

Lawyers Without Protection

The Reality of the Legal Profession and the Challenges Facing Lawyers

During the Armed Conflict in Yemen 2014 - 2025

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Executive Summary

The legal profession in Yemen barely meets the minimum requirements of justice and strives—with great perseverance—to activate legal mechanisms to defend fundamental human rights in an environment where the rule of law is absent and judicial independence is lacking. In pursuit of this mission, the profession faces serious challenges and considerable risks. One such challenge is the inadequacy of legal safeguards for the right to defense under Yemeni law, particularly during the post-arrest phase and the investigation stage. Judicial enforcement authorities exploit the ambiguity of legal provisions in this regard to deprive detainees in criminal cases of their right to freely choose legal counsel or, in cases where detainees manage to retain lawyers, to obstruct lawyers from fully exercising their defense rights.

In practice, judicial enforcement bodies often function more as an authority than as a mechanism for achieving justice. They actively resist efforts to allow legal representation for detainees during the detention period and frequently resort to threatening lawyers or warning them of repercussions under the pretext of national security sensitivities surrounding the cases they handle. This approach has led to the marginalization of the legal profession during the post-arrest phase and the initial investigation and evidence-gathering stages, rendering the role of lawyers vague and ineffective.

Although the role of lawyers becomes more visible during the interrogation stage—where legal protections for defense rights are relatively stronger compared to earlier stages—this role still faces multiple procedural obstacles. These hurdles often expose lawyers to harsh criticism from their clients, who perceive such challenges as a sign of incompetence or failure in protecting their rights and legitimate interests. Denying lawyers the ability to practice their defense rights—through the rejection or systematic disregard of motions and requests submitted during investigations and court proceedings without any legal justification—strips them of their lawful tools to defend their clients. When this becomes a pattern, as evidenced by several documented cases, it undermines the very rationale for the legal profession in the eyes of clients and leads to a broader crisis of public confidence in the profession.

In a society torn by armed conflict, where the judiciary has become divided and public faith in rule-based justice has been shaken, victims and their families place their hopes for justice on the personal competence and advocacy skills of lawyers.

They expect lawyers to file persuasive motions and plead effectively in a way that can influence the outcome of cases in their favor. This reality subjects the legal profession to fluctuating evaluations that fail to account for the harsh conditions and systemic obstacles it faces. It also places a heavy burden on lawyers, bringing them into direct confrontation with a judiciary that actively restricts their right to defense in criminal cases—particularly when lawyers exhibit zealous advocacy in court to convince their clients of their capabilities. Some judges interpret such advocacy as undermining the dignity of the judiciary and use it as grounds for legal reprisals against the lawyers.

One of the key problems in implementing Yemen's procedural legal system in a way that strengthens the role of the legal profession in defending victims' rights lies in the unwillingness of higher judicial bodies—such as the Public Prosecution and criminal courts—to undertake corrective reviews of earlier procedural violations that compromised defendants' rights. Instead, these bodies tend to legitimize the unlawful actions of investigative authorities and build charges on flawed procedures. This practice results in the transfer and proliferation of procedural violations across all judicial levels, inflating them to the point where they pose a serious threat to justice—one that lawyers struggle to reverse at more advanced stages of litigation.

For example, the procedural flaw of recording a detainee's statement without the presence of legal counsel who can provide sound advice becomes a fundamental defect when that statement is used as evidence of guilt or forms the basis for a conviction. This issue has occurred in real cases examined in the body of the study.

Recommendations

To the High Judicial Council and the Attorney General in Sana'a and Aden

1. Conduct comprehensive evaluations of the Specialized Criminal Court's operations and assess the extent to which it guarantees the legal defense rights of individuals and complies with fair trial standards.
2. Implement a comprehensive reform of the Specialized Criminal Court to ensure trials uphold legal defense rights and comply with fair trial requirements.

3. Conduct thorough evaluations of the Specialized Criminal Prosecution's operations and scrutinize its adherence to individuals' legal defense rights and fair trial standards.

4. Carry out broad reforms of the Specialized Criminal Prosecution to ensure full independence and its ability to exercise legal oversight over detention facilities operated by all security agencies, including intelligence bodies, and to independently investigate detainees while ensuring legal defense rights in all circumstances.

5. Bring all detention facilities, without exception, under the authority and full oversight of the Public Prosecution and judiciary.

To All Yemeni Parties

1. Lift all restrictions undermining the independence of the legal profession and end all practices and violations targeting lawyers.

2. Instruct all security bodies, including intelligence agencies, to guarantee the right to legal defense during the evidence-gathering stage under all circumstances.

3. Prevent all practices and harassment specifically targeting female lawyers.

4. Implement capacity-building programs for leaders and personnel in all security bodies, including intelligence agencies.

5. Conduct awareness-raising programs for leadership and personnel in all security agencies, including intelligence services.

6. Establish complaint and grievance mechanisms, as well as internal oversight mechanisms, in all security bodies, including intelligence agencies.

7. Activate the role of the Inspector General.

8. Introduce a provision into the Code of Criminal Procedure requiring authorities to inform detainees of their right to consult a lawyer and their right to remain silent and not make any statement except in the presence of a lawyer—within a framework of consensus-based legal reform post-conflict.

9. Expand the legal right to consult and contact a lawyer to explicitly include the post-arrest and evidence-gathering phases.

10. Include provisions in relevant Yemeni legislation to guarantee lawyers' unrestricted access to their clients in detention facilities.

11. Revise the laws, regulations, and frameworks governing the establishment of security bodies—especially intelligence agencies—to ensure the clear inclusion of the right to consult and contact a lawyer during the post-arrest and evidence-gathering stages.

To the Yemeni Bar Association

1. Rigorously assess admission standards for lawyers into the General Bar Association and its local branches and avoid leniency in order to preserve the integrity of the profession.
2. Build lawyers' capacities in international humanitarian law, human rights protection during armed conflicts, and transitional justice by organizing regular workshops and training sessions.
3. Activate and strengthen disciplinary bodies to hold lawyers accountable for breaches of professional ethics and standards.
4. Enhance the Bar Association's role in protecting its members by organizing coordinated solidarity campaigns using visual media and social networks—through the General Bar Association and its branches in the governorates—to present a unified stance in defending the independence of the legal profession and denouncing violations against lawyers throughout Yemen.
5. Promote public legal awareness of the legal profession's role in achieving justice for victims and the ways society can support the protection of this profession in conflict contexts.

To Lawyers, Prosecutors, and Criminal Court Judges

1. Work jointly to restore public confidence in justice by strengthening judicial independence, upholding the rule of law, and protecting human rights and dignity.
2. Respect legal provisions that regulate the relationship between lawyers, prosecutors, judges, and judicial enforcement officers.
3. Establish effective institutional communication between bar associations and judicial bodies to address complaints and abuses and to propose solutions that contribute to creating a favorable litigation environment through a shared understanding of the complementary roles in achieving justice.
4. Build mutual trust and respect by encouraging lawyers to maintain appropriate courtroom decorum and urging judges and prosecutors to respect lawyers' rights to defense.
5. Prioritize continuous professional training for lawyers—especially new ones—as well as for judges and criminal prosecutors.
6. Hold joint workshops and training sessions for lawyers and judges on courtroom conduct and the rights and responsibilities of all parties involved.

To Local Human Rights Organizations

1. Intensify monitoring of violations against all actors in the justice system—including lawyers—and document arbitrary judicial proceedings targeting lawyers for performing their professional duties.
2. Coordinate with relevant entities to organize awareness workshops for judicial enforcement officers on the legal rights of detainees and the importance of upholding them.

To the International Community and Human Rights Organizations

1. Funding for legal aid mechanisms and support programs for victims who are unable to bear the costs of litigation, as well as vulnerable groups.

Introduction



The legal profession is a vital component of any country's justice system and rule of law. In contexts of protracted conflict, ensuring that this profession can operate with sufficient independence—and minimizing the harm and restrictions it faces amid the conflict—is a critical priority to reduce human rights violations and abuses, and to prevent the erosion of the structures of justice, rule of law, and individual rights.

This research paper primarily explores the role of the legal profession and the contributions of lawyers—both women and men—in Yemen toward upholding individuals' right to legal defense at all stages of criminal proceedings. This is recognized as a fundamental guarantee of the right to a fair trial under all circumstances. The paper will also shed light on the obstacles facing lawyers in fulfilling this role, and the requirements for protecting and strengthening their function as part of the broader justice sector, with consideration given to the needs of building an effective transitional justice framework for the post-conflict period.

The paper focuses on the role of lawyers in enabling access to legal defense during the ongoing armed conflict (2014–2025), a period in which thousands of victims—while in the custody of both official and unofficial entities affiliated with various conflict parties—have been subjected to grave human rights violations such as extrajudicial killings, torture, enforced disappearance, and arbitrary detention. This paper does not address cases involving minor offenses.

This paper is part of the research studies and reports produced by Mwatana for Human Rights as part of its broader research agenda, which focuses on human rights, the rule of law, justice, and peace in Yemen. The aim is to develop a nuanced understanding of the human rights situation and to formulate informed approaches that can contribute to achieving an effective transitional justice process following the conflict.

Methodology



This research paper employs a qualitative analytical approach to relevant national and international legal texts concerning the legal profession, its independence, and the rules governing its practice. In examining the actual roles played by lawyers in defending their clients' rights—and the violations and procedural and legal infringements of the right to defense in criminal cases—the paper draws on field interviews conducted in the administrative centers of several governorates. These include areas under the authority of the internationally recognized government and its affiliated forces (Aden, Taiz City, Marib, Hadhramaut), as well as areas under the control of the Ansar Allah (Houthi) group (Amanat Al-Asimah and Al Hudaydah⁽¹⁾).

In April 2025, Mwatana's team conducted **38 individual interviews** for the purpose of preparing this paper, including:

- **13 interviews with lawyers**
- **7 interviews with victims or their relatives**
- **5 interviews with members of the bar**
- **6 interviews with members of specialized criminal prosecution offices**
- **7 interviews with judges of criminal courts**

The interview forms were designed using open-ended questions tailored to the specific category of respondents. Additionally, a session was held on Wednesday, June 24, 2025, at Mwatana for Human Rights headquarters to review the paper's findings and enrich its recommendations. A group of lawyers, academics, and legal experts attended this session.

1. The Yemeni governorates that host the headquarters of the criminal courts and prosecution offices are Sana'a, Aden, Al Hudaydah, and Hadhramaut, in accordance with Supreme Judicial Council Decision No. (31) of 2009 concerning the establishment and organization of specialized criminal courts. Therefore, the geographical scope of this research paper is primarily limited to the centers of these governorates and some nearby governorate centers. These are also the areas where criminal defense lawyers are most concentrated.

I. A Brief Overview of the Armed Conflict in Yemen

Yemen has been witnessing an armed conflict between the internationally recognized government and the Ansar Allah (Houthi) group since the latter seized control of the capital, Sana'a, and other parts of the country in September 2014. The conflict escalated into a regional confrontation in March 2015, when Saudi Arabia and the United Arab Emirates led a military coalition of several Arab states in support of the internationally recognized government. This coalition launched sustained airstrikes until early 2022, when a significant shift occurred with the announcement of a UN-mediated truce between the internationally recognized government—represented by the Presidential Leadership Council—and the Ansar Allah (Houthi) group. This truce de-escalated hostilities between the two sides and brought a halt to the Saudi/UAE-led coalition's military operations in Yemen.

The conflict has had severe humanitarian and economic repercussions. As of 2025, more than **19 million people** are in need of humanitarian assistance.⁽²⁾ Funding shortfalls have led relief agencies to scale back life-saving aid programs, exacerbating the suffering of the Yemeni population. An estimated **17.1 million people** are facing food insecurity,⁽³⁾ and approximately **4.8 million people** remain internally displaced across the country. Since 2015, Yemen's real per capita GDP has declined by **58%**, while inflation in areas under the control of the internationally recognized government exceeded **30%** in 2024. The Yemeni rial depreciated from **1,540** to **2,065** per US dollar over the year, further eroding household purchasing power.⁽⁴⁾

The conflict has severely damaged most of the institutional structures of Yemen's security, justice, and rule-of-law sectors—structures that had taken decades to build prior to the outbreak of war⁽⁵⁾. In addition to fragmenting these sectors, the country is now geographically divided among several key actors who each wield **de facto authority**: the Ansar Allah (Houthi) group, the Southern Transitional Council,

2. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Yemen Humanitarian Needs Overview 2025, viewed on February 20, 2025, at: <https://www.unocha.org/yemen>.

3. World Food Programme (WFP), Yemen 2025, accessed February 20, 2025, at: <https://www.wfp.org/countries/yemen>.

4. World Bank, Yemen Spring 2025, accessed February 20, 2025, at: <https://www.worldbank.org/en/country/yemen>.

5. On this subject, see: Requirements for Institutional Reform in the Justice and Security Sector: Towards Transitional Justice in Post-Conflict Yemen (Study), Mwatana for Human Rights, September 2024, viewed in February 2025 at: <https://www.mwatana.org/reports-en/requirements-for-institutional-reform-in-the-justice-and-security-sector>.

the Joint Forces on the western coast, pro-Islah Party forces in Taiz and Marib, the Hadhramaut Tribal Alliance, and the internationally recognized government. Each of these actors has developed its own parallel institutions, separate from the official legal frameworks. They have assigned security, justice, and rule-of-law responsibilities to individuals recruited during the conflict—most of whom lack the necessary qualifications for such roles, except where basic requirements had to be met for certain positions. This has negatively impacted the working environment of the security and justice sectors, including the ability of lawyers to carry out their legal defense duties before security bodies, prosecutors, and courts.

II. Challenges Facing the Legal Profession in the Context of the Conflict

The legal profession in Yemen faces a profound challenge in maintaining its societal standing amid an armed conflict that persistently undermines the justice system and the rule of law. While some lawyers view the legal profession itself as a victim of the absence of justice and the lack of judicial independence⁽⁶⁾, in reality, the profession bears the brunt of society's frustration with the erosion of justice. Wherever access to justice becomes difficult or impossible, the legal profession is met with growing societal skepticism about its moral and practical value. This fosters negative perceptions of the purpose of practicing law in a reality where justice is no longer seen as attainable.

The complex and dangerous security environment further compounds these challenges, rendering the practice of law a perilous endeavor. In a judicial environment lacking independence and unable to provide the necessary conditions for the profession to function freely and independently, legal practice becomes risky—even within courtrooms and prosecution offices. In some cases, the judiciary itself is used as a tool to pressure lawyers and to deny both them and their clients essential rights and guarantees of defense, especially in cases deemed sensitive to national security. This includes denying lawyers the right to protection while pleading in court.

6. An interview conducted by "Mwatana" with a member of the Sana'a Bar Association Council, April 23, 2025.

Instead of working in partnership with lawyers to resist security interference from multiple sources and directions, judges and prosecutors sometimes become agents of legal persecution against lawyers. Moreover, political and security restrictions hinder lawyers' ability to move between governorates, obstructing their ability to perform their duties in defending their clients. This is compounded by various forms of direct and grave violations against lawyers, including threats, arbitrary detention, and physical assaults.

The impact of security dynamics on the administration of justice and the right to legal defense—whether through direct intimidation of lawyers or the judiciary's complicity—is not the only form of harmful interference carried out by parties to the conflict. However, it is a common thread across all regions of Yemen.

Beyond this, in certain areas—particularly those under the control of the Ansar Allah (Houthi) group—there are more profound structural effects on the justice system, including the establishment of parallel judicial institutions⁽⁷⁾ and the amendment of legislation that compromises judicial independence and the autonomy of the legal profession⁽⁸⁾. These developments have had a profoundly negative impact on the practice of law and the judiciary's ability to deliver justice, ultimately eroding public confidence in the impartiality of the courts and the integrity of their rulings⁽⁹⁾.

Lawyers often respond to the fragile and internally divided political and judicial reality in Yemen with a reasonable degree of professional solidarity. However, the strength of this awareness is questionable. The union structures representing lawyers are fractured to an extent that even lawyers themselves cannot ignore the dysfunction or identify the steps needed to engage with and overcome this reality. One of the most visible consequences of this fragmentation is the lack of trust between lawyers and their professional associations across different parts of Yemen.

7. Referring to the judicial system illegally established by the Ansar Allah (Houthi) group in 2020 to oversee judicial affairs.

8. Referring to the draft amendments to the Judicial Authority Law No. (1) of 1991, which was approved by the House of Representatives in Sana'a in September 2024 in preparation for its issuance. The draft amendments grant judges the authority to ban lawyers from appearing before them for a period of no less than three years for reasons related to the submission of malicious defenses—an explicit violation of Article 170 of Law No. (40) of 2002 concerning Pleadings and Civil Enforcement.

9. An interview conducted by "Mwatana" with a member of the Marib Bar Association, Marib, April 22, 2025.

According to one lawyer, the fact that the Yemeni Bar Association—the sole legally recognized body regulating the profession—operates from the capital, Sana’a, under the control of the Ansar Allah (Houthi) group, “has stripped it of much of its legal and professional independence and created a crisis of trust with lawyers in other regions⁽¹⁰⁾.” However, the problem goes even deeper. Bar association branches in other governorates have effectively become independent entities, connected only through formal or symbolic ties⁽¹¹⁾. Each branch now manages its administrative and financial affairs independently at the local level, without coordination with the Yemeni Bar Association or other branches. Each branch also undertakes the full range of regulatory functions within its jurisdiction, including issuing licenses to practice law at the primary, appellate, and supreme levels⁽¹²⁾.

While this decentralized organization of the legal profession may be seen as an adaptive response to an exceptional and challenging reality—intended to ensure the profession’s continued legal operation—it risks normalizing a fragmented status quo. This, in turn, undermines any serious efforts to restore the unity of the professional body and collective union action. The resulting fragmented union structures remain weak in the face of multiple de facto authorities, each exerting influence within its sphere, and are highly susceptible to ongoing interference. Such interference includes restrictions on union activities, meddling in appointments, summoning or harassing union members, obstructing meetings, and even raiding the premises of certain branches⁽¹³⁾. Furthermore, key union bodies—such as the General Bar Council—have been effectively paralyzed due to the inability to renew their memberships through general and branch-level assembly elections, as required by the Yemeni Law on the Legal Profession and within the legally mandated timeframes.

10. An interview conducted by “Mwatana” with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

11. An interview conducted by “Mwatana” with a member of the Marib Bar Association, Marib, April 22, 2025.

12. An interview conducted by “Mwatana” with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

13. An interview conducted by “Mwatana” with a member of the Sana’a Bar Association Council, April 23, 2025.

This division and organizational paralysis have severely undermined the union’s ability to defend lawyers and to facilitate the practice of law. Although the union possesses legal tools to protect the profession and respond to violations against it, the fragmented nature of union operations casts doubt on the effectiveness of these mechanisms. Legal responses to cases involving lawyers who are detained or arrested by security or military bodies—due to their opinions or for defending detainees—or whose professional immunity is violated by judicial bodies, typically range from filing complaints with the attorney general, issuing condemnation statements, providing legal support to detained lawyers, coordinating with local and international human rights organizations to defend union freedoms, and documenting violations⁽¹⁴⁾. Other actions may include cooperating with courts—when feasible—to ensure lawyers’ protection during hearings⁽¹⁵⁾, sending official communications to relevant authorities in cases of harassment during investigations or restrictions on visiting clients or accessing case files, and following up on cases of arbitrary detention of lawyers with security agencies⁽¹⁶⁾.

Whether the issue involves defending lawyers or confronting state interference in union affairs, union efforts are often hindered by legal constraints and a lack of institutional support⁽¹⁷⁾.

Conversely, the principle of holding lawyers accountable for professional misconduct appears to be largely ineffective due to the fragmented and unstable judicial and union landscape. As one bar member noted, “Accountability mechanisms remain weak due to the division and the absence of active disciplinary bodies, although we do make efforts to investigate serious complaints and to instill a culture of self-accountability⁽¹⁸⁾.” Another bar official stated that the existing accountability mechanisms fall short of expectations in terms of speed and effectiveness, which in turn hampers the enforcement of disciplinary actions against those found to have violated professional duties⁽¹⁹⁾.

14. An interview conducted by “Mwatana” with a member of the Sana’a Bar Association Council, April 23, 2025.

15. An interview conducted by “Mwatana” with a member of the Marib Bar Association, Marib, April 22, 2025.

16. An interview conducted by “Mwatana” with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

17. An interview conducted by “Mwatana” with a member of the Marib Bar Association, Marib, April 22, 2025.

18. An interview conducted by “Mwatana” with a member of the Marib Bar Association, Marib, April 22, 2025.

19. An interview conducted by “Mwatana” with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

Despite the training, education, and professional development activities carried out by the Yemeni Bar Association and its branches in the governorates, attention to these important areas remains limited in practice due to financial constraints. The difficult economic conditions faced by many lawyers, coupled with the lack of financial resources for union operations, have significantly weakened the ability of the Bar Association and its branches to respond to requests for legal aid submitted by litigants who cannot afford the costs of legal proceedings or attorney fees. Some describe these requests as overwhelming and recurring. As a result, some branches have completely suspended their legal aid programs due to financial reasons⁽²⁰⁾, while others continue to provide limited legal aid in cooperation with human rights organizations or through individual volunteer efforts by lawyers.

III. The Right of Victims to Legal Defense through a Lawyer and Related Rights: National and International Legal Framework

1. The Legal Profession and Its Regulatory Framework in Yemeni Law

Yemeni law places significant importance on the legal profession, designating among its core objectives the promotion of the rule of law, equitable access to justice, the defense of public freedoms and human rights, and collaboration with the judiciary and the Public Prosecution “to facilitate access to justice, simplify litigation procedures, and remove obstacles and complexities for litigants⁽²¹⁾.”

Law No. (31) of 1999 on the Regulation of the Legal Profession defines a lawyer as a person whose name is registered in the roll of lawyers and who is licensed to practice in accordance with the provisions of the law. A lawyer acts on behalf of natural or legal persons to assert and defend their rights before all courts, the Public Prosecution, police departments, investigation authorities, judicial and administrative committees, and any other legal or investigative entities addressing disputed matters (Article 5/1).

20. An interview conducted by “Mwatana” with a member of the Bar Association Council and the Disciplinary Council, Sana’a, April 20, 2025.

21. Law No. (31) of 1999 on the Regulation of the Legal Profession, Article 4.

The law outlines general conditions for registration in the general roll of the Bar Association, which include Yemeni nationality, a degree in law or in Sharia and Law, full legal capacity (with no specific age mentioned), good conduct and reputation, and no final conviction of a crime involving moral turpitude, dishonesty, or professional misconduct—unless legal rehabilitation has been granted. It also requires full-time dedication to the practice of law (Article 26).

To obtain a license to practice law from the Bar Association, the applicant must be registered in the general roll and authorized to plead before primary, appellate, or supreme courts. The lawyer must also maintain a private office, or work in a shared office or with a colleague, pay all dues to the Bar Association, and must not combine legal practice with public employment. The law prohibits lawyers from working in public institutions, state-owned or private companies, or engaging in trade or any work incompatible with the independence or dignity of the profession (Article 36). Any applicant whose registration is rejected has the right to appeal the decision before the Bar Council within 45 days of notification and to challenge the Council's decision before the Court of Appeal within another 45 days (Article 28). A licensed lawyer begins practicing after taking the official oath before the Minister of Justice in the presence of the Bar President and the Registration Committee.

With regard to the independence of the legal profession, Article 3 affirms that “the legal profession is a free and independent profession carried out in accordance with the provisions of this law.” The law considers the Bar Association an independent professional organization comprising registered lawyers and enjoying legal personality as well as administrative and financial independence (Article 6). The Bar Council, which consists of 13 members, including the Bar President, is elected through direct, free, and secret ballot by the General Assembly every four years (Article 17).

The Lawyer Registration Committee of the Bar Association is responsible for registering qualified lawyers across the Republic in the general and supplementary rolls. The Bar Association is also tasked with granting licenses to practice, regulating the profession in general, taking disciplinary actions against those who violate the rules, and providing legal aid to litigants who are unable to afford legal costs. The law prohibits the inspection of the Bar Association's headquarters or its branches unless done in accordance with the law, through a judicial order, and in the presence of a Public Prosecutor and the Bar President or branch head (or their representative).

Regarding the independence of lawyers, the law ensures that lawyers carry out their duties toward their clients freely and without interference, pressure, threats, or punishment for statements or actions made in the course of defense or because of it. Safeguards for independence also include the prohibition on combining legal practice with public service, and the right of the lawyer to withdraw from representation under specific legal conditions.

The law requires lawyers to work from a legal office, personally carry the responsibilities of the profession, and abide by Islamic values, principles of honor, and professional ethics in both personal and professional conduct. Lawyers must avoid any action or statement that may obstruct justice, and must present themselves and behave in a manner that reflects full respect for the court and refrains from anything that would undermine its dignity or authority (Articles 70–73). Prohibited conduct includes soliciting clients in ways that undermine the profession’s dignity, self-promotion in violation of the law, relying on incomplete or inaccurate legal references during arguments or submissions in breach of their professional integrity, and representing conflicting interests (Articles 74 and 75).

The Bar Association, through disciplinary councils established under the law, is authorized to impose disciplinary penalties on any lawyer who violates professional duties, behaves in a manner that discredits the profession, or acts in a way that undermines its dignity or breaches the law. Disciplinary measures range from verbal warnings to removal from the Bar’s roll. These disciplinary actions do not exempt the lawyer from potential criminal or civil liability for any harm caused to a client as a result of wrongdoing, negligence, or ignorance—whether by the lawyer or their assistants. For example, failure to attend court sessions may trigger such accountability (Article 85).

2. The Right to Legal Counsel in Yemeni Legislation and Laws

The right to legal counsel is a fundamental defense right enshrined in the Constitution of the Republic of Yemen and its domestic laws. Article 48(b) of the Constitution states: "...Anyone whose liberty is restricted has the right to refrain from making any statements except in the presence of their lawyer..."

Article 49 of the Yemeni Constitution further guarantees this right, affirming that the accused has the right to defend themselves, either personally or through legal representation, at all stages of investigation and trial, and before all courts of all levels and types.

Similarly, Article 9(1) of the Criminal Procedure Law affirms the right to defense: "The right to defense is guaranteed. The accused has the right to defend themselves or to seek the assistance of a representative to defend them at any stage of the criminal case, including during the investigation phase⁽²²⁾."

The right of the arrested person to consult a lawyer immediately upon arrest:

Article 73 of the Criminal Procedure Law provides for this right:

"Anyone who is arrested must immediately be informed of the reasons for their arrest and has the right to view the arrest warrant, to contact a person of their choosing to inform them of the situation, and to seek the assistance of a lawyer. The accused must also be informed without delay of the charges against them."

The right to legal counsel during detention and the investigative phase is also reaffirmed in Article 5(1) of the Law Regulating the Legal Profession, which assigns lawyers the responsibility to claim and defend rights before all courts, the Public Prosecution, police departments, investigative bodies, judicial and administrative committees, and all other legal entities and bodies conducting investigations on any disputed matter.

22. Republican Decree Law No. (13) of 1994 regarding criminal procedures, Article 9/1.

The right of the arrested or accused person to contact their lawyer:

Article 89(a) of the Attorney General's Instructions provides:

“The prosecution may prohibit the detained accused from contacting other detainees or receiving visitors, without prejudice to the accused’s right to always communicate with their lawyer in private. In such cases, the prosecution must provide written authorization for the meeting, whether requested by the accused or by the lawyer⁽²³⁾.”

Additionally, Article 31 of the Law Regulating the Prison Authority stipulates:

“A person held in pre-trial detention has the right to meet with their relatives and their lawyer upon written authorization from the authority that issued the detention order⁽²⁴⁾.”

3. Lawyers’ Rights to Defend Their Clients in Yemeni Legislation and Laws

Yemeni law provides clear legal safeguards for the right to defense during the investigation phase. Article 177 of the Criminal Procedure Law obliges the investigator to fully guarantee the defendant’s right to defense. Article 121 affirms that the confidentiality of the investigation shall not prejudice the right to defense.

The Lawyer’s Right to Attend Investigations:

Article 50 of Law No. 31 of 1999 on the Regulation of the Legal Profession affirms that only licensed lawyers have the right to practice the legal profession and perform its duties, including exclusively representing clients before courts, the Public Prosecution, police departments, investigative bodies, and all judicial or quasi-judicial committees and entities.

23. Attorney General Decision No. 20 of 1998 issuing general instructions to the Public Prosecution, Article 89/A.

24. Republican Decree No. (48) of 1991 regarding Prison Regulation, Article 31.

Article 180 of the Criminal Procedure Law grants the lawyer the right to review investigation documents the day before the interrogation or confrontation—unless the investigator decides otherwise—and prohibits separating the defendant from their attending lawyer during the investigation under any circumstances. Furthermore, “The investigator may not interrogate the accused or confront them with co-accused or witnesses in serious crimes without notifying their lawyer to attend, if one exists. The accused must also be informed that they have the right not to answer questions except in the presence of their lawyer.” An exception is made only in urgent cases due to fear of losing evidence⁽²⁵⁾.

The Right to Access and Copy Judicial Documents:

Article 314 of the Criminal Procedure Law states: “The parties to a case have the right to review case documents themselves or through their representatives upon notification of their appearance before the court.” A defense lawyer, as a party to the case, may be granted—by permission of the primary prosecutor—copies of evidence collection records, investigation reports, or other documents, provided that the request relates to such materials and that the investigation is completed⁽²⁶⁾. Additionally, lawyers are allowed to review investigation files the day before the interrogation or confrontation, unless the investigator decides otherwise, and “in all cases, the defendant may not be separated from their lawyer during the investigation.”⁽²⁷⁾

The Right Not to Have Requests Denied Without Legal Justification:

Courts, prosecution offices, police departments, and other entities before which a lawyer practices must provide all necessary facilities for the lawyer to carry out their duties. They may not reject the lawyer’s requests without legal justification, and must allow the lawyer or their representative to access and copy documents and attend investigations with their client in accordance with the law⁽²⁸⁾.

25. Attorney General Decision No. 20 of 1998 issuing general instructions to the Public Prosecution, Article 41/C.

26. Attorney General Decision No. 20 of 1998 issuing general instructions to the Public Prosecution, Article 797.

27. Republican Decree Law No. (13) of 1994 regarding Criminal Procedures, Article 180.

28. Law No. (31) of 1999 on the Regulation of the Legal Profession, Article 51.

The Right to Litigate Before Courts:

Article 52 of the Law on the Legal Profession affirms: “A lawyer has the right to adopt any approach they deem appropriate in defending their client and shall not be held liable for what they state in oral or written pleadings that fall within the requirements of the right to defense, provided such statements do not contravene any valid legal or religious provisions.” This includes the lawyer’s right to raise defenses, submit motions, respond to allegations, request postponements, contest charges, question prosecution witnesses, challenge evidence, request the presence of defense witnesses, challenge the validity of preliminary investigation reports, submit legal briefs and evidence in public hearings, and pursue any necessary legal actions to defend their client.

Freedom to Defend Client Rights and Interests:

The law guarantees defense lawyers the freedom to advocate for their clients without intimidation, to express their arguments freely during trial, and to speak in court.

The Lawyer’s Right to Immunity During Professional Practice:

This includes immunity from pretrial detention while performing professional duties due to actions or statements that may disturb courtroom order—unless the bar association is informed and a representative is present during the investigation.

Lawyers may not be investigated outside cases of flagrante delicto (caught in the act), nor may their offices be searched without the presence of a member of the Public Prosecution. The prosecution must notify the Bar President or branch head well in advance before initiating any search or investigation. Anyone who unjustly targets a lawyer during or because of their professional duties shall be penalized.

Prosecution offices are also prohibited from instructing the police to investigate complaints filed against lawyers or to gather information on such complaints. Moreover, a lawyer may not be summoned to the Public Prosecution by the police⁽²⁹⁾.

29. Attorney General Decision No. 20 of 1998 issuing general instructions to the Public Prosecution, Article 214.

4. The Right to Legal Counsel in International Instruments and Conventions

The right of the accused to obtain legal counsel for their defense is enshrined in several international human rights instruments. Article 11 of the Universal Declaration of Human Rights (December 1948) affirms this right, and it is also included in Protocol II to the Geneva Conventions on the Protection of Victims of Non-International Armed Conflicts (August 1949). Article 6(2)(a) of the Protocol states: “...The accused shall be informed without delay of the particulars of the offense alleged against them and shall be afforded all necessary rights and means of defense, both prior to and during the trial.”

Article 14 of the International Covenant on Civil and Political Rights (December 1966) provides that anyone charged with a criminal offense shall be entitled to minimum guarantees in full equality, including:

- having adequate time and facilities for the preparation of their defense and to communicate with counsel of their own choosing (paragraph b).
- being tried in their presence and defending themselves in person or through legal assistance of their own choosing.
- being informed of their right to have legal assistance assigned to them if they do not have legal representation.
- and having such assistance provided without payment if they lack the means to pay and if the interests of justice so require (paragraph d).

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (December 1988) reiterates these rights. Principle 11 affirms the right of a detained person to defend themselves or to receive legal assistance as provided by law (paragraph 1). It stipulates that the detainee and their lawyer, if they have one, must promptly be provided with full information regarding the detention order and the reasons for it (paragraph 2).

Principle 15 prohibits denying a detainee or prisoner communication with their family or lawyer for more than a few days. Principle 17 affirms the right to legal assistance and requires authorities to inform the detainee of this right immediately upon arrest and to provide reasonable facilities to exercise it.

If the detainee does not have a lawyer of their own choosing, they have the right to legal counsel appointed by the authorities whenever the interests of justice require—at no cost if they cannot afford to pay. Principle 18 ensures the detainee’s right to consult with their lawyer, with sufficient time and facilities. It prohibits any interference or monitoring of such consultations except in exceptional circumstances related to security or order. These consultations may take place within the sight—but not within the hearing—of law enforcement personnel.

Article 6 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions (May 1989) requires states to ensure that “persons deprived of their liberty are held in officially recognized places of detention, and that relatives, lawyers, or others having a legitimate interest are promptly provided with accurate information on the detainee’s detention and whereabouts, including transfers.”

Similarly, the Declaration on the Protection of All Persons from Enforced Disappearance affirms in Article 10(2) that “accurate information on the detention of persons and their place(s) of detention, including transfers, shall be made promptly available to their families, lawyers, or other persons with a legitimate interest, unless the persons concerned request otherwise.”

The Basic Principles on the Role of Lawyers (September 1990) affirm the right of every person to request legal assistance from a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings. These principles further emphasize that:

- Legal assistance must be accessible without discrimination, and states must ensure effective mechanisms for access.
- Sufficient funding and resources should be allocated to legal services for the poor and disadvantaged, in cooperation with bar associations.
- Arrested, detained, or imprisoned persons must be promptly informed of their right to be represented and assisted by a lawyer of their choice.
- All arrested or detained persons must be granted access to legal counsel immediately and, in any case, within no more than 48 hours of arrest or detention.

- Persons without lawyers must be provided with competent and experienced counsel appropriate to the nature of the charges, free of charge if they lack the means to pay and if the interests of justice require it.
- Lawyers must be given sufficient time, facilities, and opportunity to visit and consult their clients confidentially, without delay, interference, or surveillance. Such consultations may occur in the sight—but not the hearing—of law enforcement officials.

IV. The Role of Lawyers in Defending the Rights of Detainees and Arrestees During Custody

Judicial enforcement authorities impose restrictions on the right of individuals arrested or detained in connection with criminal cases to consult lawyers during custody and throughout the evidence-gathering phase. As a result, the role of lawyers in defending the rights of detainees and arrestees during this stage is, in practice, extremely limited.

In several cases documented through interviews, judicial enforcement authorities prevented detainees from accessing legal counsel immediately after their arrest and before giving statements, despite their critical need for sound legal advice from competent lawyers of their own choosing or selected by their relatives⁽³⁰⁾.

This denial of access to legal counsel was often coupled with a violation of the detainees' right to be informed of the reasons for their arrest and the nature of the charges against them—one of the fundamental pillars of the right to defense. Several lawyers reported that their clients, whom they began defending only after being referred to the prosecution, did not learn of the charges against them until they were transferred to the Specialized Criminal Prosecution and the investigation process had commenced⁽³¹⁾.

While some detainees did manage to consult lawyers during their unlawful detention, they encountered various restrictions that undermined their right to communicate with their lawyers and prevented them from meeting, speaking, or consulting privately. Several lawyers reported being denied access to visit their clients during unlawful detention, despite presenting official powers of attorney to the relevant judicial enforcement authorities⁽³²⁾.

30. An interview conducted by Mwatana with the victim F. Sh., Marib, April 22, 2025.

31. An interview conducted by Mwatana with lawyer Y. A. A., Al-Mukalla, Hadhramaut, April 22, 2025.

32. An interview conducted by Mwatana with lawyer N. S. S., Aden, April 24, 2025.

Requests made by lawyers for the immediate release of their clients on the grounds of unlawful detention were categorically rejected by enforcement authorities. These authorities also failed to refer the detainees and their case files to the Specialized Criminal Prosecution within the timeframe required by law. Lawyer N. S. S. (Aden) stated: “I was prevented from visiting my client during the initial period of his detention, and I was denied entry to the security facility (a camp run by the Security Belt Forces) that was holding him, even though I presented the official power of attorney⁽³³⁾.”

Lawyer Y. M. M. (Taiz city) reported that the Taiz city police and security department arbitrarily detained his client for over four months on charges of affiliation with the terrorist group ISIS. The initial investigation was conducted while the client was blindfolded, and authorities refused to cooperate with the lawyer or consider his legal motions challenging the validity of the arrest and detention. His requests for the client’s release were ignored: “During the evidence-gathering phase, the authorities refused to engage with us at all. We were expelled by the head of the governorate’s security, who viewed my client as a terrorist—and anyone who defended him as complicit⁽³⁴⁾.”

Other lawyers were subjected to complete isolation from their clients by judicial enforcement authorities during detention and faced explicit security threats due to the nature of the charges brought against their clients.

Lawyer A. S. M. (Aden) was not only denied access to his client and had his legal motions and requests rejected, but also received “direct and indirect threats from security personnel who demanded that he stop defending his client and refrain from interfering in security-related cases⁽³⁵⁾.” Another lawyer in Aden, S. A. S., stated: “An officer verbally threatened me after I requested to meet with my client at the detention facility⁽³⁶⁾.”

33. An interview conducted by Mwatana with lawyer N. S. S., Aden, April 24, 2025.

34. An interview conducted by Mwatana with lawyer Y. M. M., Taiz city, April 22, 2025.

35. An interview conducted by Mwatana with lawyer A. S. M., Aden, April 23, 2025.

36. An interview conducted by Mwatana with lawyer S. A. S., Aden, April 22, 2025.

The mere presence of a lawyer does not, in itself, guarantee that a detainee will receive their full rights to defense during the detention phase. Nor does it reliably act as a safeguard against misconduct by judicial enforcement officers or help curb violations or improve detention conditions—especially in cases where the arrest is carried out by security or military bodies lacking legal authority to detain, or when individuals are held in unofficial detention sites. Detainees are often subjected to torture, solitary confinement, ill-treatment, beatings, verbal abuse, starvation, and threats.

Lawyer A. A. A. Y. (Sana'a) reported that his client was arrested late at night by a unit of the “Police Intelligence Service”—a newly created entity that lacks legal judicial enforcement authority. He noted that his client was held in solitary confinement at an undisclosed location under the authority of this entity and was subjected to both psychological and physical intimidation⁽³⁷⁾.

The victim, H. F. B. (Hadhramaut), was held in solitary confinement for an extended period, which severely impacted his physical and mental health after being detained by the Military Intelligence of the Second Military Zone in the city of Mukalla.⁽³⁸⁾ His lawyer, R. N. A., reported that his client was detained in an unofficial site (Al-Rabwa Camp in the Khalaf area), where he was “placed in solitary confinement. During the initial period of detention, the victim was subjected to physical and psychological torture, beatings, electric shocks, water immersion, and partial stripping of clothes that lasted for several days⁽³⁹⁾.”

Lawyer A. S. M. (Aden) reported that his client was beaten, verbally abused, starved, and threatened. He was compelled to record a video confession, which was later published on social media platforms. This occurred after an unidentified entity arrested him at his home in Sheikh Othman District, Aden.⁽⁴⁰⁾

Lawyer M. W. reported that her client was “shackled during detention, deprived of food, water, and access to the bathroom⁽⁴¹⁾.”

37. An interview conducted by Mwatana with lawyer A. A. A. Y., Amanat Al-Asimah, Sana'a, April 19, 2025.

38. An interview conducted by Mwatana with the victim F. Sh., Marib, April 22, 2025.

39. An interview conducted by Mwatana with lawyer R. N. A., Hadhramaut, April 17, 2025.

40. An interview conducted by Mwatana with lawyer A. S. M., Aden, April 23, 2025.

41. An interview conducted by Mwatana with lawyer M. W., Al Hudaydah, April 23, 2025.

On the other hand, there are non-institutional challenges linked to the dynamics of the conflict that impose fundamental limitations on the role of the legal profession and, in some instances, render lawyers' involvement secondary—particularly when unofficial detention authorities resort to enforced disappearance in cases involving affiliation with armed groups or gangs, crimes affecting public security, or opinion-related charges.

In such circumstances, the families of victims often prioritize uncovering the fate and whereabouts of the disappeared over seeking legal representation, relying instead on available social influence and community pressure. This is because legal mechanisms have little to no impact on the behavior of these entities, and the judicial authorities are unable to access the secret detention facilities they operate.

In the few instances where lawyers played a role during the period of enforced disappearance, their involvement also focused primarily on uncovering the victim's location and fate, using a combination of human rights advocacy, media outreach, and community mobilization—rather than relying solely on legal tools.

Lawyers—alongside organizations and the families of victims—face significantly greater challenges when enforced disappearances and arbitrary detentions are carried out by intelligence agencies such as the Security and Intelligence Service, the National Security Agency, or the Political Security Organization. Any legal efforts to follow up are met with the stark reality that there are no channels of communication or engagement between these agencies and lawyers, organizations, or victims' families. Furthermore, there are no mechanisms for complaints or grievances, nor does the Public Prosecution—including the Attorney General—have any effective authority over these agencies.

While an active role of lawyers can contribute to uncovering the fate of some victims of enforced disappearance—under certain social and solidarity-based conditions—this role does not prevent arbitrary or unlawful detention from continuing even after the victim's fate and whereabouts are revealed. Lawyers, with only legal tools at their disposal, have limited impact in the face of the overwhelming power of unofficial entities responsible for the disappearance, particularly when those entities seek to keep the victim in arbitrary detention and maintain control over the course of the case.

For example, the family of a journalist who was forcibly disappeared following his late-night arrest from his home in Sana'a by the Ansar Allah (Houthi) group forces on 20 September 2024 reported that his lawyer played a key role in a broader solidarity campaign that ultimately led to the disclosure of his place of detention. The family, then, was allowed to visit and contact him after 45 days of disappearance. However, it took an additional four months after revealing his whereabouts for the case to be referred to the Specialized Criminal Prosecution.⁽⁴²⁾

The absence of legal representation during the investigative phase—or the failure to respect lawyers' rights to defend—has harmful consequences that go beyond violations of detainees' rights. It also severely undermines the fairness of the judicial process itself. When a detainee gives statements after arrest without the guidance of legal counsel, they may make conflicting or self-incriminating declarations that are later used against them in subsequent stages of the proceedings.

Numerous documented cases show that what detainees say at this stage—without understanding the consequences and without adequate legal direction—often becomes the basis for criminal charges. These statements, recorded by judicial enforcement officers, are later used as incriminating evidence in the trial. For defense lawyers, nullifying such confessions becomes a daunting legal challenge.⁽⁴³⁾ In fact, confessions obtained during detention have emerged as a significant obstacle to effective legal defense, and most efforts by lawyers to invalidate them—despite procedural flaws in their acquisition—ultimately fail.

Confessions extracted from defendants through unlawful means, coercion, or force often become the sole basis for establishing guilt. This represents the extreme consequence of denying defense rights during detention—a failure that results in disastrous consequences for justice. The study confirms the existence of such cases.

42. An interview conducted by Mwatana with the victim's wife M. A. M. D., Amanat Al-Asimah, Sana'a, April 2025.

43. An interview conducted by Mwatana with lawyer N. Kh., Amanat Al-Asimah, Sana'a, April 21, 2025.

One lawyer (Sana'a) stated: "The prosecution based the indictment on an evidence report obtained unlawfully by the arresting authority, despite the defendants' denial of the confessions attributed to them⁽⁴⁴⁾." Another lawyer (Marib) added: "We tried to prove that the confessions in the investigation report by the Political Security were extracted under duress, but the court rejected the evidence proving coercion⁽⁴⁵⁾."

This fundamental erosion of defense rights during detention—particularly the right of the detainee to consult with and be assisted by a lawyer in confidence—leads to dead ends for justice. It renders the task of lawyers defending their clients during investigations and before the prosecution and criminal courts exceedingly difficult and fraught with challenges.

According to the highest standards of the desired justice, the integrity of trial proceedings and the fairness of any verdict do not rest solely on courtroom arguments and legal submissions—important as those may be—nor only on the proceedings before the prosecution. Rather, the process begins from the very first moments of arrest and detention by judicial enforcement authorities and the adherence of such authorities to the requirements of procedural justice.

Justice requires that detention be carried out by a legally authorized entity, based on a legitimate legal basis, and supported by a written order issued by a competent authority. The arrest must be conducted in a manner that respects the dignity of the individual, and the detainee must be transferred to a lawful and appropriate place of detention. They must be informed of the charges forming the basis of their detention, granted access to a defense attorney and to their family, and held only for the period permitted by law. Furthermore, the detainee must be able to file complaints and challenges and be brought promptly before a competent court with all guarantees of a fair trial.

44. An interview conducted by Mwatana with lawyer N. Kh., Amanat Al-Asimah, Sana'a, April 21, 2025.

45. An interview conducted by "Mwatana" with a lawyer assigned by the Marib Court, Marib, April 21, 2025.

V. The Role of Lawyers in Defending Their Clients During the Prosecution's Investigation Phase

The role of lawyers becomes more prominent during the prosecution phase, where it is accompanied by clearer legal guarantees than during the preliminary investigation and evidence-gathering stage. Nevertheless, lawyers still face significant challenges in carrying out their legal duties in defense, which ultimately diminishes the perceived value of their role in the eyes of their clients.

Specialized criminal prosecution offices often base their investigations on preliminary reports submitted by judicial enforcement authorities and the initial investigations conducted by these bodies. According to several lawyers, these prosecution offices tend to excessively legitimize these reports⁽⁴⁶⁾ despite their numerous procedural flaws, such as the lack of judicial reference numbers, omission of the time of interrogation, or failure to record the name and title of the officer conducting the investigation or the name of the clerk who drafted the report.⁽⁴⁷⁾ Prosecutors frequently accept these reports as a sufficient basis for pressing charges without requesting additional inquiries or collecting further evidence in cases where further investigation is necessary. Rarely do they question whether the legal procedures in drafting these reports were properly followed.

Moreover, prosecutors often rely on investigative reports issued by entities that have no legal authority to perform judicial enforcement or conduct preliminary investigations and regularly dismiss lawyers' requests to invalidate such reports on legal grounds⁽⁴⁸⁾.

Additionally, the specialized prosecution offices routinely overlook numerous procedural violations committed during arrest, detention, and the evidence-gathering phase. They fail to review arbitrary actions taken prior to the referral of cases to prosecution⁽⁴⁹⁾ or to investigate complaints alleging serious violations during detention, including cases of enforced disappearance.

46. An interview conducted by Mwatana with lawyer M. A. H. A., Amanat Al-Asimah, Sana'a, April 17, 2025.

47. An interview conducted by Mwatana with lawyer A. A. A. Y., Amanat Al-Asimah, Sana'a, April 19, 2025.

48. An interview conducted by lawyer N. S. S., Aden, April 24, 2025.

49. An interview conducted by lawyer A. S. M., Aden, April 23, 2025.

One lawyer described this conduct as a form of implicit approval by the prosecution of the grave violations committed against defendants⁽⁵⁰⁾.

Lawyer A.H.A. (Sana'a) stated: "I submitted motions challenging the legality of the arrest and search procedures, and raised public-order defenses regarding the unauthorized conduct of law enforcement officers, including the unlawful extraction of confessions from my client. However, the prosecution rejected all the motions submitted by the defense." He added: "In the face of such abuse, I withdrew from the case⁽⁵¹⁾."

Lawyer N.S.S. (Aden) stated: "The prosecution took no action against the entity that unlawfully detained my client⁽⁵²⁾."

Lawyer A.S.M. (Aden) said, "I requested the prosecution to open a serious investigation into allegations of torture, refer my client to a forensic doctor, hold those responsible for the torture accountable, and declare all actions stemming from the unlawful arrest null and void. However, the prosecution responded passively to the complaints and did not issue formal replies to most of the legal requests." He added: "No investigation was opened into the allegations of torture or enforced disappearance⁽⁵³⁾."

Lawyer R.N.A. (Hadhramaut) reported: "The prosecution failed to take any action to refer my client to a medical specialist to document the torture he suffered, despite the visible signs on his body⁽⁵⁴⁾."

A victim—who is both a journalist and activist—confirmed the lawyers' accounts by stating: "The Specialized Criminal Prosecution did not investigate the torture allegations, nor was I referred to a forensic doctor, despite the presence of clear evidence of physical and psychological abuse⁽⁵⁵⁾."

50. An interview conducted by Mwatana with lawyer A. A. A. Y., Amanat Al-Asimah, Sana'a, April 19, 2025.

51. An interview conducted by Mwatana with lawyer M. A. H. A., Amanat Al-Asimah, Sana'a, April 17, 2025.

52. An interview conducted by Mwatana with lawyer N. S. S., Aden, April 24, 2025.

53. An interview conducted by Mwatana with lawyer A. S. M., Aden, April 23, 2025.

54. An interview conducted by Mwatana with lawyer R. N. A., Al-Mukalla, Hadhramaut, April 17, 2025.

55. An online interview conducted by Mwatana with the victim A. M. M. A., Aden, April 17, 2025.

Some lawyers attribute such negative responses to the broad influence exercised by judicial enforcement bodies and unofficial military and security actors over the specialized criminal prosecution offices, including their direct interference in prosecutorial work⁽⁵⁶⁾. In some instances, this interference takes blatantly egregious forms that are difficult to believe.

A court-appointed lawyer defending a defendant in Marib stated: “The prosecution conducted the investigation with the defendant in the presence of the same Political Security officers who had detained him—while his lawyer was absent⁽⁵⁷⁾.”

One victim affirmed: “I was interrogated by a member of the criminal prosecution in the presence of the prison director who had tortured me⁽⁵⁸⁾.”

Some prosecutors reject defense lawyers' requests to obtain or even review their clients' case files. This behavior is often a typical pattern among members of the criminal prosecution, constituting a “restriction on the right to prepare an adequate defense and respond appropriately during the preliminary investigation phase⁽⁵⁹⁾.”

In several cases, prosecutors initiated investigations with defendants in the absence of their lawyers or outright prevented lawyers from attending interrogations with their clients. A lawyer in Hadhramaut reported: “My client was denied his right to legal representation during the investigation, in clear violation of the Yemeni Constitution and Criminal Procedure Law. I requested that the investigation be repeated in the presence of legal counsel, as my client was not given enough time to appoint a lawyer, but the prosecution rejected our request⁽⁶⁰⁾.”

56. An interview conducted by Mwatana with lawyer A. A. A. Y., Amanat Al-Asimah, Sana'a, April 19, 2025.

On this subject, see: Requirements for Institutional Reform in the Justice and Security Sector: Towards Transitional Justice in Post-Conflict Yemen (Study), Mwatana for Human Rights, September 22, 2024, *ibid*.

57. An interview conducted by Mwatana with a lawyer assigned by the Marib court, Marib, April 17, 2025.

58. An online interview conducted by Mwatana with the victim A. M. M. A, Aden, April 17, 2025.

59. An interview conducted by Mwatana with lawyer R. N. A., Al-Mukalla, Hadhramaut, April 17, 2025.

60. An interview conducted by Mwatana with lawyer R. N. A., Al-Mukalla, Hadhramaut, April 17, 2025.

Another lawyer stated: “The investigation with my client proceeded without allowing me, as his lawyer, to attend certain sessions. My requests for precise information regarding the investigation schedule were ignored, and the prosecution continued its procedures without notifying me to be present alongside my client⁽⁶¹⁾.”

While some lawyers complained about the slow pace of investigations, others noted that certain investigations were rushed, with case files being referred to court along with a conviction recommendation despite insufficient evidence⁽⁶²⁾. A lawyer in Marib noted: “The prosecution acted hastily and without due diligence, referring the case to the criminal court while the investigation was still incomplete, thereby obstructing the course of justice⁽⁶³⁾.”

Overall, field data reveals that criminal prosecution offices often fail to enable lawyers to fulfill their legal duties in defending their clients. Some members of specialized prosecution offices acknowledged violations of defense lawyers’ rights by their colleagues for various reasons. N.T.M.M., a member of the Taiz Appeals Prosecution, stated: “Some prosecutors restrict defense lawyers’ rights for political, security-related, or personal reasons. Others act selectively depending on the nature of the case⁽⁶⁴⁾.”

The Specialized Criminal Prosecution official in Aden, R.M.S., does not deny that there are restrictions placed on lawyers in certain cases— “particularly those related to terrorism or organized crime, where some limitations are imposed for security reasons. However, this requires careful oversight to ensure that such justifications are not used as a pretext to restrict the fundamental rights of the lawyer and their client⁽⁶⁵⁾.”

61. An interview conducted by Mwatana with the victim F. Sh., Marib, April 22, 2025.

62. An interview conducted by Mwatana with lawyer S. A. Q., Aden, April 22, 2025.

63. An interview conducted by Mwatana with a lawyer assigned by the Marib court, Marib, April 21, 2025.

64. An interview conducted by Mwatana with a member the Taiz Appeals Prosecution N. T. M. M., Taiz, April 16, 2025.

65. An interview conducted by Mwatana with a member of the Specialized Criminal Prosecution of Aden R M. S., Aden, April 20, 2025.

Another member of the Criminal Prosecution in Aden stated: “We at the prosecution understand that the presence of a lawyer is a safeguard for justice and for protecting the rights of the accused. But in practice, certain restrictions may arise in sensitive cases, either due to security pressures or pressure from superiors. We try as much as possible to balance the right to a defense with the demands of maintaining security, though that is not always done in an ideal manner⁽⁶⁶⁾.”

However, the same prosecutor pointed to unlawful behavior by some lawyers as a reason for limiting their ability to exercise certain defense rights: “Currently, the practice of law has become politicized. Lawyers attend interrogations simply to obstruct the proceedings, encouraging the defendant to refuse to give statements or to recant their confessions before the prosecution. Some lawyers even refuse to attend interrogations altogether in order to later challenge and nullify the prosecution’s investigation⁽⁶⁷⁾.”

The Head of the Specialized Criminal Prosecution in Hadhramaut placed the blame on “new lawyers,” stating: “They sometimes lack adequate training and do not treat professional conduct within the prosecution seriously. They often lack the skills to properly draft legal memos or are unfamiliar with the procedures, which leads to delays in case resolution or weakens the legal position of their clients⁽⁶⁸⁾.”

VI. The Role of Lawyers During Trial Proceedings Before Criminal Courts

The trial phase before criminal courts is fraught with a wide range of practices and procedures that either undermine lawyers’ legal rights in defending their clients or directly conflict with the right to a fair trial, resulting in serious violations of justice⁽⁶⁹⁾. According to interviewed lawyers, the primary challenge to defense rights and guarantees during trial lies in the systematic disregard by specialized criminal

66. An interview conducted by Mwatana with a member of the Specialized Criminal Prosecution of Aden Kh. A., Aden, April 24, 2025.

67. An interview conducted by Mwatana with a member of the Specialized Criminal Prosecution of Aden Kh. A., Aden, April 24, 2025.

68. An interview conducted by Mwatana with the Head of the Specialized Criminal Prosecution in Hadhramaut, Hadhramaut, April 16, 2025.

69. On fair trial standards and the fairness of trials before specialized criminal courts in Yemen, see: Courts of Abuse: A Case Study of Yemen’s Specialized Criminal Courts 2015-2020 (Study), Mwatana for Human Rights, September 2021, accessed on February 22, 2025, at: <https://www.mwatana.org/reports-en/courts-for-abuse>.

courts of lawyers' motions and defenses—especially those questioning the legality and validity of pretrial procedures—without any legal justification. This includes motions to verify the legality of arrest and detention, the authority of the entity carrying them out, and the courts' refusal to address allegations of torture and coercion during detention or interrogation, and the resulting coerced or invalid confessions. Additionally, some criminal judges have refused to summon exculpatory witnesses or allow cross-examination of prosecution witnesses, and have proceeded with cases lacking sufficient evidence.

While field data indicates some limited exceptions to these trends, the majority of lawyers interviewed reported that specialized criminal courts routinely ignored their motions, requests, and appeals without legal basis. Lawyer N. S. S. (Aden) submitted legal defense memoranda seeking the annulment of her client's arrest and initial interrogation procedures, requested his release, and demanded an investigation into allegations of torture, including a referral to a forensic doctor. Nonetheless, she stated that the criminal court "repeatedly ignored my motions and proceeded to schedule trial sessions without any preliminary legal review⁽⁷⁰⁾." Similarly, lawyer A. S. M. (Aden) complained that he was not allowed to challenge the admissibility of evidence presented by the prosecution against his client. The judge refused to consider procedural defenses regarding the invalidity of the arrest and rejected the appeal against the legality of the investigation due to constitutional violations. The lawyer added, "The court ignored our defenses and decided to proceed with the trial despite both procedural and substantive objections," and noted that "all of this negatively impacted my client's right to a fair trial⁽⁷¹⁾."

From the perspective of some judges, the courts' disregard for defense motions is attributed to the weak legal basis of these requests, often resulting from poor professionalism and limited legal knowledge among some lawyers. One judge remarked, "While there are lawyers with strong experience and professionalism who respect procedural rules and present their motions and arguments in a competent manner, there are others who lack experience and show no interest in educating themselves in their field, which negatively affects case proceedings⁽⁷²⁾."

70. An interview conducted by Mwatana with lawyer N. S. S., Aden, April 24, 2025.

71. An interview conducted by Mwatana with lawyer A. S. M., Aden, April 23, 2025.

72. An interview conducted by Mwatana with a judge at the Specialized Criminal Court in Aden, Aden, April 22, 2025.

Another judge added: “There are lawyers who are well-regarded, capable, and diligent in their work—their pleadings are excellent, and their presence in prosecution offices and courtrooms contributes to justice. [However,] many lawyers enter the profession without sufficient training. These lawyers are looked down upon in the courtroom due to their weak arguments or lack of familiarity with procedural law⁽⁷³⁾.”

A judge from the Specialized Primary Criminal Court in Hadhramaut stated: “Frankly, the overall professional performance of lawyers is below the expected standard and falls short of the dignity of such a noble profession. Many lawyers, unfortunately, fail to adequately prepare for their cases, lack the skills of presentation and persuasion during hearings, or attend without sufficient knowledge of the law or even the details of the case file they are defending—because they do not read. This diminishes the dignity of the profession and affects how lawyers are perceived by the judiciary⁽⁷⁴⁾.”

Despite the merit in the concerns raised by some of the judges interviewed regarding the professional performance of lawyers, it is difficult to accept these concerns as sufficient justification for the denial of certain defense rights to lawyers within criminal courtrooms. This is especially true given that a number of judges—though fewer—also acknowledged deficiencies in the legal and professional training of some criminal court judges themselves, making the previously cited justification highly relative.

In any case, some of the judges’ opinions overlooked the possibility that the denial of defense rights may, in fact, cause the underperformance of lawyers, rather than result from it. For example, depriving lawyers of access to their clients’ case files or the ability to obtain copies significantly hampers their ability to prepare effective defenses and advocate competently in court—a point clearly reflected in several lawyers’ accounts.

Furthermore, the judges interviewed did not address the impact of pressure stemming from an unstable and unsafe judicial environment on lawyers’ professional performance. A compelling description of such an unsafe environment and its effect on legal defense work was provided by one lawyer:

73. An interview conducted by Mwatana with a judge at the Specialized Criminal Court in Aden, Aden, April 23, 2025.

74. An interview conducted by Mwatana with a judge at the Specialized Primary Criminal Court in Hadhramaut, Hadhramaut, April 21, 2025.

“This trial did not meet even the minimum standards of a fair trial. The courtroom was packed with heavily armed military personnel. During the initial trial phase, we raised procedural defenses challenging the legality of the arrest and interrogation and the jurisdiction of the military authority that conducted them, but the court rejected them. The intimidating atmosphere directly affected my ability as a lawyer to perform my defense duties freely and independently. Some hearings were held in the central prison with authorization from the Minister of Justice, and continued to be held there even after the justification for that authorization had lapsed, under the pretext of security concerns. The appeal stage dragged on for over a year and a half amid similar procedural chaos. Key motions relating to the right to defense were dismissed without any clear legal basis, which directly obstructed my ability to practice law. Neither the trial court nor the appellate court took any serious steps to investigate allegations of torture, or to hear complaints regarding coercion and enforced disappearance, despite clear physical signs on my client’s body [...] We objected to holding some sessions inside the central prison, as it clearly violated the principle of a public trial, but none of the legal motions I submitted had any tangible impact on protecting my client’s rights or correcting the course of the proceedings. During the appeal, I submitted a detailed memorandum outlining grounds for appeal against the initial verdict, listing all procedural violations and serious breaches, yet the appeals court disregarded these critical grounds and upheld the lower court’s ruling, despite the egregious violations of defense rights⁽⁷⁵⁾.”

The impact of an unsafe judicial environment on lawyers’ performance in courtrooms is also apparent in the testimonies of some victims when asked about their views on their lawyers’ professionalism. One defendant, F. Sh. (Marib), stated: “To some extent, I felt the lawyer was genuinely trying to defend me, but he was operating under immense pressure and at times couldn’t say everything he wanted to in court⁽⁷⁶⁾.”

A relative of one victim said: “Honestly, my trust in him [the victim’s lawyer] was limited. Sometimes I felt he was afraid and under pressure, which made him seem hesitant during the sessions [...] He did make some good efforts early on, but he wasn’t strong enough in court because he lacked the protection needed to fully carry out his duty⁽⁷⁷⁾.”

75. An interview conducted by Mwatana with lawyer R. N. A., Al-Mukalla, Hadhramaut, April 17, 2025.

76. An interview conducted by Mwatana with the victim F. Sh., Marib, April 22, 2025.

77. An interview conducted by Mwatana with a relative of the victim M. Q., Marib, April 20, 2025.

Just as the unsafe and oppressive judicial environment has complicated lawyers' ability to practice their profession, it has also negatively affected their image in the eyes of their clients—and may have even undermined their relationship with them.

The mother of one defendant accused of belonging to a terrorist cell (the “Fuwwah cell”), whose trial took place under circumstances his lawyer described as “an unjustified atmosphere of intimidation,” stated: “I appreciate the lawyer’s efforts, but he should have been more courageous in defending the rights of my wrongfully accused son.”

She added: “He did not argue his case forcefully and didn’t apply real pressure to compel the court to investigate. Maybe it was due to the heavy military presence in the courtroom. The lawyer should have insisted more firmly on opening an independent investigation into the torture allegations, submitted written requests, and repeated them before the judge and appellate judges. He should have demanded that the officers involved be summoned and interrogated in court. But instead, he merely mentioned these issues weakly, without persistence, and in a voice so low that it seemed he didn’t want anyone in the room to hear him⁽⁷⁸⁾.”

Violations of procedural safeguards during criminal trials represent yet another aspect of the erosion of lawyers’ rights and guarantees in defense. For example, several lawyers reported that their clients were not properly notified of their court dates, which prevented them from attending hearings and inadvertently led to procedural violations that negatively impacted the course of the trial⁽⁷⁹⁾.

Lawyer Y. A. A. (Hadhramaut) said that his client’s court notifications were issued informally or through the prison administration without confirming that the notice was personally delivered. As a result, the client was deprived of the opportunity to prepare for his defense or attend the hearing adequately. He added: “Many hearings were rescheduled without informing us, and some we couldn’t attend due to improper notification⁽⁸⁰⁾.”

78. An interview conducted by Mwatana with the mother of victim A. Kh. B., Hadhramaut, April 20, 2025.

79. An interview conducted by Mwatana with lawyer N. S. S., Aden, April 24, 2025.

80. An interview conducted by Mwatana with lawyer Y. A. A., Al-Mukalla, Hadhramaut, April 22, 2025.

There are numerous instances where lawyers were wholly or partially prevented from pleading before the courts—despite it being a fundamental defense right—whether by being barred from entering the courtroom without legal justification,⁽⁸¹⁾ being threatened or expelled from the courtroom,⁽⁸²⁾ being denied the right to speak, or not being given sufficient time to mount a defense.

What lawyers view as violations of their defense rights within criminal courtrooms is often attributed by some judges to the need for judges to perform their duties and maintain ‘order in the courtroom and the legal proceedings,’ especially when lawyers exceed the professional and procedural boundaries⁽⁸³⁾.

As one judge explained: “The problem arises when a lawyer starts yelling, attacking the judge and accusing him of bias, or accusing the prosecution of collusion, or when they interrupt the judge throughout the hearing, thereby obstructing the session. In doing so, the lawyer abandons the role that the law has assigned him—defense—and the judge is then forced to stop him⁽⁸⁴⁾.” He added: “When a lawyer threatens the judge during a session or uses inappropriate language, like saying ‘I’ll file a complaint against you with the Judicial Inspection Authority,’ the judge will inevitably have to expel him from the courtroom.”

Another judge agreed with this perspective, saying, “Some lawyers enter the courtroom as if it were a battlefield and imagine the judge is their enemy just because he’s applying the law⁽⁸⁵⁾.”

A member of the Specialized Criminal Prosecution in Taiz echoed this sentiment, saying, “Some lawyers do not live up to the professional standards of their role. They treat courtrooms as arenas for conflict, where there’s no room for respecting colleagues or upholding the dignity of the judiciary⁽⁸⁶⁾.”

81. An interview conducted by Mwatana with a lawyer assigned by the Marib court, Marib, April 21, 2025.

82. An interview conducted by Mwatana with lawyer M. A. H. A., Amanat Al-Asimah, Sana’a, April 17, 2025.

83. An interview conducted by Mwatana with a judge at the Specialized Primary Criminal Court in Hadhramaut, Hadhramaut, April 21, 2025.

84. An interview conducted by Mwatana with a judge at the Specialized Primary Criminal Court in Hadhramaut, Hadhramaut, April 21, 2025.

85. An interview conducted by Mwatana with a judge at the Specialized Primary Criminal Court in Sana’a, Sana’a, April 26, 2025.

86. An interview conducted by Mwatana with a member of the Taiz Appeals Prosecution N. T. M. M., Taiz, April 16, 2025.

Reducing the legal dilemma to behavioral issues—specifically the so-called “provocative” conduct of lawyers in criminal courtrooms—appears to be lacking in both comprehensiveness and balance. In reality, some members of the criminal prosecution acknowledge that certain judges behave toward lawyers during hearings with “irritability and impatience” due to work-related pressures⁽⁸⁷⁾. Others argue that the right to defense can, in practice, be undermined in courtrooms for flimsy reasons unrelated to any so-called “courtroom misconduct” by lawyers.

In this context, a judge at the Specialized Criminal Court (Aden) pointed out that “some judges detain or fine lawyers for minor verbal slips or simple actions.”⁽⁸⁸⁾ Judge R. A. M. (Aden) noted that both judges and lawyers can be responsible for undermining the right to defense. Violations of lawyers’ rights, she explained, may result “either from arbitrary action by the judiciary or from misconduct by the lawyer, met with a reaction that exceeds legal boundaries.”⁽⁸⁹⁾

Judge R. A. M. (Aden) particularly links judicial violations of the right to defense in courtrooms to the nature of the case, stating: “Respect for lawyers’ rights varies depending on the type of case and the location of the trial.” She added: “In ordinary cases, lawyers are generally allowed to perform their duties without major interference. However, in sensitive cases—especially those involving human rights violations—lawyers may face multiple obstacles, such as being denied full access to case files, having their time for defense limited, or even being subjected to indirect pressure.”

In the same context, judges and members of the specialized criminal prosecution acknowledge the existence of legal proceedings against lawyers, though they describe such instances as “rare” and occurring for criminal reasons⁽⁹⁰⁾. A judge at the Specialized Criminal Court in Aden cited the arbitrary prosecution of lawyer Sami Yaseen, noting that it occurred without any specific charges⁽⁹¹⁾.

87. An interview conducted by Mwatana with a public prosecutor at the Specialized Criminal Division (a member of the prosecution) in Sana’a, Sana’a, April 27, 2025.

88. An interview conducted by Mwatana with a judge at the Specialized Criminal Court in Aden, Aden, April 22, 2025.

89. An interview conducted by Mwatana with judge R. A. M., Aden, April 21, 2025.

90. An interview conducted by Mwatana with the Head of the Specialized Criminal Prosecution in Hadhramaut, Hadhramaut, April 16, 2025.

91. An interview conducted by Mwatana with a judge at the Specialized Criminal Court in Aden, Aden, April 23, 2025.

A judge in Al Hudaydah does not rule out the possibility of arbitrary legal actions against lawyers but believes such actions stem from security agencies rather than judicial authorities, and when they do occur, they are driven by personal animosities rather than targeted attacks against the legal profession⁽⁹²⁾. Similarly, a judge at the Specialized Primary Criminal Court in Hadhramaut denies the existence of any officially documented or publicly declared cases of arbitrary prosecution against lawyers for carrying out their professional duties in defending their clients⁽⁹³⁾.

VII. Requirements for Protecting the Legal Profession and Its Role in Transitional Justice

According to bar representatives interviewed, protecting the legal profession first requires reaffirming its place in society—a goal that is difficult to achieve amid a disrupted legal and institutional environment. As they stated, “The decline in the status of the legal profession in Yemen is not due to lawyers’ failure to perform their duties, but rather to the dysfunction of the institutional framework governing union and legal work. This calls for legislative and structural reforms that ensure the independence of professional unions and protect lawyers as essential partners in achieving justice and upholding the rule of law⁽⁹⁴⁾.”

In addition to correcting the deficiencies in the legislative and judicial structure to guarantee judicial independence and impartiality, insulating the judiciary and its various institutions from political conflict is also crucial. This would help create an environment in which lawyers can practice independently and freely, and would limit the unwelcome interference of warring parties in the affairs of professional legal unions, while also enhancing these unions’ capacity to resist such intrusions.

There is no doubt that the Yemeni Bar Association and its branches across the governorates play an important role in achieving these goals by demonstrating internal unity and cohesion, avoiding excessive localization of union activity, and minimizing the impact of organizational divisions on union stances and actions related to defending the profession and safeguarding lawyers’ rights and immunities.

92. An interview conducted by Mwatana with a judge at the Specialized Criminal Court in Al Hudaydah city, Al Hudaydah, April 27, 2025.

93. An interview conducted by Mwatana with a judge at the Specialized Primary Criminal Court in Hadhramaut, Hadhramaut, April 21, 2025.

94. An interview conducted by Mwatana with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

This approach would reinforce a profession-wide solidarity that transcends political affiliations and geographical boundaries, and would support efforts to confront violations, abuses, and unlawful practices targeting lawyers and their professional associations—regardless of the lawyers’ personal political views or the identity of those responsible for violating the profession’s independence.

Fostering a broad spirit of professional solidarity may represent the most realistic current expression of a minimum strategy that is urgently needed to protect the legal profession and the rights of its practitioners in the context of conflict—even if restoring full unity and organizational effectiveness to the Yemeni Bar Association remains difficult. Such solidarity can reinforce lawyers’ sense of personal independence and empower them to resist pressures and dictates imposed by parties to the conflict.

In parallel, increasing both the quantity and quality of training and professional development activities for lawyers would strengthen their capacities and enhance their role in securing justice for victims, thereby restoring societal recognition of their importance and encouraging broader community participation in defending the legal profession.

According to some lawyers, transitional justice begins with empowering an independent and robust legal profession⁽⁹⁵⁾. The success of transitional justice, they argue, depends on the meaningful involvement of legal and judicial actors—foremost among them the Yemeni Bar Association—as “the most relevant and influential legal body” in that process⁽⁹⁶⁾. Lawyers and their professional associations can contribute to transitional justice in various ways: leading efforts to uncover violations, representing victims, participating in truth and reconciliation commissions, contributing to legal and judicial reform, and helping to build a legal framework that ensures accountability and non-repetition.

In this context, lawyers have called for “empowering the Bar Association to fully play its role in the upcoming phase, including its involvement in drafting transitional justice legislation, organizing training programs for lawyers,

95. An interview conducted by Mwatana with a member of the Sana’a Bar Association Council, April 23, 2025.

96. An interview conducted by Mwatana with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

and participating in any related committees—ensuring a balanced justice process that excludes no one and upholds rights and freedoms⁽⁹⁷⁾.”

VIII. Conclusions

Yemeni law guarantees that any individual arrested or detained has the right to legal counsel of their choice immediately upon arrest and during detention. Nevertheless, it lacks explicit provisions ensuring the right of the arrested or detained person to communicate with and meet privately with their lawyer for legal advice. It also does not explicitly grant the lawyer the right to be present during investigative questioning conducted in the preliminary phase or to visit their client while in detention. One of the most significant defense rights overlooked in Yemeni law during the investigation and evidence-gathering phase is the right of the arrested or detained person to remain silent and not make any statements unless in the presence of a lawyer.

During the prosecution’s investigation and questioning phase, however, Yemeni law grants the accused and those held in pre-trial detention full rights to legal defense. This includes the right to choose a lawyer, the right to communicate and meet privately with their lawyer, and the requirement that the lawyer be present during interrogation sessions with their client—except in urgent cases where there is a risk of evidence being lost. It also affirms the defendant’s right not to respond to questions unless their lawyer is present.

Yemeni legislation further guarantees lawyers a set of defense rights largely consistent with those outlined in relevant international covenants and instruments. These include the right to access and obtain copies of court documents, the right not to have legal motions or requests dismissed without lawful justification, the right to represent their client in court using appropriate legal means, and the freedom to defend their client’s rights and interests without intimidation, pressure, or restriction on their freedom of expression and speech. Lawyers are also afforded immunity in the course of their professional duties—including protection from being held in pre-trial detention for acts or statements deemed disruptive to courtroom order, unless the bar association is notified and a representative is present during questioning. Moreover, lawyers may not be interrogated or have their offices searched, except in cases of flagrante delicto (caught in the act), without the presence of a member of the Public Prosecution.

97. An interview conducted by Mwatana with the head of the Hadhramaut branch of the Bar Association, February 19, 2025.

With regard to the actual role of lawyers in defending their clients' rights, the study reached the following conclusions:

1. The presence of a lawyer after arrest and during detention plays a role in helping the detainee understand the charge against them. However, the effectiveness of this role is extremely limited in terms of the detainee receiving proper legal guidance and advice from their lawyer before giving any statements, due to the restrictions imposed by judicial enforcement officers on the detainee's right to communicate with and meet their lawyer while in detention.

2. The presence of a lawyer during detention and the preliminary investigation stage does not constitute a sufficient legal safeguard to deter misconduct by judicial enforcement officers toward the detainee, nor does it prevent or reduce violations of human dignity, personal liberty, or physical integrity.

3. The absence of an effective role for lawyers during the evidence-gathering and investigative phase—or the failure of judicial enforcement bodies to facilitate such a role—negatively affects the rights of detainees and the course of justice. For example, if an arrested or detained individual gives statements without legal guidance, they may make conflicting statements or confessions that could later be used against them as evidence of guilt—unless their lawyer can successfully challenge the legal validity of those confessions.

4. Individuals arrested in criminal cases—particularly those involving alleged affiliation with armed groups or public security offenses or expression-related cases—are often subjected to enforced disappearance by unofficial security and military actors. This leads to a fundamental denial of the right to legal counsel. Moreover, the societal perception of the need for a lawyer tends to diminish in such cases, as the families of victims prioritize informal efforts to uncover the fate and whereabouts of the disappeared through official or unofficial intermediaries, rather than pursuing legal channels—particularly given the limited impact of legal mechanisms when confronted with the broad power of unofficial actors perpetrating enforced disappearances.

5. After referral to specialized criminal prosecutions, and during investigations, lawyers face numerous barriers in defending their clients. These include prosecutors relying on preliminary investigation reports that fail to meet procedural legal standards, ignoring lawyers' motions to invalidate such reports due to legal deficiencies, the lack of official authority by those who prepared them, or their insufficiency and need for further evidence gathering. Prosecutors also often

fail to conduct any legal review of the arbitrary procedures that precede the referral and dismiss requests to investigate violations during unlawful detention, enforced disappearances, or motions to assign experts to verify torture claims. In some cases, investigations are conducted in the presence of the very judicial enforcement agencies accused of committing violations against the detainee.

6. Some criminal prosecution offices violate defense rights by various means, including denying lawyers access to case files—hindering their ability to prepare an adequate defense—and, in some cases, submitting the case to court with an indictment decision despite insufficient evidence.

7. Specialized criminal courts often disregard lawyers' motions and defenses that challenge the legality and validity of pretrial procedures, without providing a legal justification for rejecting such motions. Additionally, some judges refuse to address allegations of torture or coercion or invalidate confessions extracted through such means. They also proceed with cases lacking sufficient incriminating evidence. Throughout these processes, lawyers often play roles that rarely yield positive outcomes due to the courts' lack of responsiveness to their legal arguments—leaving them subject to sharp criticism from their clients and undermining trust in them.

8. Protecting the legal profession amid conflict requires reinforcing the principle of judicial independence and insulating all judicial bodies from political conflicts. The Bar Association, in all its branches, must demonstrate internal unity and cohesion, resist the fragmentation of localism in union work, and promote broad-based solidarity against violations and abuses targeting the profession and its practitioners.

9. Lawyers consider the success of any transitional justice process following the armed conflict to be contingent on an effective role for the legal profession. Lawyers are the representatives of victims and must play a central role in forming truth and reconciliation committees. The Bar Association can also serve as a cornerstone for legal reform and building a legislative framework that ensures accountability and non-repetition.

IX. Recommendations

To the High Judicial Council and the Attorney General in Sana'a and Aden

1. Conduct comprehensive evaluations of the Specialized Criminal Court's operations and assess the extent to which it guarantees the legal defense rights of individuals and complies with fair trial standards.
2. Implement a comprehensive reform of the Specialized Criminal Court to ensure trials uphold legal defense rights and comply with fair trial requirements.
3. Conduct thorough evaluations of the Specialized Criminal Prosecution's operations and scrutinize its adherence to individuals' legal defense rights and fair trial standards.
4. Carry out broad reforms of the Specialized Criminal Prosecution to ensure full independence and its ability to exercise legal oversight over detention facilities operated by all security agencies, including intelligence bodies, and to independently investigate detainees while ensuring legal defense rights in all circumstances.
5. Bring all detention facilities, without exception, under the authority and full oversight of the Public Prosecution and judiciary.

To All Yemeni Parties

1. Lift all restrictions undermining the independence of the legal profession and end all practices and violations targeting lawyers.
2. Instruct all security bodies, including intelligence agencies, to guarantee the right to legal defense during the evidence-gathering stage under all circumstances.
3. Prevent all practices and harassment specifically targeting female lawyers.
4. Implement capacity-building programs for leaders and personnel in all security bodies, including intelligence agencies.
5. Conduct awareness-raising programs for leadership and personnel in all security agencies, including intelligence services.
6. Establish complaint and grievance mechanisms, as well as internal oversight mechanisms, in all security bodies, including intelligence agencies.
7. Activate the role of the Inspector General.

8. Introduce a provision into the Code of Criminal Procedure requiring authorities to inform detainees of their right to consult a lawyer and their right to remain silent and not make any statement except in the presence of a lawyer—within a framework of consensus-based legal reform post-conflict.

9. Expand the legal right to consult and contact a lawyer to include the post-arrest and evidence-gathering phases explicitly.

10. Include provisions in relevant Yemeni legislation to guarantee lawyers' unrestricted access to their clients in detention facilities.

11. Revise the laws, regulations, and frameworks governing the establishment of security bodies—especially intelligence agencies—to ensure the clear inclusion of the right to consult and contact a lawyer during the post-arrest and evidence-gathering stages.

To the Yemeni Bar Association

1. Rigorously assess admission standards for lawyers into the General Bar Association and its local branches and avoid leniency in order to preserve the integrity of the profession.

2. Build lawyers' capacities in international humanitarian law, human rights protection during armed conflicts, and transitional justice by organizing regular workshops and training sessions.

3. Activate and strengthen disciplinary bodies to hold lawyers accountable for breaches of professional ethics and standards.

4. Enhance the Bar Association's role in protecting its members by organizing coordinated solidarity campaigns using visual media and social networks—through the General Bar Association and its branches in the governorates—to present a unified stance in defending the independence of the legal profession and denouncing violations against lawyers throughout Yemen.

5. Promote public legal awareness of the legal profession's role in achieving justice for victims and the ways society can support the protection of this profession in conflict contexts.

To Lawyers, Prosecutors, and Criminal Court Judges

1. Work jointly to restore public confidence in justice by strengthening judicial independence, upholding the rule of law, and protecting human rights and dignity.
2. Respect legal provisions that regulate the relationship between lawyers, prosecutors, judges, and judicial enforcement officers.
3. Establish effective institutional communication between bar associations and judicial bodies to address complaints and abuses and to propose solutions that contribute to creating a favorable litigation environment through a shared understanding of the complementary roles in achieving justice.
4. Build mutual trust and respect by encouraging lawyers to maintain appropriate courtroom decorum and urging judges and prosecutors to respect lawyers' rights to defense.
5. Prioritize continuous professional training for lawyers—especially new ones—as well as for judges and criminal prosecutors.
6. Hold joint workshops and training sessions for lawyers and judges on courtroom conduct and the rights and responsibilities of all parties involved.

To Local Human Rights Organizations

1. Intensify monitoring of violations against all actors in the justice system—including lawyers—and document arbitrary judicial proceedings targeting lawyers for performing their professional duties.
2. Coordinate with relevant entities to organize awareness workshops for judicial enforcement officers on detainees' legal rights and the need to uphold them.

To the International Community and Human Rights Organizations

1. Funding for legal aid mechanisms and support programs for victims who are unable to bear the costs of litigation, as well as vulnerable groups.

Lawyers Without Protection

The Reality of the Legal Profession and the Challenges Facing Lawyers

Lawyers Without Protection: The Reality of the Legal Profession and the Challenges Facing Lawyers in Defending the Rights of Victims of Human Rights Violations During the Armed Conflict in Yemen (2025–2014).

Mwatana prepared this research paper in collaboration with a local expert on The Reality of the Legal Profession and the Challenges Facing Lawyers in Defending the Rights of Victims of Human Rights Violations During the Armed Conflict in Yemen. This research paper primarily explores the role of the legal profession and the contributions of lawyers—both women and men—in Yemen toward upholding individuals' right to legal defense at all stages of criminal proceedings. This is recognized as a fundamental guarantee of the right to a fair trial under all circumstances.

the requirements for protecting and strengthening their function as part of the broader justice sector, with consideration given to the needs of building an effective transitional justice framework for the post-conflict period.

The paper focuses on the role of lawyers in enabling access to legal defense during the ongoing armed conflict (2025–2014), a period in which thousands of victims—while in the custody of both official and unofficial entities affiliated with various conflict parties—have been subjected to grave human rights violations. This paper does not address cases involving minor offenses.

This research paper employs a qualitative analytical approach to relevant national and international legal texts concerning the legal profession, its independence, and the rules governing their clients' rights—and the violations and procedural and legal infringements of the right to defense in criminal cases, the paper draws on field interviews conducted in the administrative centers of several governorates. These include areas under the authorities of all parties to the conflict including lawyers, victims or their relatives, members of the bar, members of specialized criminal prosecution offices and judges of criminal courts.

Mwatana for Human Rights, calls upon the parties to the conflict, activists, civil society organizations, media, researchers, and specialists to consider the contents of this paper when addressing the realities of the legal profession and the challenges faced by lawyers in defending the rights of victims of violations, as a crucial requirement for a fair trial.