, and to implement the recommendations of that review;
- ii. Steps by all major political parties to ensure significantly more women are nominated as candidates to include:
 - a. establishing targets for the nomination of more representative numbers of women candidates;
 - b. the possibility for the coordinated nomination of all-women candidates for constituencies;
 - c. provision of financial resources, campaign assistance and public endorsements for women candidates from political leadership, with matching steps from the SCER and Yemeni authorities to support independent women candidates and to protect women candidates from harassment and undue pressure;
 - d. greater participation by women in official positions with decision-making responsibility within political parties and the development of political role models for women;
 - e. political parties to appoint women as members of election commissions.
- iii. A strategic nationwide programme of civic and voter education by the SCER and media that is specifically targeted at empowering the role of women in the electoral process and to raise awareness of their rights as voters and candidates, matched with similar programmes to ensure male voters are made aware of the rights of women voters;
- iv. A targeted drive to increase and equalise the number of women registered as voters;
- v. The appointment of more women as members of election commissions at all levels and the provision of more effective and inclusive training of female polling staff, combined with guidelines to ensure improved conditions for female polling stations as well as a genuine inclusion and empowerment of the SCER Women's Unit in order to address gender issues strategically and effectively.

Improve the fairness of election campaigning

22. The SCER and the public prosecutor should enforce compliance by all State agencies with the legal provisions that prohibit the use of State resources in favour of any campaigns. The SCER should develop guidelines for the conduct of State officials and employees during an election campaign to refrain from political activity. The Chiefs of Staff of the military and police should issue orders to their personnel not to display political support during their official duties, when in uniform, in official vehicles or at their stations.
23. The SCER should amend its guidelines on campaigning to remove the requirement that it approves campaign materials.
24. Clear guidelines should be adopted by the SCER in relation to the mechanism for monitoring campaign financing.

Strengthening the equitable role of the Media in elections

25. The Yemen authorities should:
 - i. undertake constructive measures to expand the diversity of the media sector, particularly regarding the licensing of private electronic media. The concentration of media ownership is a limitation to the diversity of view points;
 - ii. promote the autonomy of the media taking effective measures to prevent intimidations or attacks against journalists.
26. Reform of the legal framework for media regulation should be pursued, especially in relation to adopting a new Press and Publication Law. The restrictions on the content of what may be published should be reduced in number and more clearly defined so to avoid uncertainty. Penal provisions for breaches of the Press Law should be abolished; criminal libel and defamation codes should be replaced with civil defamation codes. The use of licensing regimes for opening print media and the qualification requirements for journalists should be dropped.
27. All State media should make strenuous efforts to show impartiality during an election campaign. The State broadcaster should also be under special obligations to ensure more equitable coverage of all contenders in its news reports. There should be a clearer distinction of what is to be considered the activity of officials by virtue of their position and what is election campaigning. No privileged treatment should be given to State authorities by the media during election campaigns
28. The SCER and the Yemeni authorities should ensure there is freedom for the media to report fully on all elections. Although the SCER should continue to supervise the State media in order to ensure equal direct access to free airtime and compliance with campaign regulations, its strict control on all content on news and information programme should end.
29. Opportunities should be provided for media to produce political information programmes during election periods that allow interactive debate between and questioning of candidates etc.
30. For future elections, the SCER should consider monitoring the media coverage of the election campaign to ensure compliance with legal provisions. In this context, the SCER should adopt a clear framework that specifies the means by which complaints against media coverage can be made and the possible sanctions that can be applied. Reports of the SCER media monitoring should be published.

Amend the Elections Law to address outstanding problematic issues

31. The Elections Law should be reviewed through a consultative process to identify and address outstanding problematic issues including:
 - i. To remove the right of a voter to be registered to vote in the location of their place of work.
 - ii. To ensure only valid votes are used as the basis for determining the proportion of votes won by all candidates.

32. The SCER should clarify the framework for the casting of ballots in presidential elections by those persons in places other than their designated polling station on election day. The procedures should be in compliance with the Elections Law and prevent opportunities for voter fraud. All procedures should be adopted well ahead of a future election day.

Promoting the role of domestic observation

33. Domestic observer groups should offer better training to their observers. Genuine attempts should be made by civil society organisations involved in domestic election observation to strengthen public confidence in the impartiality and objectivity of their findings.
34. Party agents should be adequately trained on the nature and importance of their duties and responsibilities. Genuine attempts should be made by political parties, with recourse to assistance from the SCER and civil society organisations, to improve their competence and professionalism as observers on election day.

Improve Voter Procedures

35. The following steps should be taken to improve voting procedures on election day:
- i. Polling staff should enforce rules to protect the secrecy of the vote;
 - ii. Clear guidelines should be produced on the manner by which illiterate or disabled voters can receive appropriate assistance;
 - iii. Election officials and Yemeni authorities must take steps to prevent intimidatory activities against voters, and campaigning activities near to polling centres;
 - iv. All polling centres and, wherever possible, all polling stations should be accessible to the disabled.