Commercial Law Strengthening Project- MENA CLS

National Report on the "Enforcement of Contracts and Recovery of Debts in the Republic of Yemen"

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The National Team

That prepared and drafted the Report

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Executive Summary

According to the National Report on "Enforcement of Contracts and Recovery of Commercial Debts", the Civil Code is considered as the public law. Moreover, the Commercial Law and the Companies Law included provisions regulating certain commercial contracts such as the commercial mortgage, commercial company contracts …. Etc.

The existing phenomenon is that the debtors mostly don't pay their debts and banks are trying their best not to resort to jurisdiction and avoid raising bankruptcy claims against them preferring to schedule these debts instead. Moreover, the report provides for a set of recommendations in the field of debt recovery stating most importantly, that banks shall take sufficient guarantees upon granting loans and shall not rely on the wealth and personal knowledge of the debtor.

Furthermore, the most important of these recommendations is to adopt the in-rem system in the legislation of the Real Estate existing presently on the basis of the personal record and the necessity for commercial contracts to satisfy the legal requirements, particularly in terms of the Real Estate Mortgage Contract.

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Permeable:

Yemen is one of the Arab countries that tried its best to strengthen the legislative, judicial and institutional structure in a way that complies with the evolution of economic activities and the growth of commercial transactions, and to convoy with the diversity of disputes resulting from these transactions.

After the establishment of the Republic of Yemen in 1990, the Yemeni government gave a special care and consideration of passing modern laws that comply with the evolution of the society which is maybe due to several reasons. The most important of these causes are:

- The nature and role of the serious economic policies manifested in economic freedom and incorporated in the market's mechanism.
- Yemen's effort to import Arabic and Foreign capitals and to attract their interest to invest in Yemen.

We state herebelow the most important laws related to the subject of our report namely:

Pursuing the economic and commercial evolutions in the aim to take the commercial disputes and investments out of the normal courts range; Commercial courts were established for the first time in Yemen in 1976 and then had taken the States good care as it appeared through their being affiliated to the State's Legal Bureau that was responsible for all the State's financial and administrative affairs, of the evaluation of its performance , of publishing their verdicts and of overcoming all the obstacles that come in the way of their activities. The period between 1976 and 1985 witnessed a flourishing prosperity in the performance of the Yemenis Commercial Jurisdiction.

After the establishment of the Yemen Republic in 1990 and after several attempts to treat the commercial judicial situation, to correct its track, and after the failure of the treatments and procedures taken by the government-represented by the Ministry of Justice and the Supreme Judicial Court and confronting the interlacing and diversity in economic, commercial and financial transactions in the country and the resulting complicated and various disputes generally, and for

the impositions of the development and investment requirements, the President, who is the head of the Supreme Judicial Court, issued a decision in 1997 to re-establish the commercial qualitatively specialized courts to examine law suits and disputes.

Eversince, the reformation of the commercial jurisdiction in Yemen, elevated to first and second degree with a Commerce Department in the Supreme Court as stated according to the requirements of the decision issued in 1997, formed an important transformation to the Commercial Jurisdiction in Yemen. The important transformation was in choosing the judges of the commercial courts in all their degrees according to special standards and conditions along with developing the judges capabilities through training courses and seminars held in this domain inside and outside Yemen in addition to ensuring the requirements of the action of these courts satisfying their needs in concordance with their specialties. The laws of contracting in Yemen are organized by the Civil Code that includes a number of general rules for contracting and commitments in addition to some contracts nominated in this same code , the most prominent are : Contract of Sale, Real Estate Insurance Contract, Rent Contract and Agency Contract.

The civil code is considered as very flexible in the subject of contracts since it allows parties to contract about any subject or matter that the code itself doesn't mention. This particularity of the law avoids the mentality present in many countries that are being converted to democracy and that forbids all activities that are not clearly stated as legal by law.

The enforcement of contracts and debt recovery in Yemen were organized in the Procedures Code and the Civil Implementation No. 40 of the year 2002.

Generally speaking, compulsory enforcement is not permitted unless it comes out of an economically executive bond for an existing granted right with specified value and in the satisfaction state; also, it is not permitted to execute unless pursuant to an execution bond footed by the executive form as long as the law doesn't state otherwise. Moreover, it is permitted to execute the executive bonds issued in foreign countries as long as these bonds match the Yemenis law, since the executive request is subject to the organizing laws of the enforcement of

foreign rules stated in Articles (491-496) of the Procedure Code and Civil Implementation No. 40 of the year 2002 A.D.. Pursuant to these rules, the execution judge practices his job taking into consideration not to breach the rules of International treaties that consider Yemen as a party hereof as stipulated by the Procedure Code and the Civil Implementation in Article (497) hereof.

Related to this subject, we can say that the Yemenis Government in its different relevant institutions has given an obvious attention in carrying out contracts. No doubt that the progress that the Yemen obtained in executing the economic, financial and monetary reformations had reflected positively in improving the Yemen's situation in the International reports and that reached the contracts enforcement level , as the last report of (Doing Business) about the milieu of business performance, included a lifting of the Yemen's rank in the index of contracts enforcement and which resulted from lessening the number of the procedures put in usage. According to this report, the Yemen's situation is considered as advanced over the other 9 indices , as it occupies number 1 rank among all the Arab nations.

Despite the exalted efforts to treat the phenomenon of uncollected bank debts and to put into effect many policies and procedures that the Yemenis Central Bank adopts to enforce the role of the banking sector, yet, the financial role that this sector plays in economy is still weak considering its small size and its limited banking services that are provided and its non-possession of a comprehensive standard vision, in addition to not being subject to actual censorship and to international organizing standards.

If banking activities represent the cornerstone of developing investments and promoting the national economy, then the care of finding guarantees for banks to the recovery of their various debts shall be a priority in the present time. Since the State presented by its relevant institutions and the banks themselves believe that there are steps and different legal/judicial procedures that ought to be taken to treat the cases of uncollected bank debts, but in contrast we should acknowledge that many of the procedures taken to face and treat these problems took place during the late few years in legislative reformation domain and or the commercial jurisdiction reformation.

By acknowledging the here above , we don't mean that all the institutional, legal and judicial information package had been put to solve the bank debts problems and to guarantee the debts recovery, since there are still many unapplied legal procedures and missions that should be put into effect to find solutions of serious existing problems including documentation problems and real estate register problems.

Maybe the most important and the biggest problem hereof is related to the administrative system of companies, institutions and banks business in Yemen generally, because the structure and the application of this system hold the biggest responsibility of the existence of the bank problems related to the contract enforcement and debts payment, as it has been noticed that the biggest part of the problem comes out from this system, and it is enough for us to say that the banking system lacks professionalism in practicing its work.

As a conclusion, the responsibility lies on all the banks and the official and judiciary institutions to treat and recover uncollected debts, but the biggest responsibility lies on banks themselves since they are the primarily concerned in recovering their debts and in protecting themselves by granting the appropriate fiduciary decision and documenting their procedures according to the standards, banking practices, legal requisites put into effect; mostly important is to correct and develop their stocks as a precondition to grant loans, so they can avoid their new loans top become "uncollected debts" again, or even" bad debts".

Part I

A Presentation of the Legal Cadre for the Enforcement of Contracts and Recovery of Debts in the Republic of Yemen

Branch One: Legislations

One: Domestic Laws

Yemen was one of the Arab countries that sought diligently to establish the legislative, judicial and institutional structure in a way that coop with the development of the economic activities and the growth of the commercial transactions in compliance with the diversity of the disputes resulting from these transactions.

After the establishment of the Republic of Yemen in 1990 A.D., the government gave care and interest in passing the modern legislations answering to the development in the society.

It might be that such interest is referred to many reasons which were naturally to be taken into consideration. The most important hereof are:

- The nature and role of the serious economic policy represented in the economic freedom and incorporated in the market mechanism.
- The steady seeking of Yemen to attract the Arab and foreign capitals and the polarization of their interest to invest in Yemen.

Hereunder, we expose the most important laws related to the subject of our report; namely:

- Law No. (22) of 2002 A.D. related to investment.
- Law No. (40) of 2002 A.D. related to the Civil Procedures and Civil Implementation.
- Law No. (21) of 1992 A.D. related to proof amended by Law No. (4) of 1996 A.D.
- A Republican Decision by law No. (32) of 1991 A.D. related to the Commercial Law.

- A Republican Decision by Law No. (91) related to the Trade Record.
- A Republican Decision law No. (22) of 1997 A.D. related to the trading companies.
- A Republican Decision by Law No. (38) of 1998 A.D. related to the commercial banks.
- A Republican Decision by Law No. (40) of 1991 A.D. related to the Foreign Trade.
- Law No. (14) of 2002 A.D. related to the Civil Code.
- A Republican Decision by Law No. (23) of 1997 A.D. related to the organization of the Agencies and the branches of the foreign companies.
- A Republican Decision by Law No. (37) of 1992 A.D. related to the supervision and censorship over companies and insurance intermediaries.
- A Republican Decision by Law No. (15) of 1994 A.D. related to the Marine Code.
- A Republican Decision by Law No. (19) of 1995 A.D. related to the exchange activities.
- Law No. (21) of 1996 A.D. related to the Islamic Banks.
- A Republican Decision by Law No. (19) of 1999 A.D. related to the encouragement of competition and prevention of trade monopolizing and cheating.
- Law No. (44) of 1999 A.D. related to the specifications, standards and quality control.
- Law No. (20) of 2003 A.D. related to the Trading Names.
- A Republican Decision by Law No. (22) of 1992 A.D. related to arbitration.
- A Republican Decision by Law No. (19) of 1994 A.D. related to the intellectual rights.
- Law No. (23) of 2007 A.D. related to tenders, auctions and governmental storehouses.

Some of these laws need to be reconsidered and reviewed aiming at introducing some amendments hereto. We denote some hereof only as examples, without limitation hereto, as follows:

1 - Law No. (40) of 2002 A.D. related to the Civil Procedures and Civil Execution;

Considering the great importance of this law, we see that it is mandatory to issue a law in-lieu of the present law, and it is not sufficient to limit the amendment to article 34 hereof.

The practical application of the clauses of the present law revealed multi-difficulties as a result of the deficiency in these clauses.

In addition to the content of the amendments, to be treated herein later, we, as an example only without limitation hereto, mention the provisions related to the incompetence, the quorum, the oral pleading, stopping the dates of contests, value of fines, the defense provisions and the contest provisions including the dates, contest procedures and the causes in addition to the enforcement of judgments including the enforcement against the State and the enforcement of foreign judgments.

2- Law No. (21) of 1992 A.D. related to the proof amended by law No. (4) of 1996 A.D.

The present law considers (the telegram) as a means of proof (evidence), whereas article (111) hereof stated that " the signed letters have the value of the conventional instrument in writing as to proof and telegrams have this value as well if their original, deposited in the export office, are signed by their consignor. The telegram is considered as identical to its original until an evidence is presented otherwise. In case the original of the telegram is non-existing, then it is not adopted except for taking counsel with it".

In-spite of the obligation in this text regarding the telegram to be considered as a conventional instrument in writing to be adopted upon proof , yet this means does not exist anymore and is not used. Consequently, the law has to be revised and amended whereby it acknowledges the modern communication means when proving instead of the telegram.

3 – Law No. (33) of 1997 A.D. related to the organization of agencies, company branches and foreign commercial houses.

The said law contains some texts that may form obstacles before the foreign companies, their agents or local distributors to practice their trading activities. Moreover, some of its articles are ambiguous. As examples are articles 13,19 and 20.

Article (13) of this law states that :" during the first three years as from the date of the first registration of the agency, each agent has to apply to the relevant directorate to renew the agency permit within a period of thirty days before the date of the permit expiry, conditioned that the agency contract is still in effect. If the contract is not renewed within six months from its expiry date, the registration and the permit are considered as nullified unless the contract states that it is automatically renewed. **After the passage of the first three years after the first registration of the agency, then the permit renewal is done automatically regardless of the effectiveness of the agency contract.** The agent has to apply for the renewal within a period of (60) days as from the date of the permit expiry date).

Article 19 hereof states :" If a dispute arises as a result of the agency contract between the local agent and the foreign company or commercial house, the relevant directorate may not delegate another agent upon the request of the mandatory except after the resolution of the existing dispute whether that is achieved amiably or by an absolute judicial judgment".
The connotation of the said text is that it is sufficient that the previous agent arises a dispute, even if vexatious, against the foreign company to prevent the registration of the new agent.

Article (20) states :" The courts of the Republic are considered as the sole courts specialized in resolving the disputes arising from the trading agency contract". This text has aroused a lot of ambiguity and resulted in the issue of contradictory provisions, where some considered that the text constitutes an ordering rule, the agreement to the dissent against it is not permissible; some even advocated the extension of this rule into a condition or stipulation of the arbitration in the sense that the arbitration takes place in Yemen regardless of the both parties' concord. On the other hand, some others considered that the text of article (20) applies in the case of the disagreement of the parties upon the competent jurisdiction , i.e. the decisive factor is by the law of will.

4 – Law No. (19) of 1994 A.D. related to the intellectual right

The Republic of Yemen joining the Paris Accord of the industrial property necessitate the revision of the provisions of the Intellectual Right Law and its provisions in concordance with the Accord provisions.

Two: Regional and International Agreements and Treaties

- The regional and international agreements to which the Republic of Yemen has joined or signed:
  1 – The Arab Economic Union Agreement signed on 6/6/1962 A.D.
  2 – The agreement of Investment of the Arab Capitals and Their Transfer among the Arab Countries signed on 29/8/1970 A.D. and became effective in 1974 A.D.
  3 – The agreement of the Arab Institution to Guarantee Investments signed in May 1971 A.D. and became effective in April, 1974 A.D.
  4 – The agreement of Unifying the Investment of the Arab Capitals in the Arab Countries signed on 26/11/1980 A.D. and became effective in September 1981 A.D.
  5 – The Arab Agreement of Riyadh for the Judicial Cooperation signed on 6/4/1983 A.D. and became effective in October, 1985 A.D.
  6 – The Agreement of the Settlement of the Investment Disputes among the Arab Countries Hosting the Arabic Investments and among the Citizens of the other Arab Countries signed on 6/10/1974 and became effective on 20/8/1976 A.D.
  7 – The Arab Agreement of Amman for the Trading Arbitration signed on 14/4/1987 A.D.
  8 – The International Bank Agreement related to the Settlement of Investment Disputes among countries and citizens of the other countries in 1965 A.D.
  9 – The Agreement of Establishing the Investment Guarantee Agency in 1985 A.D.
  10 – The Agreement of Establishing the Global Organization for the Intellectual Property / Yemen joined it in March, 1979 A.D.

11 – Paris Agreement for the Industrial Property / Yemen joined it in February 2007 A.D.

- The most Prominent International Agreements to which the Republic of Yemen didn't join :
  1 – New York Agreement of 1958 A.D. related to the acknowledgment and enforcement of the Foreign Arbitration Provisions.
  2 – LAHAYE Agreement of 1907 A.D. related to the Peaceful Settlement of the International Disputes.

Related to this topic, we denote that:

Inspite of the fact that Yemen has joined many of the International and Regional Agreements, yet there is a number of agreements that Yemen didn't ratify in-spite of the importance embodied in these agreements. The most important may be the New York Agreement of 1958 A.D. related to the acknowledgement and enforcement of the provisions of the foreign arbitration ratified by (142) countries up till now, among which are (15) Arab countries, as well as the LAHAYE Agreement for the Peaceful Settlement of the International Disputes of 1907 A.D. whose members reached (109) countries of which are (12) Arab countries.

Three: Law Drafts

The Ministry of Justice, during the years (2006-2009), presented many new law drafts which were within the scope and inclusive in the lawful and legislative reformations that are taking place nowadays …

The law Drafts related to the subject of this our report are as follows :

- The law draft of arbitration in the civil and commercial articles. The draft was transferred from the government to the Parliament and the debating about this draft was completed with the Justice and Endowments (Awkaf) Committee in the Parliament. It is expected to be sent down to the

Chamber to be discussed and sanctioned by the Parliament introducing to its being issued.

The most important and prominent content of the new arbitration law draft is taken, in most of its provisions, from the Egyptian arbitration law which was originally taken after the exemplary arbitration law relevant to the U.N. Committee of the International Trading Law (UNICTRAL). The new project almost avoided all the deficiencies, drawbacks and contradictions contained in the present arbitration law No. (32) of 1992 A.D. ratified by law No. (32) of 1997 A.D.

- A draft of the amendment of the procedures law and civil execution No. (40) of 2009 A.D. The amendment draft was transferred from the government to the Parliament, and its discussion was completed with the Justice and Endowments (Awkaf) Committee of the parliament. It is expected to be sent soon to the Chamber to be discussed and sanctioned by the Parliament as a preparation to its being issued.

Inspite of the fact that the amendment draft was limited to the performance of amendments on (34) articles of the law in effect, it was supposed that the amendments may include a great number of articles including the cancellation of the articles relative to the "non existence" which evoked upon its practical application a lot of obscurities. Yet, the amendment draft has dealt with very important rules and provisions. The most prominent may be represented as follows:

(The Draft of the procedures law amendments was sactioned by the Parliament and is expected to be issued by a law soon)

- **Draft of the law of the Judicial fees : The draft was transferred to the Parliament and its discussion began with the Justice and Endowments Committee of the House. The most important contents of this draft are the following:**

Article No.	Text in Law in effect	Text in the Draft of the new Law	Objectives
5	A fixed free of three hundred Riyal is imposed upon the civil, commercial and administrative dispute claims.	A relative fee is to be imposed on the commercial, civil and administrative dispute claims of a definite known value as the following percentages: A -(2% two percent) of the value of the claim not exceeding ten million Riyals with a minimum value of five thousand Riyals. B – (1.5% one and a half percent) of the value of a claim exceeding ten million and not exceeding one hundred million Riyals. c- (1% one percent) of the value of a claim exceeding one hundred million Riyals and not exceeding two hundred million Riyals. d- (0.5% had of one percent) of the value of the claim exceeding two hundred million Riyals and not exceeding three hundred million Riyal. E- (0.25% one quarter of one percent) of the value of the claim exceeding the last value. If the claim was raised with a foreign currency , the	The imposing of relative fees upon the civil, commercial and administrative claims of a known value. The relative fees are not considered as a new experiment, rather they were applied by law No. (43) of the year 1991 A.D. even if their relative values were less than what is stipulated by this draft and before they were amended; They were estimated upon the value of the claim among the claims with a known value but in a deceleration manner which decreases whenever the sum increases. This relative decelerating system was inspired from the experiences of some Arab Countries and proved to be successful in those countries. It is viewed that this system is the most appropriate to be used in our country if considered to be able to achieve the objectives that this draft seeks to achieve and herefrom.

		sections designated Central Bank aiming at the determination of the value of the fee, and these fees are collected either in Riyal or the foreign currency equal to the fee value specified.	- The limitation of the vexation claims and the limitation from the exaggeration in specifying the claimed , whereas the imposition of the fees in this manner will lead the claimants to a full inquiry upon the specification of the value of what is claimed and not to exaggerate hereof. This helps jurisdiction to speed the resolution of the claims raised before it. - To lessen the abundant claims that were poured over the courts as a result of the low judicial fees which led to the extension of the litigation procedures which obliged the judges to spacing out the sessions of the same claim. - The increase of the State resources whereas the fees and

			taxes are considered as the most important sources for the State. - To achieve justice in these fees since it was taken into consideration that the fees are at a certain limit whichby the requested objective behind levying the fees is achieved.

Four: The Ministerial Circulars and Decisions :

1 - Circular No. (9) of the year 2006 A.D., related to the documentation of the land and real estate sale contracts. Issued by the Minister of Justice
2. Circular (12) of the year 2006AD to specify the specialization of documentation offices in the commercial courts. Issued by the Minister of Justice,2006 AD.

3.Circular (2) of the year 2007AD to not start disputes in the state's land and properties and not to document the acts related hereto which violate the laws issued by the Minister of Justice 2007AD.

4.Circular (8) of the year 2007AD to abide by the text of the article (60) of the law of State Lands and Properties(21) of the year 1995AD issued by the Minister of Justice 2007 AD.

5.Circular (29) of the year 2007AD regarding the speed in studying the cases related to the state's lands and endowments, and to prevent all illegal acts. Issued by the Minister of Justice 2007 AD.

6. Circular(14) of the year 2007AD regarding the procedures that should be followed to put the laws issued against the State into effect and that concern money amounts. Issued by the Minister of Justice 2007AD.

7. Circular (20) of the year 2007AD regarding the procedures of the requests of the enforcement of judgments against the State. Issued by the Minister of Justice 2007 AD.

8. Circular (1) 1428H regarding the speed of drawing up a judgment after pronouncing it. Issued by the Minister of Justice 2007AD.

9.The Minister of Justice's Decision (154) of the year 2007 regarding the organization of the work of the offices of documentation in the courts of the Capital's Secretariat. Issued by the Minister of Justice 2007AD.

10. Circular (1) of the year 2008 AD regarding the procedures of the enforcement of judgments issued against the State. Issued by the Minister of Justice 2008AD.

11.Circular (5) of the year 2008AD regarding Bank Letters of Guarantee. Issued by the Minister of Justice 2008AD.

12.Circular(21) of the year 2008AD regarding the speed of resolution and completion in the cases under study at courts. Issued by the Minister of justice 2008AD.

13.Circular (25) of the year 2008AD regarding the activation of the role of the Disciplinary Board in studying the infractions done by the administrative employees in the courts. Issued by the Minister of Justice 2008AD.

14.Circular (27) of the year 2008AD regarding the opening of appeal contesting registers in the decisions of the arbitrary committees concerning labor disputes. Issued by the Minister of Justice 2008AD.

15.Circular (28) of the year 2008AD regarding the opening of the cause list enrollments of commercial nature before the courts in the provinces where no commercial courts exist. Issued by the Minister of Justice 2008AD.

16. The Minister of Justice's Decision (53) of the year 2008AD to organize the works of the Documentation Offices in the capitals of a number of provinces. Issued by the Minister of Justice 2008AD.

17.The Minister of Justice Decision(134) of the year 2008, to organize the work of documentation offices in the courts of "Lahajj" province. Issued by the Minister of Justice 2008AD.

18. The Minister of Justice's Decision's (169) of the year 2008, to replace the registry of judgments file posting and judicial decisions, in effect currently in the first instance and appeal courts where computers are available and where verdicts and decisions are being typed hereby, with a substitute mechanism other than documenting and filing these courts and judicial decisions. Issued by the Minister of Justice 2008AD.

19. The Minister of Justice's Decision (170) of the year 2008AD , to organize a registry so it delivers to the parties their judicial cases decisions and verdicts. Issued by the Minister of Justice 2008AD.

Second Branch:

The Enforcement of Commercial Contracts

One: The Role of Commercial Jurisdiction in Contracts Enforcement.

Pursuing the economic and commercial evolutions in the aim to take the commercial disputes and investments out of the normal courts range; Commercial courts were established for the first time in Yemen in 1976 and then had taken the States good care as it appeared through their being affiliated to the State's Legal Bureau that was responsible for all the State's financial and administrative affairs, of the evaluation of its performance , of publishing their verdicts and of overcoming all the obstacles that come in the way of their activities. The period between 1976 and 1985 witnessed a flourishing prosperity in the performance of the Yemenis Commercial Jurisdiction.

After the establishment of the Yemen Republic in 1990 and after several attempts to treat the commercial judicial situation, to correct its track, and after the failure of the treatments and procedures taken by the government-represented by the Ministry of Justice and the Supreme Judicial Court and confronting the interlacing and diversity in economic, commercial and financial transactions in the country and the resulting complicated and various disputes generally, and for the impositions of the development and investment requirements, the President, who is the head of the Supreme Judicial Court, issued a decision in 1997 to re-

establish the commercial qualitatively specialized courts to examine law suits and disputes.

1. The Establishment of elementary commercial courts in each capital secretariat and in province's capitals… Sanaa', Al-Hdayda, Hadramout, Eden, Taiz.

2. One or more commercial sections are established in each of the appeal courts of the provinces mentioned here before and which they only are allowed to study the decisions and verdicts issued by the first instance commercial courts where verdicts can be appealed.

3. The Commercial Department of The Supreme Court is the only department allowed to adjudicate the decisions and verdicts issued by the appealing and commercial sections, as it can adjudicate the correctness of appeals raised before them. It is also possible to establish more than one arbitrary assembly in a single department.

4. In order to become a judge of the commercial courts, a judge should have experience in commercial jurisdiction, banking laws and transactions, whereas priority goes to specialists in theses domains.

5.The courts established pursuant to this decision have their own financial independent allowances that fit their needs. A public administration related to the Supreme Court shall be established to take care of these courts affairs.

Eversince, the reformation of the commercial jurisdiction in Yemen, elevated to first and second degrees with a Commerce Department in the Supreme Court as stated according to the requirements of the decision issued in 1997, formed an important transformation to the Commercial Jurisdiction in Yemen. The important transformation was in choosing the judges of the commercial courts in all their degrees according to special standards and conditions along with developing the judges capabilities through training courses and seminars held in this domain inside and outside Yemen in addition to ensuring the requirements of the action of these courts satisfying their needs in concord with their specialties.

Two: The Suits raised before the Yemeni Courts related to the Enforcement of Commercial Contracts .

1. These courts and commercial section registries show that the suits studied by these courts include:
Commercial Companies (dissolution , incorporation, liquidation), Commercial Papers, Commercial Mortgages, Commercial Appeals, Commercial Bails, Commercial Agencies, Investments, Trade Names and Marks, Patents of Invention, Industrial Property, Compensations, Intellectual Rights, Right Cessions, Commercial Registry; loading, transporting and unloading, Allegations of restraint, Commercial Contracts, Commercial Debts, Banks Transactions, Contracting Works and Supplies Contracts.

2 – The final results of the statistics statements issued by the Trade courts and branches in the Republic related to the claims viewed before them during the years 20060200702208 as follows:

Table No. (1)

Judicial year 1428 H.-2007 A.D.						Judicial Year 1429 H. – 2008 A.D.			
Branch and relative province		No. of cases viewed	No. of cases completed	No. of cases out-standing	Percentage of completion	No. of cases viewed	No. of cases completed	No. of cases outstanding	Percentage of completion
Name	Province								
Trade Court	El Aamana	512	208	304	41%	733	234	499	32%
Trade	El	294	40	254	13%	366	110	256	30%

Court	Hadida								
Trade Court	Taiz	351	155	196	44%	379	131	248	35%
Trade Court	Eden	267	106	161	40%	324	147	195	43%
Trade Court	Hadra mout	79	46	33	58%	103	58	45	56%
Total		1503	555	948	37%	1905	680	1243	36%
Percentage of completion of the judicial year 1428 H-2007 AD = 37%						Percentage of completion of the judicial year 1429 H-2008 AD = 36%			

Table No. (2)

Judicial year 1428 H.-2007 A.D.						Judicial Year 1429 H. – 2008 A.D.			
Branch and relative province		No. of cases viewed	No. of cases completed	No. of cases out-standing	Percentage of completion	No. of cases viewed	No. of cases completed	No. of cases outstanding	Percentage of completion
Name	Province								

Trade Court	El Aamana	3803	1775	2028	47%	3609	1858	1751	51%
Trade Court	El Hadida	857	334	523	39%	639	352	287	55%
Trade Court	Taiz	1197	651	546	54%	774	476	298	61%
Trade Court	Eden	1441	458	983	32%	1272	541	731	42%
Trade Court	Hadramout	320	170	150	53%	280	171	109	61%
Total		7618	3388	4230	44%	6574	3398	3176	52%

Percentage of completion of the judicial year 1428 H-2007 AD = 44%	Percentage of completion of the judicial year 1429 H-2008 AD = 52%

Table No. (3)

Judicial year 1428 H.-2007 A.D.					
Branch and relative province		No. of cases viewed	No. of cases competed	No. of cases outstanding	Percentage of completion
Name	Province				
Both Trade	El Aamana	754	268	486	36%

Branch					
Both Trade Branch	El Hadida	105	66	39	63%
Both Trade Branch	Taiz	357	153	204	43%
Both Trade Branch	Eden	269	104	165	39%
Both Trade Branch	Hadramout	62	45	17	73%
Total		1547	636	911	41%
Percentage of completion of the judicial year 1428 H-2007 AD =41%					

Table No. (4)

Judicial year 1428 H.-2007 A.D.					
Branch and relative province		No. of cases viewed	No. of cases competed	No. of cases outstanding	Percentage of completion
Name	Province				
Both Trade Branch	El Aamana	80	14	66	18%
Both Trade Branch	El Hadida	5	4	1	80%
Both Trade Branch	Taiz	44	27	17	61%
Both Trade Branch	Eden	22	10	12	45%
Both	Hadramout	1	--	1	--

Trade Branch					
Total		152	55	97	36%
Percentage of completion of the judicial year 1428 H-2007 AD = 36%					

Table No. (5)

A table of the number of the viewed, completed and outstanding cases before the first instance courts and appeal branches for the year 2008 and the percentage of completion:

Judicial year 1428 H.-2007 A.D.					
Branch and relative province		No. of cases viewed	No. of cases competed	No. of cases outstanding	Percentage of completion
Name	Province				
Trade Court	El Aamana	404	215	189	53%
Trade Court	El Aamana	427	182	245	43%
Trade Court	El Aamana	3609	1858	1751	51%
Trade Court	El Hadida	144	84	60	58%
Trade Court	El Hadida	639	352	287	55%
Trade Court	Taiz	386	185	201	48%
Trade Court	Taiz	774	476	298	61%
Trade Court	Eden	288	140	148	49%
Trade Court	Eden	1272	541	731	42%
Trade Court	Hadramout	52	32	20	62%
Trade	Hadramout	280	171	109	61%

Court					
Total		8275	4236	4139	51%

(The source of the hereabove tables/ Office of the vice president of the Judicial Inspection Unit of the Trade Courts Affairs)

If we consider table No. (5) hereabove, we notice that the total of the number of cases presented to the Trade Courts and Branches during the judicial year 2008 A.D. sums up to (8.272) claims.

The number of the claims concluded during the same year sums up to (4236) claims, while the claims postponed to the following year sum up to (4039) claims. Therefore, the completion percentage represents (51%) only.

3 – The National Team faced difficulties in obtaining the (legalized) statements of the claims in the records of the Trade Courts and Branches, since the records don't include the classification of the cases through which it is able to know the number of each type of the cases accurately and easily. By this matter, we recommend the adoption of the classification of the claims presented to the Trade Courts and Branches in the records of these courts.

4 – Aiming at the raise of the completion percentage and the concluding of the claims presented to the Trade Courts and Branches, we recommend that the Ministry of Justice continues its course it has followed in the late years represented by supporting the First Instance Trade Courts with the forebears of the graduates of the High Judiciary Institute and to continue the support of the judges' abilities in these courts through the organization of the training courses specialized for them.

5 – Moreover, there is a matter of great importance, which if adopted, it will doubtlessly double the Trade Courts and Branches completion of claims. It is represented by adopting the presentation of claims, the replications, the pleadings and all kinds of petitions (in writing) in the sessions of the courts instead of presenting them orally by the lawyers. This is in application of the contexts of the latest amendments of the Procedures Law as we had denoted

hereabove… This may save a lot of efforts and time wasted, as well as avoiding any discrepancies expected to take place between the written and the oral presentations in the courts sessions. This is what the new amendment draft of the Procedures Law in effect took into consideration.

Three : **The Legal Scope of Contracts and their Enforcement** :

- **The Legal Scope of the Contracts :**

The contract regulations in Yemen are organized by the Civil Code which includes a collection of the general rules for contraction and obligations (articles from 138 till 450) , in addition to some contracts mentioned in the same code, the most prominent hereof are the Sale Contract (articles from 451 till 1391), The Rent Contract (Articles from 682 till 717) , The Agency Contract (articles from 905 till 937).

The present Civil Code is like all the codes in Yemen, being of the sole source, pursuant to the text of article (3) of the Constitution, namely the Islamic Law (Sharia). Considering that the Islamic Law includes subsidiary sources for legislation such as the application of discretion in legal matters (Istihsan) and propriety (Istislah). According to those sources, the modern samples (forms) of the contracts were adopted since they are, by their nature, contradicting with the Islamic Law and are based upon the human experience, specially the European form based on the Civil Code System (Latin).

Within the great movement of legislation of the unified State, the Civil Code of 1991 A.D. was adopted. This was followed with slight amendments, and it was restated and re-issued in 2002 A.D. Yet its basic nature, previously denoted, was untouched.

In the subject of the contracts, the Civil Code is characterized by great flexibility whereas it permits the parties to enter into contracts about any matter or subject not covered by the Code. This nature of the Code avoids the mentality existing in many of the countries transferring into Democracy which prohibits all the activities not permitted expressly by the Code.

In addition to that, the majority of the contracts need not documentation to gain the force of law, in the exception of the real estate contracts and some other matters.

Documentation serves in the function of proof rather than giving the nature of the force of law since the undocumented contracts are able to be executed but practically they are subject to the challenges related to the authenticity of the signatures.
As a result to the hereabove, the contract rules in the Civil Code are not surrounded by the Legal formality or restrictions. The texts forming the contract are more than sufficient to support the continuously commercial development: the real and corporeal persona and the entities owned by the State are treated equally in the matter of agreements and contracts; there is no discrimination between Yemenis and foreigners in the rules of the contract in the Civil Code. In case of the non existence of a text in the Code, then the principles of the Islamic Law are referred to, if there is no text herein, then refuge is to the conventions legally permitted; if none, then to the justice principles in concord with the principles of the Islamic Law.
Parties enjoy flexibility when using the prevailing rules such as the estimation of the consideration, choice of the relevant court and the law applicable to the contract. They may refer their disputes to arbitration through the texts related to the resolution of the disputes in the contract.
Concerning arbitration, we notice that, with the exception of the general arbitration rules in the Islamic Law and the convention, the modern arbitration rules are still in need of more awareness to help in their widespread, specially that the law permits such a choice, rather it commits the courts not to look into the cases if there is a text stipulating the arbitration in the contract or in a separate agreement.
To summarize, the contract rules in the Yemeni Civil Law are good, if not more than good, for most of the trading transactions.
It is noteworthy that inspite of the fact that the Civil Code is considered as the general law for contracts, the Trading Law and the Company Law have included provisions to organize some types of the trading contracts such as the trading mortgage and the trading company contracts … etc

- **The Legal Scope for the Enforcement of Contracts:**

The contract enforcement and the recovery of debts in Yemen are organized by the Code in the Second Book (special for the civil

execution) of the Procedures and Execution Civil Law No. (40) of the year 2002 AD. This Second Book included a number of three sections, each of which is distributed among a number of chapters and divisions including articles from No. 314 till 504.
In general, the obligatory enforcement may not be taken except by an executive act in economization of an achieved right, of a specified value and to be in fulfillment. Furthermore, enforcement may not be performed except by an executive manner represented by the executive act footed with the executive version, unless the law stipulates otherwise.

Four : The Executive Acts

- Judgments issued by the Yemeni Courts
- Orders of performance and orders on the petitions issued by the relevant judge pursuant to the laws.
- Executable judgments of arbitrators .
- Reconciliation agreements legalized by the courts
- The final (absolute) decisions of the administrative committees who are entrusted to resolve the disputes in the conditions stipulated by the law.
- The old drafts of endowment (Awkaf) lands and real estates written by the hand of a famous scripter.

In addition to that, the executive acts issued in the foreign countries maybe executed if these executive acts are considered the same by the Yemeni Laws, where the request for enforcement is subject to the rules regulating the enforcement of the foreign judgments stipulated by articles (491-496) of the Procedure Law and the Civil Execution Law No. (40) of the year 2002 AD. Pursuant to these rules, the executive judge practices his mission taking into consideration the non-violation of the provisions of the international treaties of which Yemen is considered a party; Further , this was conditioned by the Procedure Law and the Civil Enforcement Law in article (497) hereof.
In the second chapter of the third section of the Procedures and Execution Law, articles (491-497), the Yemeni legislator regulated the legal provisions and rules and the procedures special for the enforcement of the judicial judgments and the provisions of the foreign arbitration in Yemen.

Article (494) of the procedures stipulated the necessity of the provision of six conditions to execute the judgment of the foreign arbitration in Yemen, namely:

FIRST :
The judgment of the foreign arbitration violates not the provisions of the Islamic Law, the public decorum and the rules of the public order in Yemen (article 494/1).

SECOND :
The Yemeni courts are not specialized in the dispute wherefor a foreign arbitration judgment was issued and that the arbitration body that issued it is specialized hereabout pursuant to the rules of the international judicial specialty designated in its law (article 494/2).
From this condition stated in the previous paragraph, it is revealed that it contained two matters:

FIRST:
That the object of the judgment requested to be executed in Yemen is not the specialty of the Yemeni jurisdiction alone. The Yemeni Law, sometimes, specifies the specialty in viewing some of the disputes to the Yemeni jurisdiction solely for a public benefit discrete by the legislator aiming at protecting it. An example hereof is what is stated in article (20) of the trading agencies law about that the Yemeni courts are solely specialized in viewing the disputes arising from a commercial agency. In this condition, the Yemeni jurisdiction is solely specialized to look into that dispute. So, when the foreign judgment is issued and its subject matter, the foreign judgment, is issued and its subject matter is a dispute between the Yemeni local agent and the foreign company granting the agency, then it is the right of the Yemeni courts to reject its enforcement because it violates the context of the second paragraph of article (494) of the Procedure Law and the Civil Execution Law which conditioned for the enforcement of a foreign judgment that the Yemeni courts are not the sole specialized in looking into the dispute subject of the judgment.

SECOND:
The content of the previous paragraph is that the courts issuing the arbitration judgment or the arbitration committees don't trespass their specialty pursuant to

the rules of the international specialties in the judge's or the arbitrator's law. If this condition may be applied concerning the foreign judicial judgment in general, it may not be applied in relation to the foreign arbitration judgment since it is sufficient that it was issued pursuant to the rules of specialty stipulated in the arbitration agreement.

THIRD :

The Condition of reciprocity, i.e. the enforcement is under the same conditions decided in that country for the enforcement of the Yemeni arbitration judgments – Principle of Reciprocity (article 494/3).

From this condition, it is revealed that the Yemeni procedure law conditions, for the enforcement of the foreign arbitration judgment , that it is issued in a country that executes the judgment, that it is issued in Yemen, i.e. the condition of reciprocity. For this condition, it is not conditioned the existence of an agreement between Yemen and the foreign country about reciprocity. It is sufficient that the law in effect in that country permits the enforcement of the Yemeni arbitration judgments. Here, it is to be noted that this condition-reciprocity – within the scope of the Procedure Law, obligates the knowledge of the conditions imposed by the country issuing the arbitration judgment to execute herein the arbitration judgment issued in Yemen, taking into consideration that the conditions requested to execute the foreign judgment in Yemen represent the minimum level which the Yemeni judge may not renounce hereof under the justification of reciprocity. If the law, of the country wherein the arbitration judgment requested to be executed in Yemen was issued , requests conditions less than those requested by the Yemeni law, then it is not a justification to disregard any of the conditions requested by the Yemeni laws.

FOURTH:

That the foreign arbitration judgment requested to be executed is issued by a specialized court or judicial body, and that the issue is possessing the force of the issue res judicata pursuant to the laws of that foreign country (article 49/4).

From this condition, it is revealed that it contained two matters:

First : That the foreign judgment requested to be executed is issued by a specialized court or judicial body. The specialty condition here is related to the foreign judicial judgment. As to the arbitration judgment, it is issued by an arbitration body chosen by the parties; this means that the judge has to verify the matter of the existence of an arbitration agreement which is the source of the specialty of the arbitration body.
Second : Related to the necessity that the foreign arbitration judgment intended to be executed in Yemen possesses the force of the issue res judicata. The verification of this matter must be in accordance with the law of will, i.e. the will of the parties in agreeing upon the arbitration, or with the law of the country wherein the judgment was issued.

FIFTH :
The litigating parties in the case wherefor the foreign judgment was issued had been summoned to be present and they appeared before that court correctly (article 494/5). It is clear from this paragraph that it stipulates the guarantee of the Right to defense which is a principle applied by all the international legislations and agreements related to the enforcement of the foreign judgments including the New York agreement and the Arabic Judicial Agreement.

SIXTH :
That the arbitration judgment requested to be executed is final and valid for enforcement in the country wherein it was issued.

From these conditions , it appears that the executing judge's mission in the control of the foreign arbitration judgments is not easy at all in all its states and images. This means that the executive judge has to be well aware of the various foreign legal and judicial systems, in addition to the legal and judicial system he belongs to.

The claim of the order to execute is considered as a claim of a special nature where the judge , while looking into the claim of the order to execute, may not reconsider the subject of the dispute which is considered as concluded by the foreign arbitration judgment, this means that the judge's authority within the scope of this claim is a restricted authority aiming at the formal control over the judgment requested to be executed pursuant to the rules specified by the law. It

is not the judge's right here to re-examine the judgment under the justification of knowing how just it is or how correct is the application of the law in the subject of dispute, unless the laws of the country wherein the arbitration judgment was issued grants the judge the authority of a comprehensive review of the judgment issued in Yemen without being satisfied with the formal control. Here, the Yemeni judge has to follow the comprehensive review of the arbitration judgment before giving the order of its enforcement in application of the principle of reciprocity.
In addition to that, the documentation law No. (29) of the year 1992 AD, amended by law No. (34) of the year 1997 AD, in article (25) hereof , stated the granting of the written instruments authenticated by a notary or the secretary of the executive force stipulated by the laws (i.e. the Procedures and Civil Execution Law), taking into consideration the conditions stated in the Documentation Law.

- **Quick Enforcement**

  Laws state this procedure as an exception of the general rule that states the illegitimacy of the enforcement of an executive act as long as the appeal against it is legitimate.

The judgments and orders assigned to the quick enforcement upon their issue pursuant to the laws are as follows :

- Judgments and orders of performance issued in the commercial matters subject to a guarantee.
- Judgments issued for the alimony or residence of the judgment beneficiary or the money for the custody, breast feeding or the delivery of the youngster to his/her mother, guardian or custodian, whichever.

Whereas, the judgments that may be given the order of the prompt enforcement subject to a guarantee are as follows :

- If the sentenced had admitted the establishment of the obligation or a part hereof.
- If the judgment was issued pursuant to an official document uncontested for forgery, or by a conventional instrument against which there arose no dispute.

- If the judgment was issued related to a salary, wage or pension.

The appellate court may order the stopping of the enforcement of the judgment which stipulated the prompt enforcement:

Money which may not be subject to enforcement against it:

- The needs of the debtor, his wife and children and all his obligations imposed legally for three months.
- The debtor's house where he resides with his family providing the main necessary objective from a residency as discrete by the court, unless that residency was given as a guarantee for a debt in liability of the debtor or the debt has resulted from the price of that house.
- Equipment and machinery necessary for the debtor's craft or profession which the court considers as necessary to enable him of earning his living, unless the enforcement is for the maturity of the price of those things or the expenses of their lives.
- Any wage, salary or pension whether paid in cash or in-rem unless the debt was to pay the alimony; it is permissible to the extent of the quarter if the enforcement is to fulfill another debt, subject to that the alimony debt has priority.
- The females of the cattle not exceeding one cow and ten goats and sheep.
- The money allotted, donated or bequeathed coupled with the condition of blood relationship and subject to that it was prior to the establishment of the commitment.
- Fruits and crops before they are pollinated and they may not be sold before becoming mature, pursuant to the discretion of the law, and it is permissible to their being reserved.
- The sums adjudged by jurisdiction as specified as an alimony or for a specified aim.
- The author's right over his compositions and his creative works before being published and his right in republishing, translation or production hereof in a new form.
- Money owned by the State and allotted for a public interest.

- Tools, utilities, machines and the missions specified for public facility whether run by the State itself or has been entrusted for investment to another real or corporeal persona.
- The money of the international organizations, with the exception of those subject to the Special Yemeni and International Law.

Part 5: Direct Means of Enforcement

The Yemeni Law defines the compulsory means of direct enforcement by: the threatening fine, imprisonment, and use of force.

- **The threatening Fine:**

If the charged person didn't execute during the period specified by the law, the judge may charge him with a fine not less than 10,000 Riyal and a maximum of 60,000 Riyal.
If the charged didn't execute within 3 days, the judge shall issue a judgment of imprisonment until the charged executes. The judge may also imprison the charged without implementing the fine means.

*Indirect Means of Enforcement:

By Sequestration of Property, Judicial Custody and Prohibition of Travelling.

- **Sequestration of Property**:

The order of sequestration is issued by relevant First Instance Court upon the request of the creditor of a certain payable debt, even if the creditor doesn't hold an executive bond in the following 2 situations:
-If the creditor is afraid to lose what guarantees his debts recovery.
-If the creditor himself was the property landlord, then he has the right to request seizure on chattels , fruits and the crops existing in the leased property and that are relevant to the lessee to guarantee the renting debt.

* Judicial Custody

Judicial Custody is imposed by the judge of urgent matters, and it is possible to be imposed by the First Instance and even the Appeal Courts.
Judicial Custody is imposed upon:
-Seized monies for execution.
-Any personal or impersonal property or right that was a subject of dispute or was movable upon the raise of the legal actions.
- The inheritance of the deceased, before dividing it, until the recovery of the debt herefrom.
-The monies of the indebted after being proved by an order as incapable or bankrupt.
After the judgment of custody, the judge assigns a sequestrate who shall be someone other than the indebted, the process server or any of their relatives, and he shall also be someone reliable, capable of custody, conscious of the work he is charged to do and who shall not be less than 25 years old.

- **Prohibition of Travelling Abroad:**

This judgment is issued pursuant to the situation either by the judge of enforcement, or by the head of the relevant First Instance and even by the head of the Appeal Court.
This Prohibition of travelling takes place if the creditor's debt is proved to be a certain payable debt even if proving it happened before raising the objective case, then he should raise the case within 3 days if he hasn't raised it yet.

- **The Seize of The Money Indebted to Thirds:**

The creditor of a certain payable debt may seize the indebted chattels, debts, or other rights to thirds; even if these were scheduled or preconditioned. This seize starts as sequestrative and ends as executional. It also takes effect on stocks, official bonds, earned shares of receivables by incorporeal persona and on the rights of the capital owner to the speculating worker.

- **Executive Seizure (Confiscation):**

Executive seizure takes place only in the condition that the pursuer holds an executive bond and after that the indebted had declared the creditor's executive contentment, and after the expiry of the term assigned by the law.
Second Case is if the seized judged by an executive seizure refuses willfully the delivery of the seized money, or performed an action contrary to the seizure obligations, or hid the money and these seized monies couldn't cover the debt,

the judge may order his being imprisoned pursuant to the Law of Procedures and Civil Execution.
The law applies specific terms to seized properties and chattels in a way that guarantees to the creditors their rights. The nature of these procedures differs according to the nature of the seized properties, whether they were fixed properties or chattels. The law also, assigns specific terms and procedures to sell the seized properties. These procedures and terms differ according to whether these monies are of the real properties or the chattels. Further, the law specifies terms to distribute the outcome of the sold monies.

- **Carrying out Judgments and their Effect on the State:**

The Yemeni Law of Procedures and Civil Execution stipulates to pursue the rules of enforcement to the judgments issued against the State, conditioned that the announcement of judgment shall be issued within a term not exceeding 30 days, and if the concerned party didn't execute, the Prime Minister shall be acknowledged to order the execution within a period of 45 days. If the enforcement still didn't take place within this term, the judge shall issue an order of enforcement even if the enforcement requires seizure of governmental parties' accounts in the Central Bank or any other bank, the judge shall order the enforcement of the seizure. If the judged amount of money is big, the judge may issue the order as an installment plan and to bind the governmental party to take in charge an official commitment to allot the judged installments within their upcoming budgets. The Law of Procedure and Civil Execution states punishments against the collusion of judgment issuance in favor of the judgment creditor, whether the collusion came from the judge's side or anyone else, and the punishment is a period not exceeding 2 years of prison. The Law of Procedures and Execution organized its judgments against the State in Articles (487,490).

Part II

Bank Debts

The dealing with the commercial debts in Yemen refers directly to bank debts for two reasons:

First:

Bank debts and especially what are called uncollected debts have become a widespread phenomenon in Yemen known among persons, companies, governmental institutions and business sectors generally, which caused the reason of our study hereof and to suggest actual practical solutions to treat them through this report.

Second:

The here before doesn't mean that there are no other commercial debts other than bank debts, but other debts that are not relevant to bank debts are not mentioned in any statistics or exact and clear bulletins, as they also lack the presence of a relevant party concerned hereabout, through which we may know all the details and data relevant to the commercial debts generally whether these hereof were national or foreign commercial debts.

We believe that commercial debts that are not relevant to bank debts only represent a small portion of the whole, and are not considered as belonging to the debts with difficult solutions, i.e. they usually get treated and resolved properly either through : (amiable solutions, negotiations, conciliations, and mediation)or throughout arbitration or the official courts.

For these reasons, the section here after will be consecrated to discuss bank debts in Yemen and the suggested solutions.

Part One: Presentation and Classification of Commercial Debts (Bad Debts)

Bank affairs carry risks by their nature, for this reason wariness and caution degrees should be taken on the highest scale concerning the "how" and the scale of the "layman". Banking activities in every country are imposed by necessity for money circulation and the pursuit of transactions among persons on their natural and moral sides, and to facilitate the transactions turnover and to increase growth in all domains: Financial, economic, investment, social and cultural with no exceptions…The policy of lending represents one of the basic activities of normal and central banks, since it is considered as the basic flowing river of funding requirements of most developmental projects in their different fields like: Agriculture, industry, commerce, services, society and even culture… This last field mentioned herein is the one to show the degree of civilization to which a State has reached as it also tells about the degree of consciousness of the persons in charge of the bank's affairs administration and their broad-minded expansion.

Generally, lending is the activity that leads banks to growth and to increase their assets and profits, or else it is the activity that can lead them to bankruptcy. Since credits are considered as the most important investments of the financial resources of the bank, where they represent the biggest portion of the assets, and represents their revenue generating herefrom and the most important part of the proceeds.

The essential aim, if not the only one, of investment is "profit"; and investing in credits is the basic investment of banks and in which they anticipate to give this activity all their financial resources, and what makes credits the most attractive investments of commercial banks is the rise of the income average generated from these investments in comparison to the income generated from other investments.

For these reasons, countries take all necessary procedures- on different extents- to protect and take care of bank affairs, and to work on supporting them by suitable milieu standards most importantly are legalizations and jurisdictions, so that these banks could do their expected work in lending credits to develop the society and to realize social security.

Some opinions consider debt as "uncollected" when the indebted stops to pay his dues in time which obliges the bank to take legal procedures against him, while others see the crucial factor doesn't lie in the indebted cessation of payment since this may occur of an urgent reason, but the importance lies in the financial status. While others feel that bad debt is the one that does not generate a revenue and to which it is impossible to add calculated interest, thus bad debt is undoubtedly a danger that must be avoided as much as possible, and within a reasonable time.

There are myriad views over the issue of bad debts; however, they undoubtedly are chronic headaches for banks and a concern for those in charge of banks, affecting the profitability of banks. Moreover, procedures taken to address these debts have a harmful impact on incomes earned by ranked customers; on the other hand, they affect the financial position of the bank as a result to a reduction of the value of the loan portfolio, which is the key asset in the bank's balance with the value of such debt or part thereof.

The central bank monitors and controls banks by setting standards for debts resulting from the lending movement in general so as to avoid shocks in the banking system.

In this context, the Central Bank of Yemen issued in June 1996 publication No. (6) for the year 1996 for banks operating in the Republic, setting the degree of risk for the age of each debt, requiring the involved banks to set financial allocations with an aim to avoid bank insolvency, steer clear of damaging depositors and shareholders, and force the administration to pursue the collection of debts, so as not to reflect negatively on depositors and shareholders, profits for shareholders, the bank's reputation, the degree of financial solvency, and the high position among banks operating in the Republic.

The Central Bank of Yemen classified credit facilities, to direct facilities, whether in the form of loans or advances or current accounts, or indirect facilities in the form of documentary credits or letters of guarantee. These two types of facilities are contained in two broad groups as follows:

Group one:

This group includes the regular facilities i.e. good facilities with a regular risk on banks. This group includes good customers who are keen to pay their debts on a regular basis, and without too much difficulty. The debt of this group includes the original debt and interest thereon, and with a guaranteed payment because it is covered by cash guarantees represented by certificates of deposit or treasury bills. Moreover, the debt is covered by documentary credits and letters of guarantee, regardless of any negative factors relating to them.

In this regard, the Central Bank of Yemen ignored the letters of guarantee issued by banks, which cover such facilities and which were supposed to be classified as financial guarantees with the same guarantees as the cash deposits.

Group two:

This group includes (non) normal bank risks, as a result of the difficulties facing the customer, in terms of ability to meet existing obligations and against which the bank does not have enough guarantees (high quality) that are subject to liquidation in short terms. This means that the Central Bank of Yemen does not consider real estate as good and reliable guarantees.

According to the publications of the Central Bank of Yemen this group is divided into three categories as follows:

the below-normal category: this occurs when

- The client's deposits in his accounts and for three consecutive months are less than the amount of revenue due from the debt during the same period
- The client exceeds his authorized limit of facilities afforded by (5%) or more and if this continued for three months without being paid
- The client delays in paying the whole debt or a premium thereof or interests for a period of three months.

the category of doubtful debts:

This occurs when:

- The client's deposits and cash flows in his accounts during the last six consecutive months are less than the amount of the debt's revenue owed for the same period
- The client exceeds his authorized facility (5%) or more and if this continued for six months without being paid
- The client delayed the payment of debt or due installment or interests for a period of six months.
- There is an imbalance in the financial position of the client and results in a negative net equity

Bad Debts Category:

According to the Central Bank of Yemen, this category includes the above mentioned doubtful debts, in addition to debts with non-existent or minimal payment possibility.

This occurs when:

1. The client's deposits and cash flows in his accounts within 12 months are less than the return of such debts during the same period
2. The client exceeds his authorized facility (5%) or more and this has continued for one year without being paid
3. The client delayed the payment of the debt or any installment thereof or interest for a year.

Those standards are adopted by the Central Bank of Yemen to determine the status of unpaid debt. Practice proved that the volume of doubtful debts is large no doubt which is evidenced by the large size of allocations reserved for those debts, and court cases.

If we look at the combined balance sheet of banks operating in the Republic, prepared by the sector of Banking Supervision at Central Bank of Yemen, we find that the statistics reveal large numbers of loans and advances as on 31/12/2008 m, exceeding $ 418 billion YR.

The table below shows the amount and the annual increase of the above classified loans and debts of banks operating in the Republic, including bad debts:

Total loans (in millions of rials)						
	2004	**2005**	**2006**	**2007**	**2008**	**2009 (September)**
Below norma category	**4,030.0**	**3,501.7**	**6,540.7**	**15,276.4**	**6,786.5**	**7,810.8**
Doubtful debts	**3,539.2**	**3,677.7**	**3,313.6**	**6,899.9**	**668.2**	**9,330.1**
Bad debts	**24,361.8**	**29,438.8**	**31,602.4**	**27,660.9**	**46,362.2**	**41,648.6**
Total	**31,931.0**	**36,618.2**	**45,456.7**	**49,837.0**	**53,816.9**	**58,789.5**

Source: Sector of Banking Supervision, Central Bank of Yemen

The table above confirms the size of bad bank debts that are close to 42 billion YR, which require painstaking efforts by banks in terms of collection and recovery.

Section Two: Problems facing the Banking Activity

While diagnosing the problems and difficulties facing the banking sector in Yemen, we encountered a number of different problems which are mostly due to the banks themselves, including issues related to the efficiency of the banking management system and the absence of strategies and policies of loan granting and

lack of professionalism in the banking activity as well as problems related to malpractices in dealing with the texts of laws and requirements of the contract not to mention the problems associated with insurance system and means of protection to meet the bank debt.

This section of the report will briefly review these problems in accordance to the following:

First: problems related to the efficiency of the banking management system

The most prominent problems and difficulties impeding the enforcement of contracts and payment of bank debt is the imbalance in the system governing the activity of banking companies. The system governing the operations of banks is traditional which does not separate between the **banking institution management and their staff.**

What is needed is to adopt more advanced and effective systems, i.e. issue legislation in a prompt manner related to the internal organization of companies which includes new modalities in the formulation of rules that give value to the professional law. These rules will be carried out by qualified legal competencies and practical expertise in the field.

Second: Problems related to the absence of strategies and policies for opening accounts and granting loans

Granting loans is a risky business. That been said, banks must take this into account when contracting with clients, so it requires the active participation of the bank in assessing the feasibility of investment projects and the provision of economic counseling for the client. More importantly, banks shall monitor the process in terms of controlling the loan amount intended for the implementation of the project as well as continuing to monitor the implementation of the project steps and the ability of the debtor to meet his funding requirements when the loan amount is not sufficient for the project's completion, as it is in the interest of the bank to assist the debtor for the success of his project because usually the bank will be the first victim in case of the debtor's insolvency and the loss of the project.

Third: Problems related to the lack of professionalism in the banking business:

a- There is no customer information system, thus the bank excludes clients who have already failed to fulfill their obligations towards other banks or others. Certain laws provided for an IT system that includes information on the clients i.e. his personal information in addition to any breach of commitment to fulfill debts. The bank can access this card when granting a loan or opening an account.

b- Banks do not check the eligibility of their clients.

c- Banks often grant reckless loans that do not meet with the financial position of the borrower

Four: Problems related to malpractices when dealing with texts and contract requirements

Contract are unclear i.e. they are written in vague terms full of arbitrary conditions that are sometimes contrary to the terms of contract. Moreover, prior to contracting, the borrower is not familiarized with terms of contract and the amount of interest.

Bad practices that are the major reasons behind the problem of debt repayment were encountered in the legislation and judicial practices of the Arab countries via corporate governance. And before that, they were addressed in the legislations on consumer protection and prevention of fraud and unfair competition. However, they are all still absent in our legislation, and if they exist, they are ineffective and maybe the judiciary suffers from this practice that hinders the resolution of bank problems related to debt recovery or meeting contractual obligations.

Five: Problems related to the absence of a clear regulation of agreements related to interests:

It is noted that the legal basis of interests is not clear. The text governing the interests of Article (356) of the Civil Code explicitly sets interest rates that may be agreed upon by 5% taking into account the commercial practice.

In light of the above, we note that the problem is not a legislative lack nor does it relate to a deficiency in the commercial justice system. The problem is in the corporate systems, banking and other business entities which operate in a non-professional manner of chaos and lack of clarity and reliance on personal estimations.

Section Three: Bank Debt Recovery

First: internal steps for debt recovery

In light of the results of classification, each bank shall take a number of procedures to recover debts, including:

1) conduct a comprehensive study on the status and situation of each debt
2) diagnose the real reasons of insolvency
3) determine the status of the bank with regard to safeguards and debt coverage and find solutions to this matter
4) study the financial situation of the debtor and his ability to fulfill his obligations or re-exercise his activity through providing proposals that could help them overcome his problem through:

- fulfilling any debts
- reducing unnecessary expenditures
- improving the management level

- liquidation of any property to avoid any additional burdens that can increase the financial situation of the debtor
- Obtaining another funding to ensure the ability of the client to repay loans and interests.
- The Bank can assist the client by rescheduling his debts and commensurate with the ability of the client to repay his debts and interests and avoid reaching the stage of liquidation or bankruptcy. Noting that the latter steps can be adopted when deemed necessary and is considered the final phase for the recovery of debts

6- Reviewing bank contracts

We believe that the crucial and essential solutions to the issues of banks and foremost, existing debts and their recovery are within the banks themselves. In our view banks need to review their basic contracts and perhaps they need to start with developing and reviewing their contract models most importantly, model of the loan agreement and the model of a credit facility. Moreover, they need to give priority for investment projects and commercial companies and not individuals, in order to establish their role in contributing to the economic development of the country.

For the purpose of the report, the national team reviewed these models which clearly revealed serious and numerous shortcomings and deficiencies especially the loan agreement concluded between the bank and the borrower. This agreement with its incomprehensive and abridged clauses does not have any detailed annexes

on commitments and guarantees, mortgages on loan… The loan agreement is entirely devoid of requirements and basic obligations that are supposed to exist. We refer to these shortcomings as the following:

1) The purpose of the loan is not specified nor the borrower's commitment not to use the proceeds of the loan in whole or in part for other than the purpose of the loan
2) There are no pre-conditions for a loan including:

- For companies: The decision of the Board and the General Assembly regarding their approval on the loan and guarantee agreements are not included. There are no documented and approved copies of the company's statutes or certified copies of the commercial record as well as a certificate of registration in the Chamber of Commerce and a certified copy of the company's accounts for the last financial year.
- Documented and approved Real Estate Certificate issued by the competent authority confirming the registration of the mortgaged properties to the bank as a guarantee for the loan
- Insurance documents related to mortgaged properties, project facilities, machinery and equipment (mortgaged)
- Mortgage company's accounts in banks for the benefit of the bank
- Confirmation of the borrower that he is not a party to a conflict, or is not likely to be before any judicial, administrative or arbitral tribunal, which would affect the legal status of the borrower, his eligibility or financial position or his ability to meet his obligations towards the bank.

- Approval and confirmation from the borrower that the property, assets and revenues and all his funds are not subject to any mortgage or charge or restriction of any kind of guarantee of any indebtedness other than indebtedness arising from this loan.

3) The loan agreement does not include the borrower's pledges and commitments to repay the entire loan, commissions and interest owed to the bank:

- Notify the bank immediately in any case of a breach stipulated in the loan agreement
- Notify the bank immediately of any imperative that adversely affects the ability to implement the project or initiate work or carry out obligations and commitments set forth in the loan agreement.
- Submit to the Bank upon request any data, documents and information related to his work, operations and activities, properties and financial position
- Notify the bank immediately of any change in the nature or scope of the project or its legal status.
- Notify the bank immediately of any lawsuit or claim or action or judicial or administrative order made against the borrower or related to his assets or properties or any judicial or arbitral award issued against him
- He shall not change the purposes or activities or the nature of the project only after the approval of the bank lender and he shall not merge or combine

with any party or take any action in the project or in an essential part of his assets or properties without the approval of the bank lender

4- With regards to the loan guarantees, the agreement also included a general inaccurate text and devoid of details on the types of mortgages, the guarantors of the loan... The bank shall attribute great importance to the guarantee issue on the grounds that these mortgages are a guarantee and insurance to pay the debit balance of the loan, interest, fees and commissions and other expenses owed to the bank. Moreover, to ensure recovery of the loan and the interest and commission and all other expenses, the bank should not only rely on one type of guarantees.

Other solutions:

In our opinion, other solutions should include the following:

One: Credit departments should be equipped with bank skills of high qualification and should be familiar with studying and analyzing client applications as well as guarantees and financial solvency to reduce any potential risks and the utmost importance is the rapid and attentive follow-up.

Two: Banks should complete all credit facility papers including documents, contracts, customer addresses, business records, regulations, official licensing, checks, bonds and financial or real estate or personal business guarantees and all papers that preserve the rights of the bank.

Three: Establish special departments or sections to follow up with customers facing bad debt problems. These departments or sections should be eligible to manage the dialogue and substantive debate with customers, without arbitrariness or lack of awareness, and should seriously follow-up their debts situation and reach compromises that best meets the interest of the bank.

Four: Provide judicial cadre in commercial courts that is aware of the importance of banking and its necessity for societal movement and growth, and understands that interests are not usury and banks have the right of full recovery.

Five: Banks should pay attention to alternative means (mediation, conciliation and arbitration) to settle their disputes, especially institutions specialized in the settlement of commercial and investment disputes as the Yemeni Center for Conciliation and Arbitration, which will assist banks to recover debts due to the speed and effectiveness of these means in resolving commercial disputes.

Six: The lack of studies on the feasibility of projects to which loans are requested, inevitably leads to exploiting the loan without any benefit. Especially when the purpose of the loans and obligations of the borrower not to use loan proceeds for other purposes are not specified.

Seven: loan agreements should include pre-terms approved by the bank (such as a certificate from the borrower that his properties and assets securing the loan as well as his income are not subject to any restriction or mortgage)

Two: Debt recovery through the judiciary

Banks consider courts as a last resort after the failure to reach any settlement of bad debts with the debtor. However, sometimes they are forced to confront the debtor before courts since the latter may choose litigation after knowing the outcomes and the time it would take and therefore will benefit for free from the funds borrowed from the bank. Moreover, certain judges may cancel or suspend the interests as of the date of the case. However, many banks did not benefit from the accumulated mistakes and did not avoid the shortcomings that have and still hinder their activities such as their failure to complete the legal procedures for credits and to avoid gaps in procedures related to documenting contracts, bonds.

In response to the demands of banks in resolving the issues before the Yemeni courts and moving bank cases to commercial courts, the Ministry of Justice at the beginning of the judicial year in 2009 - first instance – appointed (2) judges in the Commercial Court of First Instance in Sana'a to consider bank cases only. It also entrusted the first Chamber of the Commercial Court of Appeal in Sana'a to consider all bank disputes which was welcomed by all banks operating in Yemen,

since this step contributed significantly in initiating cases before these courts and speeding up their procedures.

Despite this concrete attention, banks still feel that they suffer greatly from the Litigation before the courts of Yemen, from several angles, namely, (in the opinion of banks):

- Judgments do not include interests claimed by the banks, either under the pretext of usury or the mal implementation of the provisions of Articles (379, 380) of the Commercial Code. The prevalent concept now provides that the lawsuit stops the right in the calculation of interests.
- The long duration of court proceedings in many cases without any justification and the delay in sentencing.
- The regularly and non-justified response to the request of the defendant (the debtor) to review accounts from the date of its opening
- There are no necessary legal fees indicating the seriousness of the plaintiff
- Banks endure large sums resulting from random estimation for fees of accountants, where there are no standards or basis controlling assessment of fees, according to the size and nature of the case at hand
- In addition to other cases forced upon banks as a result of hateful lawsuits by some customers

These reasons pushed most banks or part of them to asceticism in the provision of credit facilities and loans. It is noted that banks have significantly ceased to expand in the granting of credit facilities, and resorted to treasury bills. They raised the slogan “no lending or borrowing”, and this undoubtedly reduced the chances of funding for development projects, and reflected negatively on the development of society ... Banks no longer play a significant role in development and investment although there are numerous ways and means to resolve these issues, that banks have not followed so far, despite their effectiveness. On the other hand, we believe that the first and most important justification for the existence of banks in any country is their contribution to development and investment through loans and facilities granted by banks for investment projects.

Three: Recovery of bank loans through arbitration and other alternatives

In the framework of alternative means for the resolution of disputes, Yemen issued Law No. (22) for the year 1992, on arbitration which included rules and guarantees to revive commercial transactions and encourages "Yemeni, Arab and foreign" investors to take advantage of the benefits of arbitration in the new law.

This legislation reflected Yemen's concern in the settlement of disputes through arbitration, in conformity to the extent possible with the rules of international conventions on International Commercial Arbitration.

The Yemeni Arbitration Law No. (22) for 1992 witnessed a major development in terms of concepts and provisions and presented a quantum leap compared with the

previous arbitration legislations. The new law absorbed the modern concepts of arbitration in general, and arbitration of commercial disputes in particular.

In order to develop alternatives to resolve commercial disputes, especially arbitration, in accordance with modern rules and procedures keeping pace with the development of commercial transactions, and recognizing the role of institutional arbitration in this aspect, the Yemeni Center for Conciliation and Arbitration was founded in Marsh 2007 by an elite of senior jurists and lawyers economists and a number of banks with a view to establishing a sound and fair arbitration system in accordance with the requirements of the law and the contracts between the parties targeting quick adjudication of disputes and keeping the secrets of the disputing parties.

Hence, the establishment of the center served to increase trade and investment growth in various economic sectors and promoted the employment of domestic, Arab and foreign investments in Yemen and reflected, in practice, the requirements of the new law.

The core concern of the center is to reassure investors of various nationalities to the existence of modern arbitration proceedings that guarantee a speedy resolution of investment and commercial disputes on the basis of flexible rules and competent arbitrators qualified by experience, impartiality and specialize in the specific dispute raised before them.

In addition, the Minister of Justice adopted arbitration rules by Decree No. (9) for 1998, upon the proposal of the Association of Banks and the Governor of the Central Bank of Yemen. The Center has also been adopted by the General Union

of Chambers of Commerce and Industry, the Chambers of commerce in all of the governorates of the Republic as well as the General Authority for Investment and the Central Bank of Yemen, as a think tank in resolving commercial, banking and investment disputes in the various branches of trade and economy.

All of the above shows us clearly that banks can choose alternative means to resolve disputes such as arbitration, mediation and conciliation, particularly banking disputes related to bad debts. But what is surprising is that banks, despite their knowledge of the effectiveness of such means in resolving disputes, they haven't so far and over the past years touched this door as if they do not wish to resolve their disputes and recover their debts or they have an interest in keeping things as they are for reasons known only to banks. Otherwise, what is the reason behind the indifference of banks to recover bad debts estimated at tens of billions? And why aren't they taking any practical measures to ensure the recovery of such debts?

Part Three

Proposals and Recommendations

First: in the framework of domestic legislations and international agreements

a- Given that the Law of Civil Procedures has the utmost importance, we believe that there is a need to issue an alternative law and it is not enough to amend 34 articles. The practical implementation of the provisions of the current law, highlighted many difficulties due to the inertia that surrounds the texts. In addition to what is stated in the amendments addressed in this report, there are still many provisions that need to be modified such as provisions relating to oral pleadings, stopping dates of appeals, amounts of fines, provisions of defenses, provisions of appeal, including the dates, procedures and the reasons for the appeal, as well as the enforcement of provisions, including domestic and foreign judgments.

b- Amending the law organizing agencies and branches of foreign companies, which contains certain provisions that constitute obstacles to the exercise of commercial activity for each of the foreign companies and local agents or distributors, and amending unclear articles in the law.

c- The accession of the Republic of Yemen to the Paris Convention for Industrial Property requires a re-consideration of the provisions of the Intellectual

Property Rights Act and harmonizing its provisions with the provisions of the Convention.

d- Although Yemen has acceded to a number of international and regional conventions, there is a number of agreements that have not been ratified by Yemen despite their importance. Perhaps the most important is the New York Convention in 1958 on the Recognition and Enforcement of Foreign Arbitral Awards which was ratified by (142) countries so far, including (15) Arab states as well as the Hague Convention for the Pacific Settlement of International Disputes in 1907, with (109) members including (12) Arab States. Therefore, we recommend policymakers and decision makers to take practical steps towards acceding to these conventions.

Two: In the framework of developing commercial judiciary

a- The national team encountered difficulty in obtaining data (certified) of cases in the court records and commercial chambers, since such records do not include classified cases to enable the accurate and easy retrieval of the number of each type of case. Which why we recommend the classification of cases in the records of these courts.

b- In order to raise the rate of completion and adjudication, we recommend that the Ministry of Justice continues to supplement commercial courts of first instance, with the graduates of the Higher Institute of Justice and further strengthening the capacity of judges through the organization of specialized training courses.

c- In order to enhance the adjudication of cases within commercial courts, filing of response and defenses and all types of petitions during the hearing of courts should be in writing rather than verbal. This would save effort and time, and will help avoiding any differences expected to occur between writing and oral petitions in court hearings

d- Provide judicial cadre in commercial courts that is aware of the importance of banking and its necessity for societal movement and growth, and understands that interests are not usury and banks have the right of full recovery

Three: in the framework of reforming and developing banking

- The crucial and essential solutions to the issues of banks and foremost, debts and their recovery are within the banks themselves. In our view banks need to review their basic contracts and perhaps they need to start with developing and reviewing their contract models most importantly, the model of the loan agreement and the model of a credit facility. Moreover they should grant loans and facilities to investment projects and commercial entities rather than individuals.
- Loan agreements should include pre-terms approved by the bank (such as a certificate from the borrower that his properties and assets securing the loan as well as his income are not subject to any seize or mortgage)

- Credit departments should be equipped with bank skills of high qualification and should be familiar with studying and analyzing client applications as well as guarantees and financial solvency to reduce any potential risks and the utmost importance is the rapid and attentive follow-up.
- Banks should complete all credit facility papers including documents, contracts, customer addresses, business records, regulations, official licensing, checks, bonds and financial or real estate or personal business guarantees and all papers that preserve the rights of the bank.
- Establish special departments or sections to follow up with customers facing bad debt problems. These departments or sections should be eligible to manage the dialogue and substantive debate with customers, without arbitrariness or lack of awareness, and should seriously follow-up their debts situation and reach compromises that best meets the interest of the bank.
- Banks should pay attention to alternative means (mediation, conciliation and arbitration) to settle their disputes, especially institutions specialized in the settlement of commercial and investment disputes as the Yemeni Center for Conciliation and Arbitration, which will assist banks to recover debts due to the speed and effectiveness of these means in resolving commercial disputes.
- The lack of studies on the feasibility of projects to which loans are requested, inevitably leads to exploiting the loan without any benefit. Especially when the purpose of the loans and obligations of the borrower not to use loan proceeds for other purposes are not specified.

- Adoption of sound and written lending policy to control methods and means of decision-making at the level of credits and should be implemented within banks successfully
- Adoption of an effective classification system for debts that is operated automatically and within common standards applied to all banks and implemented under the continuous control and supervision as well as taking effective punitive measures by the central bank in case any bank violates them.
- Adoption of an exact pricing system for loans to be adopted by decision-makers in terms of implementation by providing information to decision makers on the costs of sources of funds and indirect administrative costs
- Adoption of a system that avoids unlawful competition between banks so as not to engage in unhealthy speculative lendings to increase the number of banks in the banking market at the expense of quality and cost of funds and to avoid the reduction of bad debts
- Establishment of special and effective credit commissions specialized in granting credit where decision makers therein take sound decisions based on an effective system that provides credit information and ensure the integrity of pricing in accordance with the principles of objectivity and contribute to the diagnosis of bad debts in advance
- Adoption of intensive training programs for staff and credit officers and credit committees, decision makers to enable them to take proper credit decision which avoids the banks from falling into the new trap of bad debts
- Create a positive climate for lending ensuring the quality of loans and not just the number

- Requiring financial and banking institutions to adopt the governance system and separate ownership from management and form specialized committees to monitor the functioning and work of boards in banks
- The Central Bank of Yemen shall take strict and deterrent measures against banks that grant any loans to clients with bad debts in other banks requiring them to pay those debts and imposing the required legal action to ensure debt recovery especially after they no longer bother any importance to the appearance of their names on the list of bad debts issued by the Central Bank.
- Take the necessary actions against troubled debtors by not allowing them to engage in any projects implemented by the government unless they settle with their banks
- Consider agreements and signed contracts approved by the competent courts with debtors an executive bond pursuant to res judicata and avoid conflicts of current accounts, especially after the closure of the accounts and obtaining approvals
- Accelerate the pace of adoption and issuance of the new documentation draft law prepared by the Ministry of Justice, which was forwarded by the Government to the Parliament in order to avoid the risks facing the banks especially view the insistence of debtors of refusing the process of documentation of credit contracts and mortgage contracts because of the high fees imposed on those documents
- Expedite the adoption of the legal fees law made by the Ministry of Justice and forwarded to the House of Representatives in mid-2009

Correct practice and change the mentality of lawyers and judges in many of the concepts and legal doctrines that are the foundations of development of the law to

address problems related to contracts, such as the theory of arbitrariness in the use of the right - the concept of contractual freedom - the concept of relative impact of the contract - the concept of financial rights through holding training courses

- Devote Greater attention to the reform of the administrative system for companies and financial institutions through reviewing the terms of appointment of administrative leadership - the consolidation of the principles of conflict of interests between administrative leadership and the company or partners - the adoption of transparency - pay attention to the regulatory systems and the legal departments.
- Correct erroneous behaviors through the establishment of rules of conduct by experienced and qualified legal professionals, as the continued focus on the judiciary as the only reform hub is not enough and we must give greater attention to our management.
- Address the discrepancies between the general rules of the Civil Law and the special rules of the Commercial Law that highlighted implementation gaps and difficulty in relying on the general rules to interpret texts and complete obligations (Unjust Enrichment – assignment of debt and assignment of right - the provisions of mortgage and concessions).
- Reform the legal system of interests through explicit provisions recognizing interests, determining the legal rate of interest, setting legal terms and controls on interest rates and requirement to separate between riba-based transactions and non-riba-based transactions