مجلة تنمية الرافدين

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Research Paper

A Proposed Framework to Support the Independence of the Central Organization for Control and Auditing in the Republic of Yemen in Light of the (INTOSAI) Principles)

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Abstract:

This study addresses the urgent need to enhance the independence of the Central Organization for Control and Auditing (COCA) in Yemen, crucial for its efficient and objective oversight of state institutions. It aims to present a proposed framework to strengthen COCA's independence, based on the principles of the International Organization of Supreme Audit Institutions (INTOSAI). The study assesses COCA's current independence against these principles, identifies factors that negatively affect it, and proposes legislative and regulatory remedies. Using a descriptive-analytical methodology, the research examines the institutional independence frameworks and COCA's legal, organizational, functional, financial, and administrative realities in Yemen, as outlined in national laws. The study concludes that COCA lacks complete independence, with deficiencies in constitutional independence, organizational and administrative subordination to the Presidency, financial dependence on the executive, and exclusion of some senior positions from its oversight. It also found weak immunity and financial/administrative independence guarantees for employees. Consequently, an integrated five-dimensional framework is proposed, encompassing constitutional, legislative, structural, and procedural recommendations that align with INTOSAI principles.

Keywords:

Supreme audit Institutions, institutional independence, INTOSAI, Yemen, Lima Declaration, Mexico Declaration.

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ورقة بحثية

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المستخلص

تعالج هذه الدراسة الحاجة الملحّة إلى تعزيز استقلالية الجهاز المركزي للرقابة والمحاسبة في اليمن، لما لذلك من أهمية بالغة في ضمان كفاءته وحياده في الرقابة على مؤسسات الدولة. وتهدف إلى تقديم إطار مقترح لتعزيز استقلالية الجهاز، استنادًا إلى مبادئ المنظمة الدولية للأجهزة العليا للرقابة المالية والمحاسبة. وتقيّم الدراسة مستوى الاستقلالية الحالي للجهاز مقارنة بهذه المبادئ، وتحدد العوامل التي تؤثر سلبًا عليه، وتقترح معالجات تشريعية وتنظيمية. وباستخدام المنهج الوصفي–التحليلي، تناول البحث أطر الاستقلال المؤسسي، إلى جانب الواقع القانوني والتنظيمي والوظيفي والمالي والإداري للجهاز في اليمن كما ورد في القوانين الوطنية. وتخلص الدراسة إلى أن الجهاز يفتقر إلى الاستقلالية الكاملة، حيث يعاني من قصور في الاستقلال الدستوري، وخضوع تنظيمي وإداري لمؤسسة الرئاسة، واعتماد مالي على السلطة التنفيذية، بالإضافة إلى استثناء بعض المناصب العليا من رقابته. كما كشفت الدراسة عن ضعف الحصانة وضمانات الاستقلال المالي والإداري للعاملين فيه. وعليه، تقترح الدراسة إطارًا متكاملًا ذا خمسة أبعاد، يشمل توصيات دستورية وتشريعية وهيكلية وإجرائية، بما يتوافق مع مبادئ المنظمة الدولية للأجهزة العليا للرقابة .

الكلمات المفتاحية:

الأجهزة العليا للرقابة، الاستقلال المؤسسي، INTOSAI، اليمن، إعلان ليما، إعلان المكسيك، الحوكمة.

مجلة

تنمية الرافدين

***(TANRA)*: مجلة علمية، فصلية، دولية، مفتوحة الوصول، محكمة.**

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1. General Framework of the Study and Literature Review

1.1 Introduction

The independence of Supreme Audit Institutions (SAIs) is a cornerstone of effective oversight systems (Fukofuka et.al. 2025), promoting transparency (Khmelkov, 2022), accountability, and combating corruption in the public sector (Şevciuc, 2024). International organizations, notably INTOSAI, have linked audit institution effectiveness to its legal, functional, institutional, and financial independence (INTOSAI, 2019a; INTOSAI, 2019b). INTOSAI documents like the Lima (1977) and Mexico (2007) Declarations affirm independence as essential for impartiality, objectivity, and audit efficiency, free from political or executive interference (INTOSAI, 2019a, 2019b). These principles stress that constitutional, organizational, and legal guarantees of independence are prerequisites for SAIs to exercise powers without external influence and to enhance public confidence. This view is echoed in recent global analyses, which emphasize that SAI independence is crucial for transparency and accountability (Dantas, 2024; Fuentes Castro, 2023).
In Yemen, COCA's weak independence is evident, affecting its functions under a legal system lacking adequate institutional protection and due to its executive subordination and financial links to auditable entities. Political and economic transformations necessitate reviewing this situation and proposing reforms to enhance COCA's independence and effectiveness in line with international standards.

1.2 Problem Statement

SAI effectiveness in promoting transparency and good governance is tied to their independence from audited authorities (OECD, 2016). International experience shows that lacking constitutional, functional, or financial independence weakens an SAI's objectivity and makes its decisions vulnerable to external influence (World Bank, 2021). In Yemen, COCA faces challenges from weak legislative and constitutional guarantees for its independence, despite being the supreme body monitoring government performance. Although Law No. (39) of 1992 granted COCA broad audit powers, its organizational and legislative reality doesn't ensure effective independence due to administrative and financial links to the executive and absent constitutional protection (**Republic of Yemen Ministry of Legal Affairs, 1992**; INTOSAI, 2019b). This study, therefore, addresses the need to develop an institutional and legislative framework enhancing COCA's independence by analyzing the five dimensions of independence in INTOSAI principles, assessing their presence in Yemen, and proposing interventions. Recent global assessments confirm this; the 2023 SAI Independence Index (INTOSAI Development Initiative, 2023; **Australian National Audit Office, 2024**)." Key questions include: Key questions include :

- Does COCA have constitutional independence protecting it from executive interference?

- What is its organizational independence regarding administrative subordination and relations with audited entities?
- Does COCA possess functional independence for unrestricted task performance?
- Does COCA enjoy necessary financial and administrative independence for resource security and decision-making freedom?

1.3 Significance of the Study

This study focuses on SAI independence in developing countries, particularly fragile, conflict-affected environments like Yemen, a core issue in oversight and financial governance. The absence of true institutional independence is a prime obstacle to SAI effectiveness in combating corruption and promoting transparency (Bertot et al., 2010; OECD, 2016). Despite legislation organizing COCA, its effectiveness remains limited by financial/organizational dependence and lack of constitutional protection, making this study crucial. The study's added value lies in presenting a practical framework based on INTOSAI principles for evaluating and strengthening COCA's oversight functions. Its applied importance is evident in offering actionable recommendations for public sector reform in Yemen, vital for rebuilding state institutions and enhancing public confidence (UNDP, 2020).

1.4 Objectives of the Study

This study aims to propose a practical framework for enhancing COCA's independence in Yemen based on INTOSAI principles, particularly the Lima and Mexico Declarations, to improve its professional and impartial oversight role. Specific objectives are:

- To analyze Yemen's constitutional, legal, and organizational frameworks for COCA against international principles.
- To assess COCA's institutional independence across constitutional, organizational, functional, financial, and administrative dimensions.
- To identify shortcomings restricting COCA's independence in legislation, structure, or practices.
- To formulate a comprehensive institutional framework, drawing from successful international experiences, to address these gaps.
- To propose legislative and institutional recommendations aligning Yemeni COCA with INTOSAI standards.

1.5 Methodology of the Study

This study employs a descriptive-analytical methodology to examine COCA's legal and organizational environment in Yemen, comparing it with international standards to identify flaws. The analysis uses INTOSAI's Lima Declaration (INTOSAI-P 1) and Mexico Declaration (INTOSAI-P 10) (INTOSAI, 2019a, 2019b). Tools include analyzing national legal texts (Constitution, Law No. (39) of 1992, financial/administrative laws) regulating COCA. A comparative analysis contrasts Yemeni reality with international principles of institutional independence. The study

reviewed specialized literature to identify concepts and methodologies for studying SAI independence, informing an analytical framework measuring five dimensions of institutional independence: constitutional, organizational, functional, financial, and administrative. An analytical matrix based on these dimensions was developed to assess COCA's framework against international principles, enabling diagnosis of weaknesses and proposal of interventions.

1.6 Review and Analysis of Previous Studies

Academic and practitioner literature widely agrees that the principle of SAI independence is a fundamental pillar for effective government oversight. Key INTOSAI declarations (Lima Declaration 1977, and Mexico Declaration 2007) have emphasized the necessity for audit institutions to enjoy complete independence from audited entities. Studies indicate that the absence of independence guarantees in the legal, administrative, and financial structure hinders the role of these institutions in promoting integrity and combating corruption. Recent studies (since 2015) focus on various aspects of the topic, such as analyzing audit laws in Arab and developing countries, evaluating the application of INTOSAI principles, governance reforms related to oversight, and comparative studies of SAI independence (constitutionally, organizationally, financially, and administratively). Comparative assessments in the Pacific have shown that weak legislative and financial independence hinder SAIs' ability to operate autonomously (Pacific Association of Supreme Audit Institutions [PASAI], 2021). Commentaries note that true independence requires not only legal status but also practical implementation and adequate resources, with political will and advocacy necessary to counter executive interference (Fuentes Castro, 2023; Transparency International New Zealand, 2021).The following are some previous studies:

1.6.1 Study by Aboulqasim, A. E., & Ahmad, N. (2025): Constitutional and Legislative Analysis of Four Developing Countries (Libya, Egypt, Tunisia, Jordan):This study aimed to assess the independence of audit institutions through legislative content in multiple developing countries. The researchers used content analysis of legal methodologies and evaluated the independence of SAIs in constitutions and laws. They classified independence on a numerical scale from 0 to 1 and found that all countries were close to "medium" in the level of SAI independence, with Tunisia scoring highest (0.57), followed by Egypt and Jordan (0.50), and Libya lowest (0.46). They concluded that there were slight differences among the four countries in the extent to which their constitutional and legislative independence was regulated. The importance of this study lies in being the first (according to the researchers) to assess SAI independence through legislative content in multiple developing countries and presenting a normative (quantitative analytical) framework applicable in other contexts. Its strengths include a clear quantitative methodology and comprehensiveness (four countries), while its weaknesses lie in focusing on texts without an applied study and relying on a single criterion for measuring independence. This study is related to our current study by revealing similar legislative weaknesses

in developing countries; it clarifies that in all these legal frameworks, there is room for improving constitutional and organizational guarantees.

1.6.2 Study by Torres, M. (2024): Case Study of Ecuador (Comptroller General with Judicial Status): This study aimed to discuss the challenges facing the independence of the financial and administrative audit institution in Ecuador. In a report published by INTOSAI, the Comptroller General of Ecuador indicated that the lack of financial and administrative independence negatively affected the institution's performance, requiring constitutional discussions and legal reforms to enhance the separation between the audit authority and other authorities. The specificity of this study lies in addressing an audit institution with judicial powers (financial convictions), a different model that nonetheless confirms that independence problems are common even in democratic systems. Its strengths include incorporating the historical and legal context of the Ecuadorian institution's rights, while its weakness might be its focus on a single Latin American case, and not all its conclusions may be generalizable. Its relevance to the current study lies in demonstrating the importance of financial and administrative independence as an internationally agreed-upon pillar, which supports the hypothesis that any proposed framework in Yemen must address these dimensions.

1.6.3 Study by Hazaea, S. A., et al. (2022) :Field Study in Yemen: This study aimed to assess the role of the Yemeni Organization for Control and Auditing in combating corruption. The researchers used questionnaires (n=83) and COCA reports. The results indicated COCA's contribution to detecting corruption but its lack of capacity to prevent it due to "weak political stability and weak law enforcement". COCA faced several obstacles such as favoritism, weak internal audit systems, as well as "lack of independence and transparency in its funding". The study also mentioned a scarcity of financial resources to support audit tasks. This study is considered one of the first (according to the researchers) to evaluate the role of the Yemeni institution using data from COCA, highlighting a direct relationship between decreased independence and limited institutional performance. Its strengths are that it was based on direct field data, but it is limited to the Yemeni context and does not cover comparison with other countries. Its relevance to the current study is that it shows COCA's actual lack of independence and the need to address this problem.

1.6.4 Study by Al-Saydi (2022) : Legal Comparison between Yemen and Egypt: This descriptive-analytical study aimed to compare the articles of the Yemeni Central Organization's law (Law No. 39 of 1992) with the Egyptian Accountability State Authority's law (Law No. 144 of 1988) concerning the protection of public funds. Among its most important conclusions: The Yemeni constitution does not explicitly provide for independent audit institutions (unlike the Egyptian constitution), and the Yemeni COCA law includes provisions granting immunity for the actions of senior administrations (ministers and their deputies), detailing how reports on their violations should be submitted instead of prosecuting them judicially. The study also proved that Yemeni legislation contains legal loopholes that limit the independence of the audit

institution and its immunity from real accountability. Its strengths include the clarity of the comparative method and focus on relevant legal articles; its weakness lies in limiting the study to only two countries (Yemen and Egypt) and without field research. Its relevance to the current study is that it highlights legal (constitutional and legislative) aspects lacking guarantees, which confirms the need for their reform.

1.6.5 Study by Feathers, B. (2021): Literature Review on Supreme Audit Institution Independence: This review (by INTOSAI/IDI) was prepared to compile concepts of independence in academic and institutional literature during the period 2013-2020. It confirms that independence is a fundamental principle shared by researchers and practitioners, points to its associated benefits (higher public trust and better governance), and identifies knowledge gaps in available research on SAI independence, calling for more research. This review can be considered a secondary source outlining general concepts but does not provide new empirical data. Its strengths include its comprehensive global research scope, while its weakness is that it is not a new field or analytical study. However, it is useful for understanding the general framework upon which the current study is built and confirms the literature's agreement on the importance of SAI independence.

Comparative Analysis and Research Gap:

Previous studies agree SAI independence is multi-dimensional (constitutional, organizational, functional, financial) and necessary for accountability and transparency. They concur that guarantees for appointing the head (fixed terms, difficult dismissal) and self-funding ensure pressure-free operation, reflecting Mexico Declaration's pillars. Political factors are widely seen as obstacles to independence. Methodologies varied: analytical (Feathers, B., 2021; Aboulqasim & Ahmad, 2025), descriptive comparative legal (Al-Saydi, 2022), and empirical (Hazaea, S. A., et al., 2022). Differences arise from local contexts; constitutional guarantees vary, and research focus differs by country. Research gaps emerge: literature often studies only one aspect (legal or empirical) or few countries. A comprehensive framework combining five independence dimensions (constitutional, organizational, functional, financial, administrative) with comparative application and a proposed framework is lacking. Most studies diagnosed problems, not providing framework solutions, despite showing urgent need for guarantees. They agree on independence principles' importance and highlight weaknesses in application (absent constitutional guarantees, budget linkage to executive, lack of financial transparency). This study contributes by presenting a "comprehensive proposed framework to support independence" in Yemen, considering all dimensions, combining comparative legal analysis, INTOSAI principles, and practical recommendations, integrating existing knowledge for new value.

2. Independence (Concept and Manifestations according to International Principles)

2.1 Concept of Independence

SAI independence refers to their prestigious and balanced position relative to public authorities, enabling their oversight role. Al-Hassani and Kharabsheh (2000, p. 340) state this concept views oversight as complementary to state authorities, enhancing performance. This requires SAIs to have an independent position for free and objective work, uninfluenced by any party. INTOSAI's Lima Declaration affirmed SAIs cannot be effective and objective unless independent from audited entities and protected from external influence, with independence indicating a country's progress (INTOSAI, 2019a, p. 8). INTOSAI studies show institutional independence has detailed manifestations, the absence of any weakening overall independence.

2.2 Manifestations of Independence

Institutional independence manifestations cover legal, organizational, functional, financial, and administrative dimensions. They range from constitutional acknowledgment and subordination definition to the organizational law regulating audit nature, scope, procedures, and SAI powers for efficient and effective functions. U.S. GAO Reports (2007, p. 30) indicate these are prerequisites for objective performance, effective accountability, and true functional independence. UAE Supreme Audit Institution documents Audit Bureau of the United Arab Emirates [UAESAI] (2004, p. 4) affirmed independence is shown by non-subjection to executive bodies in reporting, freedom in planning/examination, access to information, and powers to hold entities accountable without interference.

2.2.1 Constitutional Independence

The Lima Declaration stressed including a constitutional provision establishing the SAI, providing necessary independence, leaving legal details to specific laws (INTOSAI, 2019a, p. 8). The Mexico Declaration (INTOSAI-P10) affirmed the need for legislation clearly defining SAI independence through an appropriate, effective constitutional framework, supported by practically applicable legal provisions (INTOSAI, 2019b, p. 10; INTOSAI, 2007, p.1). This constitutional aspect includes provisions on subordination, guarantees, and protection against interference, requiring other independence manifestations (functional, financial, organizational) within constitutional texts. Merely stipulating establishment in the constitution without defining subordination or guaranteeing substantive independence devalues the provision. Constitutional independence elevates SAIs from law-established bodies to entities founded within the constitutional order, granting constitutional immunity like other state authorities.

2.2.2 Organizational Independence

2.2.2.1 In Terms of Subordination:

This defines SAIs' position within the state and their linkages, ensuring non-subordination to any authority. INTOSAI emphasized SAIs must have appropriate independence from legislative and executive bodies for correct, institutional audit performance (INTOSAI, 2020, p. 14). ISSAI 200 classifies this as independence from the legislative authority (Rules 2.2.5-2.2.12), executive authority (Rules 2.2.13-2.2.24), and audited executive bodies (Rules 2.2.25-2.2.29) (INTOSAI, 2020, p. 11). Thus, SAI independence is from both legislative and executive authorities.

- *Independence from the Legislative Authority:* This is crucial as legislative work involves monitoring government actions, risking SAI use by legislative members for information (Attia, 2008, p. 70). Even when SAIs perform tasks at legislative request, it's within regulated relationship, not compromising independence, and per constitutional/legal tasks (INTOSAI, 2019a, p. 19). Full independence requires SAIs not be subject to legislative directives on audit programming, planning, and execution. SAIs need absolute freedom in work programs and methodologies without external interference affecting objectivity or audit effectiveness (INTOSAI, 2020, p. 13).
- *Independence from the Executive Authority:* Independence from government is a key guarantee, protecting SAIs from control or influence by audited executive entities (INTOSAI, 2020, p. 15). SAIs should not be subordinate to, nor receive directives from, the executive regarding task performance. This prevents being forced to alter, abandon operations, or amend report results (Attia, 2008, p. 69). Organizational independence requires independence from both legislative and executive authorities, ideally stated in the constitution (e.g., "The audit institution is an independent supreme body").

2.2.2.2 Regarding the Appointment of the Head of the Institution and Related Guarantees:

The Lima Declaration linked SAI independence to its head's and members' independence, mandating constitutional guarantees for this, including removal procedures that don't weaken independence (INTOSAI, 2019a). The Mexico Declaration stipulated heads be appointed, reappointed, or dismissed via procedures guaranteeing executive independence; for a sufficiently long, specific term; and have judicial immunity for official duties (INTOSAI, 2019b). INTOSAI noted head's mandate nature can enhance independence if appointed for long, specific term, with set retirement age, and termination procedures similar to judicial positions (INTOSAI, 2020). GAO recommendations (GAO, 2003; INTOSAI, 2019b) enhance independence if head is elected by legislative body (also handling removal, receiving reports) or appointed by one body with legislative approval for appointment/removal. Optimal appointment involves nomination by highest state authority with legislative approval, granting immunity from dismissal except in exceptional cases with legislative approval and clear justifications.

2.2.2.3 Regarding the Independence of Employees in Audit Institutions and the Availability of Guarantees for Them:

Organizational independence extends to SAI employees, responsible for decisions and consequences (Attia, 2008, p. 70). ARABOSAI emphasized the law must guarantee provisions for members' appointment, promotion, allowances, transfer, secondment, service termination, discipline, and legal/functional statuses. It stressed immunity from dismissal except via disciplinary procedures with sufficient guarantees and recommended a special functional structure (salaries, allowances, benefits) enabling neutral, impartial work (Al-Hululi, 1991, p. 172). The Lima Declaration also stipulated including members' independence in constitutional texts, specifying removal procedures to prevent misuse (INTOSAI, 2019a, p. 18).

2.2.3 Functional Independence

Per the Lima Declaration, functional independence enables SAIs to exercise powers freely, without subordination to audited entities or external interference affecting performance (INTOSAI, 2019a, p. 9). Protecting this is a core INTOSAI principle, enhancing accountability, transparency, and integrity. SAIs must have powers and freedom to perform functions, reporting any restrictions (INTOSAI, 2019c). SAI powers must remain free from interference. The Mexico Declaration stated SAIs, while respecting laws, shouldn't receive directives from legislative/executive authorities affecting decisions on selecting audit topics; planning/designing audit programs; determining audit completion timeframes; preparing, distributing, publishing, following up reports; and imposing penalties if within SAI jurisdiction (INTOSAI, 2019b, p. 6; INTOSAI, 2020, p. 18; GAO, 2003, p. 47). SAIs must have powers for unhindered task performance, including rights to direct, unrestricted, timely access to documents, records, information, assets; request additional information and receive responses; and determine audit location, duration, and timing for requesting records (INTOSAI, 2019b, p. 8; INTOSAI, 2020, p. 17; INTOSAI, 2019a, p. 10). Functional independence requires non-interference, necessitating explicit constitutional provision and guaranteeing necessary powers. A constitutional article could state: "The Institution is a supreme, independent audit body, with legal personality, exercising its work with freedom and neutrality without interference from any party whatsoever".

2.2.4 Financial and Administrative Independence

2.2.4.1 Financial Independence:

Financial independence means SAIs get sufficient resources to perform functions fully, preventing subordination or control over resources by other entities. INTOSAI affirmed effective public accountability requires SAIs have necessary resources (INTOSAI, 2020; INTOSAI, 2019d). Since funding often comes via executive authority, the Lima Declaration called for SAIs to submit budgets directly to the budget preparation authority, bypassing the executive (INTOSAI, 2019a; INTOSAI, 2024). The Mexico Declaration called for legislative authority to ensure

SAIs have necessary financial resources, and SAIs right to approach legislature if resources are insufficient (INTOSAI, 2019b). It also endorsed executive non-control over SAI resource access/direction, affirming SAIs' right to manage budgets per priorities (INTOSAI, 2019b). GAO considered restrictions on financial appropriations damaging institutional independence (GAO, 2003). Financial independence requires SAIs obtain sufficient resources; legislative authority allocates them; and SAIs have disposal freedom over appropriations without reference to any party.

2.2.4.2 Administrative Independence:

Administrative independence grants SAIs complete freedom in managing administrative affairs (internal regulations, task organization, human/material resources). The Mexico Declaration endorsed this, stating SAIs should freely manage resources without executive interference (INTOSAI, 2019b, p. 9). The SAI head should have powers equivalent to Minister of Civil Service for full administrative/financial independence, enhancing SAI status as an independent, neutral, effective authority.

3. Extent of Independence of the Central Organization for Control and Auditing in Yemen according to International Principles

3.1 Availability of Constitutional Independence for COCA in Yemen

COCA operates under Law No. (39) of 1992, but Yemen's Constitution lacks explicit provision establishing COCA or defining its legal nature and audit role, though it indirectly refers to audit body functions (Ministry of Legal Affairs, Constitution of the Republic of Yemen, 2010). Constitutional references include requiring COCA's annual report presentation to House of Representatives and including COCA reports in Shura Council responsibilities. The Yemeni Constitution thus implicitly recognizes the audit body's role but omits explicit provision for COCA as a constitutionally independent body or guarantees of its institutional independence. This is a fundamental deficiency, as constitutional provision is the reference for laws regulating COCA; it should have included a clear article affirming COCA's existence, independence, and equal footing with other public authorities.

3.2 Availability of Organizational Independence for COCA in Yemen

3.2.1 Regarding COCA's Subordination:

Law No. (39) of 1992, Art. 3(a), states: "COCA is an independent supreme audit body with legal personality". Art. 3(c) states: "COCA is attached to the Presidency of the Republic" (Ministry of Legal Affairs, Law No. (39) of 1992 concerning COCA). The law recognizes COCA as legally independent, a positive step. Its attachment to the Presidency, not Council of Ministers, exempts it from direct subordination to the executive (Prime Ministry), COCA's audit focus. However, this independence may be ambiguous in Yemen's hybrid system with executive powers for both Presidency and Prime Ministry. Audit reports might be used to support the

government if President's party dominates, or weaken it if not, risking politicization. Researchers believe full organizational independence requires severing any formal/actual subordination by repealing Art. 3(c), retaining only Art. 3(a). This needs considering legal/organizational implications, re-examined later.

3.2.2 Regarding the Appointment of COCA's Head:

Art. 19(b) of COCA's law states Head is appointed by Presidential decision (minister rank) and enjoys immunity from dismissal/transfer, unless violation/neglect is proven. Appointment by highest state authority is an important independence element. However, immunity is conditional without specifying authority to decide violation/assess neglect, a legal loophole limiting immunity effectiveness. The law doesn't specify fixed term or extension conditions, contradicting international principles stressing fixed, long terms for stability and impartiality. Researchers propose criteria: appointment by President with legislative approval for balance ; seven-year term for long-term program implementation, considering reform timelines and experience development (aligning with INTOSAI-P12 performance evaluation every three years) ; term renewable/non-renewable based on comprehensive performance evaluation ; immunity from dismissal except with legislative approval after proof of legal violation via judicial/neutral body ; and same immunity/guarantees as judicial office holders.

3.2.3 Regarding the Independence of Employees:

Employee independence is fundamental for effective audit. This can be affected by internal/external influences.

- *External Influences:* Art. 28 of COCA's law protects technical members from pressure/interference. Art. 11 grants judicial police status to specified members for proving financial/administrative violations or criminal acts harming public interest. These provide good legal protection and professional authority.
- *Internal Influences:* Art. 19(j) states technical members can't be dismissed except via disciplinary channels and can't be transferred/seconded outside COCA without their opinion and Head's approval. This is an important legal guarantee against arbitrary actions. Art. 21 grants COCA employees an audit allowance (50% basic salary) and transportation allowance (35% basic salary), categories decided by COCA Head. This offers some financial privileges, partially enhancing financial independence. However, researchers believe these allowances are insufficient for actual financial independence or the work's sensitive nature.
- *Recommendations to Enhance Employee Independence:* Prepare a special financial cadre for COCA employees, considering work specificity, responsibilities, and benchmark comparisons. Link cadre to COCA's independent budget. Legally protect employees from transfer, secondment, dismissal, except via transparent disciplinary procedures based on professional standards. Enhance professional protection for field staff (immunity, insurance, compensation).

3.3 Availability of Functional Independence for COCA in Yemen Functional independence grants audit institution freedom and effectiveness in performing functions without interference.

3.3.1 First: Practicing Functions without Interference, Subordination, or Direction:

COCA's law guarantees independence in professional tasks: Art. 22 confirms COCA's independence, stating no entity may interfere in its affairs. Art. 12 defines independence as freedom to address audit matters without binding direction or external interference affecting impartiality. Temporal independence is in Art. 11(20), granting COCA right to conduct concurrent, pre-audit, or surprise audits as required. Art. 5 states COCA practices financial, performance, and legal audits, indicating qualitative independence for diverse audit tools.

3.3.2 Second: Enjoying All Powers Enabling Task Performance:

COCA's law guarantees necessary powers. Art. 11 includes examining records, documents, accounts at audited entities or COCA HQ; seizing/copying documents; obtaining necessary information/data; and directing inquiries to officials, receiving responses, and requesting specialist presence for discussion. These powers are key guarantees for functional independence, enabling access to facts without obstacles.

3.3.3 Third: Scope of Audit Process in Terms of Operations and Entities:

Art. 6 defines COCA's jurisdiction over: state administrative apparatus units, local administration units; economic units/establishments affiliated with government; local councils; subsidized units receiving government support or managing public funds; and any other activity/entity subjected to COCA audit by laws or executive decisions, or whose funds are state-owned. Researchers believe Art. 6(5) needs amendment; it makes subjection of new entities to COCA conditional on legislation/executive decisions, potentially delaying/obstructing audit coverage. Proposed replacement: "Any other activity or entity affiliated with the state, or funded by it or through it, or whose funds are considered public funds owned by the state". This would subject new entities automatically, enhancing audit effectiveness. Arts. 7, 8, 9 stipulate COCA exercises powers in all state financial, administrative, legal operations without exception, establishing comprehensive oversight over financial/organizational legality, efficiency/effectiveness, and compliance with laws.

3.3.4 Fourth: Publishing Audit Reports to All Competent Authorities and Implementing Recommendations:

Art. 13 stipulates COCA prepares various audit reports (examination results, performance evaluation, budget/final accounts review, annual state budget report, periodic general results reports, special reports) and sends them to competent authorities (audited entities, Presidency, Prime Ministry, House of Representatives). This grants COCA absolute freedom in preparing/publishing reports, achieving transparency and accountability. This includes freedom to prepare/publish reports to all relevant authorities; include all audit results; cover all state-affiliated entities; and

audited entities' commitment (per Art. 14) to implement COCA's recommendations. These practices are core to functional independence.

- *Important Legislative Note Regarding the Restriction in Article (11):* Art. 11(9) states: "Upon COCA's discovery of an act or omission punishable by law and detrimental to the public interest, COCA has the right to seize documents and refer them to the competent judicial authorities, with the exception of ministers, deputy ministers, and governors, for whom it is sufficient to submit reports to the Presidency of the Republic and the Prime Ministry to decide what they deem appropriate". This infringes equality before law and weakens SAI independence by excluding a category from direct judicial accountability via audit, leaving their fate to executive authority, risking politicization; and withholding audit outputs from judiciary. This exception in COCA's law, issued by executive and ratified by legislative, questions commitment to COCA's independence.
- *Position of INTOSAI Principles on Publishing Reports:* Mexico Declaration (INTOSAI-P 10) emphasized COCA's independence in choosing report recipients based on relevance and jurisdiction, and necessity to report criminal violations to judiciary for full accountability.
- *Legal and Analytical Conclusion:* Researchers believe Art. 11(9) exception contradicts COCA's independence in publishing reports, undermines neutrality by subjecting it to executive influences, and reflects a legislative flaw needing legal/constitutional amendment.
- *Legislative Recommendation:* Abolish the exception for ministers, deputies, governors in Art. 11(9), obliging COCA to refer their violations to competent judicial authorities. Constitution should explicitly provide for an independent audit body, responsible for reports, defining powers, authorities, and accountability conditions for all entities.

3.4 Availability of Financial and Administrative Independence for COCA in Yemen

3.4.1 Availability of Financial Independence for COCA in Yemen:

Art. 27 of COCA Law: "COCA shall have an independent budget included as a single item in the state budget. The Head of COCA shall prepare the draft budget...and send it to the Presidency of the Republic...Then, the budget in its final form shall be referred to the government for inclusion in the draft general budget...In all cases, the competent authorities...may not withhold or retain any part of COCA's approved budget". Art. 26 grants Head of COCA Minister of Finance's powers for COCA's appropriations.

- *Legal Analysis of Financial Independence:* The law indicates aspects supporting financial independence: an independent budget as a unified item; Head of COCA prepares draft budget; Presidency studies draft without direct government interference; explicit prohibition on withholding budget parts; and Head of COCA has full expenditure powers. These suggest high financial

independence. However, this is affected within the broader institutional independence framework.

- *The Fundamental Problem: Financial Dependence on the Presidency:* Despite theoretical independence, linking budget submission to Presidency is problematic. Institutional subordination to Presidency (Art. 3/c) makes financial independence partial. Full independence isn't possible if funding is subject to executive discretion, especially one sometimes linked to audited government. Presidency's sole authority to pass budget without legislative role in initial approval weakens oversight.
- *Recommendation Proposed by the Researchers:* Amend Art. 27 to address budget submission linkage to Presidency. Proposed wording: "The Head of COCA shall prepare the annual draft budget...and send it directly to the legislative authority, which shall study and discuss it. It is then presented to the government within the draft general budget. COCA's allocations may not be reduced or amended except by a vote in the legislative body, and a two-thirds majority shall be required...; otherwise, the decision shall be void". Justifications: enhances financial independence by bypassing executive; prevents politicization via strict voting mechanism; aligns with INTOSAI-P10 (SAI defends budget before legislature).

3.4.2 Availability of Administrative Independence for COCA in Yemen:

Art. 26: "The Head of COCA shall have the powers vested in the Minister of Civil Service and Administrative Reform...with regard to organizing COCA's work and employee affairs". Art. 31: "The Head of COCA shall prepare the draft executive regulations for this law, which include organizing employee affairs".

- *Textual and Legal Analysis:* Yemeni legislator guaranteed full administrative independence from Ministry of Civil Service by granting Head of COCA Minister's powers for COCA's organization, management, employee affairs; and authority to prepare draft executive regulations. This independence is fundamental to avoid government internal administrative control over COCA.
- *Institutional Foundation:* Ministry of Civil Service is a supreme regulatory body, an "internal administrative control" tool for government. COCA's subordination to it would breach institutional separation and create conflict of interest regarding decisions on transfer, appointment, promotion; administrative sanctions; and employee evaluation. Thus, Head of COCA is supreme authority for COCA's administrative affairs. Executive regulations are key administrative tools; COCA preparing its own establishes organizational self-independence, makes COCA most competent in formulating internal controls, and aligns it with other sovereign authorities (e.g., House of Representatives, Supreme National Authority for Combating Corruption). Draft regulations are issued by supreme authority based on COCA's proposal, not amended except by law, ensuring stability. This aligns with Mexico Declaration (INTOSAI-P 10) on SAIs' freedom to manage resources and establish regulations without executive interference (INTOSAI, 2019b, p. 9).

- *Concluding Remark:* Combined aspects (Head's independence in appointments/statuses, power to issue internal regulations, COCA's freedom from Ministry of Civil Service) show COCA enjoys an integrated administrative framework enhancing institutional/functional independence and protecting from interference. This also guarantees employee protection from arbitrariness, coupled with previously mentioned independence in transfer/dismissal.

4. Proposed Framework to Support the Independence of the Central Organization for Control and Auditing in Yemen

In light of the analytical findings of the study regarding the reality of the independence of the Central Organization for Control and Auditing (COCA) in the Republic of Yemen, and its comparison with the principles and standards of independence issued by the International Organization of Supreme Audit Institutions (INTOSAI), this study proposes an integrated framework to support and enhance COCA's independence. This is achieved by addressing the legislative, organizational, and procedural shortcomings that affect its performance as a supreme audit institution. This framework was based on five main manifestations of independence as presented in the study's adopted analytical structure: constitutional independence, organizational independence, functional independence, financial independence, and administrative independence. Within these manifestations, related sub-indicators were integrated, such as the independence of appointing COCA's Head and their guarantees, employee independence, report publication, and judicial referral mechanisms, as inherent internal components emerging from these main manifestations, according to international practices. This framework is characterized by two complementary aspects:

- An analytical-knowledge aspect: Explaining the importance of each manifestation of independence and its direct relationship to the efficiency of the audit institution and its ability to perform its constitutional function in protecting public funds and promoting accountability.
- An applied-practical aspect: Including specific reference indicators derived from the analysis of legislation and practices, used to assess the current institutional reality or to guide legislative and administrative reform paths for COCA.

Accordingly, Table (1) presents the proposed framework as five main axes of independence with a set of indicators that can be adopted as a basis for measuring the extent of institutional independence in COCA and identifying reform priorities in light of international standards and the national environment.

Table (1). Proposed Framework to Support the Independence of the Central Organization for Control and Auditing in Yemen

	Manifestation of Independence		Secondary Indicator
No.	Main Manifestation	Sub-Manifestation	
1	Constitutional Independence		Constitutional provision for the existence of a Supreme Audit Institution.
2			The Constitution defines the audit institution's position in parallel to other state authorities.
3			The Constitution defines the necessary powers for the audit institution to perform its tasks.
4			The Constitution defines the scope of audit to include all state-affiliated entities.
5			The Constitution defines the audit institution's relationship with other authorities and regulates it.
6	Organizational Independence	Regarding Institutional Subordination:	COCA exists as an independent body, not subordinate to any state authorities.
7			Independence from the legislative authority, with regulation of the relationship with it.
8			Independence from the executive authority, with regulation of the relationship with it.
9		Regarding Appointment of COCA Head:	Appointment by the highest state authority (President of the Republic, according to the state's governance system) after legislative approval.
10			Granting guarantees for task performance similar to judicial office holders.
11			Granting immunity from dismissal by defining conditions for dismissal and linking it initially and finally to legislative approval.
12			Granting a sufficient term for COCA leadership (e.g., seven years) for objective performance evaluation.
13			The COCA leadership term is renewable or subject to relief based on a comprehensive evaluation that assesses efficiency/inefficiency in performing tasks and contributing to COCA's role in specific programs.
14		Regarding Employee Independence:	Granting necessary powers for task performance.
15			Protection from various forms of pressure and interference that would hinder task performance.
16			Enjoying judicial police status when proving discovered financial/administrative violations or criminal acts harming public interest.
17			Appropriate financial rights and benefits for the tasks they perform.
18			Members enjoy immunity from dismissal except through disciplinary channels with sufficient guarantees.

19			Existence of sufficient and appropriate guarantees against disciplinary action, retirement, and any arbitrariness hindering performance.
20	Functional Independence		Freedom to determine audit procedures, type, operations, and timing.
21			Freedom to choose audit topics.
22			Non-interference in audit planning.
23			Freedom to determine appropriate audit timing (ex-ante, ex-post, concurrent, surprise).
24			Unrestricted access to information from various sources.
25			Obtaining all necessary documents and records for tasks.
26			Non-interference in the form, content, and substance of submitted reports.
27			Submit reports on work results periodically to all competent authorities.
28			Referring all discovered violation cases, with their documents and without exception, to judicial authorities.
29			Existence of effective internal systems to follow up on the implementation of COCA's recommendations.
30	Financial & Administrative Independence	Financial Independence:	COCA is not financially subordinate to an audited entity.
31			COCA possesses financial powers vested in the Minister of Finance.
32			COCA's budget is considered independent, listed as a single item in the general budget, and is subject to no government interference at any stage.
33			COCA obtains resources by sending its draft budget, after considering state financial/economic conditions, directly to the legislative authority for discussion and presentation to the government for approval without amendment.
34			Subjecting decisions to reduce or amend COCA's resources to a legislative vote.
35		Administrative Independence:	COCA is not administratively subordinate to an audited entity.
36			Granting COCA all powers vested in the Minister of Civil Service and Administrative Reform regarding employee affairs organization.
37			COCA issues internal systems and regulations to organize its work and employee affairs, operating independently of government interference.
38			COCA possesses the power to attract new employees and their appointment methods.
39			COCA possesses the power to appoint its members, promote them, and grant allowances.
40			COCA possesses the power to transfer its members, second them, terminate their services, and address all matters related to their legal status.

This framework is a systematic step towards an independent audit system aligning with good governance, enhancing COCA's effectiveness. Independence indicators become diagnostic criteria and guiding tools for policies and amendments. Indicators within each manifestation reflect real gaps in Yemeni institutional reality requiring intervention. They form a roadmap for authorities towards supporting COCA's independence within a national vision. Recommendations following this framework are an urgent necessity to transition from diagnosis to reform, aligning with INTOSAI's Lima and Mexico Declarations, considering Yemen's specificity.

5. Results and Recommendations

5.1 Results Based on study questions regarding COCA's institutional independence manifestations in Yemen, compared with INTOSAI principles, the study concluded:

5.1.1 Regarding Constitutional Independence: The Yemeni constitution lacks explicit text acknowledging an "independent supreme audit body," defining its nature, relationship with other authorities, or legal foundations for powers/establishment. COCA's regulating law thus lacks clear constitutional reference, weakening its status and making it subject to ordinary legislator's amendments restricting independence.

5.1.2 Regarding Organizational Independence:

- *COCA's Subordination:* COCA Law No. (39) of 1992 states COCA is an "independent supreme body" attached to Presidency. While not direct subservience to government, Presidency's position as executive apex in Yemen's system weakens substantive independence, risking political influence.
- *Appointment of COCA's Head:* Yemeni law grants President authority to appoint COCA's head with some immunity from dismissal/transfer. This immunity is largely ceremonial; law doesn't specify neutral body for violation validation, fixed term, renewability, or performance evaluation mechanisms. This ambiguity weakens actual independence guarantees, making head subject to political/administrative estimates, contradicting international standards.
- *Independence of Employees in COCA:* COCA enjoys complete independence here; law granted rights/guarantees for objective, neutral task performance. Criticism concerns inadequacy of financial rights/benefits.

5.1.3 Regarding Functional Independence: COCA enjoys relatively broad functional independence: no entity may interfere in its work; it has authority to determine audit type/timing; and power to obtain information/documents. However, two weaknesses exist:

- *Incomplete Audit Comprehensiveness:* Law conditions audit of new entities on executive decisions, a selective tool to obstruct COCA's expansion.
- *Exclusion from Judicial Referral:* For serious violations by ministers, deputies, governors, COCA can't refer directly to judiciary, must report to

Presidency/Prime Ministry. This derogates equality before law, restricts COCA's independence in activating judicial accountability.

5.1.4 Regarding Financial and Administrative Independence: Ministries of Finance and Civil Service are subject to COCA's audit yet retain regulatory/executive powers over COCA, a conflict increasing interference risk.

- *Financial Independence:* Yemeni law textually provides financial guarantees (Head's powers as Finance Minister, independent budget item). But budget submission through Presidency (executive head) is a structural weakness. This deprives COCA of full financial independence, making it functionally subordinate to executive apex in resource allocation. Absent effective legislative role in budget review/approval further weakens this independence.
- *Administrative Independence:* Yemeni law affirms important guarantees (Head's powers as Civil Service Minister, COCA establishes own executive regulations). This strongly indicates achieved institutional administrative independence, unless practically emptied. COCA's power to issue internal systems grants procedural immunity against interventions.

5.2 Recommendations Based on analytical findings and INTOSAI standards, the study recommends:

5.2.1 Regarding Constitutional Independence:

- Include explicit constitutional provision establishing an "independent supreme audit and accounting body," defining its institutional position alongside other authorities.
- Stipulate COCA's core powers, relationship with authorities, and jurisdiction scope, ensuring these form a governing constitutional reference for COCA's laws, providing supreme legal protection for its independence.

5.2.2 Regarding Organizational Independence:

- *COCA's Subordination:* Repeal Art. 3 subordination provision attaching COCA to Presidency. Adopt formula: "The Central Organization for Control and Auditing is an independent supreme audit body not subordinate to any state authorities, enjoying legal personality and full institutional independence".
- *Appointment of COCA's Head:* Amend appointment: Head nominated by Presidency, approved by legislative authority via public vote. Provide guarantees: immunity from dismissal/transfer except by legislative decision, based on official investigation, under judicial oversight ; fixed seven-year term, renewable based on independent objective evaluation. Establish institutional performance evaluation mechanism (mid-term/final reviews) for renewal/relief decisions.
- *Independence of Employees in COCA:* Adopt special financial/administrative cadre system for COCA employees, considering work sensitivity, risks, and need for immunization from influences. Provide professional guarantees: immunity from transfer/dismissal except via independent disciplinary councils; merit-based career progression; legal protection from pressure.

5.2.3 Regarding Functional Independence:

- Amend Art. 6 of COCA's law, repealing paragraph conditioning audit of some entities on executive decisions. Replace with: "Any other activity or entity affiliated with the state and funded by it or through it, or whose funds are considered state-owned funds". This closes loopholes and ensures audit automatically covers state-funded/owned entities.
- Repeal Art. 11(9) exception preventing COCA's direct judicial referral of violations by ministers, deputies, governors. Explicitly stipulate COCA's right to direct judicial referral for all violations, regardless of perpetrator's status, ensuring justice and accountability.

5.2.4 Regarding Financial and Administrative Independence:

- Amend Art. 27 of COCA's law, transferring budget submission from Presidency directly to legislative authority. Budget presented to Parliament for discussion, then to government within general budget. Proposed formula: "The Head of COCA prepares the annual draft budget after considering the state's financial and economic conditions and sends it to the legislative authority, which reviews and approves it. It is then presented within the draft general budget of the state for enactment".
- Protect COCA's allocations from arbitrary reduction by requiring two-thirds legislative majority for any budget amendment. This prevents political majority from imposing financial restrictions affecting COCA's performance and enshrines checks and balances.

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