

# **Human Rights under Siege**

**Human Rights in the Arab Region**

**Annual Report 2016**

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Annual Report 2016

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## Introduction

# **The Multifaceted Human Rights Crisis in the Arab World**

*Bahey eldin Hassan*

This report paints a bleak picture of the status of human rights in the Arab world, but the truth is that the situation is darker, more tragic, and more painful than any report could convey. Neither the Tunisian exception nor the hope that reform setbacks in Morocco will be reversed does little to dispel the darkness.

State rulers in the region claim they are compelled to restrict rights and liberties to prioritize fighting terror, seen as the greatest threat to the prosperity of peoples in the region and around the world. The fact is that fighting terrorism is not a priority for the governments that tout their counterterrorism efforts day and night in order to buy the international community's silence on the war crimes, crimes against humanity, and human rights crimes they commit every day against their citizens or other peoples in the region.

Holding back the Iranian expansion in the region, especially in Lebanon, Iraq, and Yemen, confronting Shi'ism, and burying the Arab Spring—these are the priorities of Saudi Arabia and some Gulf states, not al-Qaeda or the Islamic State (IS). Syria's priority is to uproot the 'moderate' opposition, not the extremists or IS, while the priority for Iraq is to secure Shia control of power and wealth at the expense of Sunnis and Kurds. The Egyptian government's priority is to preclude the possibility of a renewed, more liberal Arab Spring, not to fight IS, which is now in almost complete control of northern Sinai.

All the region's rulers are betting that Western states will step in at the right moment to deny terrorism a decisive victory, but they do not expect similar Western intervention on the side of their strategic foes—namely, those forces striving to establish modern democracies when the time is right. The continued threat of IS is crucial for the false legitimacy of the governments of some Arab states. It alleviates popular and international pressure on these governments for political and economic reform and respect for human rights obligations. Israel is no exception to this regional consensus, but as usual, it is the most explicit and open about its true objectives. Several prominent Israeli officials have stated that the disappearance of IS would be the greatest threat to Israeli national security in the foreseeable future.

One of the factors that most contributed to the deterioration of human rights in the region this year was the outsized influence of Sunni-Shia tension, the Saudi-Iranian conflict, and oil money. Over several decades petrodollars have contributed to the rise of religious extremism and terrorist groups in the region and, in turn, the deterioration of human rights regionally and globally. But the impact of oil money became especially severe after the first waves of the Arab Spring in January 2011. After this, such support was no longer limited to rich businessmen and individuals in the royal families of Gulf emirates. It extended to decision-making circles in Saudi Arabia, Iran, the UAE, Qatar, and perhaps elsewhere. While governments of these states disagree on several major regional issues, they all viewed and engaged with the Arab Spring as a threat to their vital interests and perhaps long-term survival. Despite the substantial decline in oil prices and resources, the negative impact of oil money was particularly marked this year given that it was a matter of central political decision making of these governments. This had the worst

ramifications in Yemen, Syria, Egypt, and Libya, where unconditional support was given to counterrevolutionary forces, to the commission of war crimes and crimes against humanity with impunity, to undermining modest international plans for humanitarian aid and counterterrorism, and to rescuing what remained of some states.

The impact of oil money and its consequences for human rights in the Arab world would not have been so destructive were it not for the simultaneous decline of international political will to support human rights issues, which also coincided with a democratic retreat in some Eastern European states and the rise of the far right in several Western European nations.

This context allows us to understand how Saudi Arabia could channel a UN Human Rights Council resolution on Yemen to its own interests during a meeting of the HRC in September 2015, and in 2016 force the UN secretary-general to remove its name from a list of the worst violators of children's rights after its release. Systematic, subversive action is being undertaken to weaken international human rights standards and mechanisms in UN agencies and other international forums by a set of states most hostile to human rights values and principles, including Egypt, Saudi Arabia, and Algeria. In fact, oil wealth now threatens the effectiveness of some of the most important international decision making institutions in human rights and poses a challenge to all UN member states.

The silence of some UN member states on similar types of extortion by some states on other occasions has only served to normalize these unethical practices in the UN, thus eroding the effectiveness and credibility of the institution. The marked decline in political and moral support shown by major democratic states to the UN, its Secretary General and High Commissioner on Human Rights in the face of the systematic subversive activities of the anti-human rights club of nations threatens to undermine the role of the international institution in protecting human rights, and this in one of the most imperiled regions of the world, the Arab region.

This retreat did not begin with the international community's growing disinclination to hold President Bashar al-Assad accountable for his use of chemical and other internationally prohibited weapons against unarmed civilians. This retreat is not about an isolated step

taken in a vacuum, but is much broader, and its repercussions are not and will not be limited to a single region, as evidenced by the influx of Syrian refugees to Europe, the hundreds of thousands of migrants crossing the Mediterranean, and the spread of lethal IS attacks to Europe, the US, East Asia, and Turkey.

The human rights cause lies at the heart of the conflict between the Arab world's forces of modernity and backwardness. And despite that available indicators point that this conflict didn't end with the relapse of the Arab Spring, a costly and bloody price will be paid unless reform takes place.

In this context, the mission of independent human rights organizations in the Arab world assumes greater import. On one side, they face Arab governments whose human rights crimes have exceeded conventional bounds, while on the other side they encounter the steady erosion of international human rights standards, waning enthusiasm for international instruments for the protection of human rights, and declining global solidarity on human rights issues, especially for a region seen as the source of terrorism and refugees and migrants with alien religious cultures and customs which are unwelcome by growing populations in the host states. This in turn feeds far-right, anti-globalization isolationist groups in Europe and the US, bolsters their political influence, and stokes religious hatred and racism against Arabs and Muslims.

Nevertheless, some Arab governments view this rightward trend favorably. They believe that if such groups reach power in Europe and the US, it will make Arab peoples more attentive to the external threat and see their rulers as saviors not as corrupt tyrants, leading them to abandon their aspirations for freedom and economic prosperity. By the same token, figures with the far right in the West admire "strong" Arab leaders able to repress their people and keep them firmly within national borders, since, as these rulers themselves claim, Arabs do not understand "Western" human rights concepts. This is another crucial point of intersection between the West's far-right and some of the Arab worlds' ruling elites; that "Arabs" are less worthy of equality and freedom, inside and outside their countries, and classify them as inferior to other peoples and races around the world.



Given the variations in political and social conditions in Arab states and their significance for the priorities of human rights organizations in the Arab world, it is perhaps appropriate to devote special attention in this phase to certain missions. Nationally, it is important to strengthen consultation, understanding, coordination, and joint action with the reform-minded elite across the ideological and religious spectrum, including those close to the ruling elite and with military and security backgrounds if possible. Despite the failure of prominent political Islamist groups in the Arab region in the context of the Arab Spring, the issue of Islam and human rights- from a human rights perspective- remains vital, especially in light of the rise of extremist, violent religious discourse and in light of the contemporary approach recently adopted by the Ennahda movement in Tunisia concerning the relationship between state and religion.

On a regional level, it's more important than ever to boost consultations and coordination between independent human rights organization on such issues among other shared priorities.

Internationally, long-term engagement and coordination is vital between liberal and leftist democratic trends, as well as social movements -particularly those defending the rights of immigrants. In this context, greater attention should be given to a fact-based discourse about the Arab state in question and the region at the expense of mobilizing, solidarity rhetoric. It may be important to search for new allies in emerging industrial democracies in the Global South, particularly in Latin America. In any case, more attention must be devoted to strengthening the role of the UN and its agencies working to protect human rights, to counter the assault on them by an alliance of authoritarian governments from the region and the world, which seeks to undermine human rights standards and international instruments for accountability and the protection of human rights.

The civil wars and armed conflicts underway in some Arab states may end with new states emerging from the ashes. The UN must play a principal role in rebuilding these "new" states and in guaranteeing peaceful coexistence between confessions, ethnicities, and tribes embroiled in years of bloody conflict or ethnic cleansing, whether these new states retain the same borders or not. In this context, the UN mission also includes the independent state of Palestine, if

international efforts are able to meet this demand, which enjoys near international consensus.

It's more important than ever to highlight the collective responsibility of the international community to devise a framework to wholly address the chronic structural crises which have produced unprecedented and severe humanitarian catastrophes, and which have reflected poorly on international peace and security as well as on human rights safeguards around the world.

## Summary of Report

### **Major Trends in Human Rights in Arab Countries**

This annual report documents and analyzes trends and developments in the human rights situation in 11 Arab states, namely Saudi Arabia, Bahrain, Syria, Iraq, Libya, the occupied Palestinian territories (OPT), Egypt, Sudan, Yemen, Tunisia, and Morocco. It also analyzes the UN Human Rights Council's (HRC) approach to the crisis of human rights in the Middle East and North Africa (MENA) and the role played by Arab governments in the HRC. This year's report also includes a separate section on the roots and causes of the spread of violence and terrorism in the Arab region, which sets the phenomenon in its regional and international contexts. This brief introduction will summarize the principal conclusions of this year's report.

#### **Overview of the Human Rights Crisis in the Arab world:**

Since the eruption of popular revolutions and uprisings in several countries in the region in 2011, political developments have taken dramatic and contradictory turns. In Egypt, the regime of President Abd al-Fattah al-Sisi is seeking to shore up the exclusionary authoritarian order using all available security, legislative, and judicial means, exploiting the fear of anarchy and violence among broad swathes of the public. Yet there are indications in Egypt of increasing anger and discontent with the performance of the ruling elite and

security establishment. Numerous politicians and cultural figures are also increasingly concerned about the closure of the public sphere in the country and the exponential increase in systematic human rights abuses, which constitute a danger to the Egyptian state and exacerbate extremism and terrorism in society.

In Syria, Bashar al-Assad remains in power, turning the national armed forces and its weapons against his own people. The local elite in Yemen, Libya, and Iraq failed to manage the political transition. This, combined with regional and international military and political interventions, has fueled sectarian and political polarization in these countries and led to the increased influence of extremist religious groups and the growing militarization of various politico-social entities. The conditions in these states over the past years also reveals how authoritarian regimes spent decades engaged in the systematic destruction of the nation-state and its institutions and the social glue that held these countries together.

Domestically, Saudi Arabia took all manner of security precaution to confront any Shia political action while regionally it deployed its political and financial capacities to influence the course of political transitions in Egypt and Syria. It used its military might to support its allies in the Gulf region and ensure its continued control over political developments in Yemen, the poorest Arab country, whose people are currently experiencing a profound humanitarian catastrophe. The deterioration of the human rights situation in Bahrain and Sudan cannot be divorced from the politics and policies that dominate the region. The ruling authorities in both of these countries initiated a decisive confrontation with their opponents and forces aspiring for political reform. Bahrain ignored the recommendations of the report issued by the fact-finding commission that examined human rights crimes and violations committed during the bloody clashes between the state and protestors demanding political change in 2011, when the Bahraini authorities invited in a Saudi military force that violently put down the demonstrations and protests.

Morocco was not excluded from the general trend of repression seen in most countries in the region. Despite the ongoing lively public debates in the country on issues of democracy and human rights, and specifically women's rights, independent civil society and critical

media have been subject to increasing and worrying harassment over the last three years. The Moroccan authorities also continued to systematically persecute persons demanding the right of self-determination for the Western Sahara and it has willfully obstructed a just resolution of the conflict.

The democratic transition in Tunisia remains fragile and beset by numerous challenges, such as divisions among the ruling and opposition political elite, growing terrorist activity by violent religious groups, deteriorating socioeconomic conditions, and the general slow pace of the legislative and institutional reforms needed to guarantee continued democratization. Frustration also continues to mount in the OPT due to the siege of the Palestinian people by the Israeli occupation authorities and the crimes of its military machine, as well as the continued political polarization between Palestinian factions and movements.

The spread of violence and terrorism in the region can be viewed in the context of several factors, most significantly the spread of extremist ideologies and the failure to decisively confront the violent, exclusionary religious rhetoric adopted by several governments in the region, which has thoroughly penetrated official religious and educational institutions. Violent organizations have taken advantage of the difficult socioeconomic conditions of many Arab peoples as well as their political marginalization to recruit new fighters and members, especially among youth. The spread of internal violence cannot be separated from the structural flaws at the core of national cohesion and regional unity that affect many countries in the region, such as Iraq, Libya, Syria, and Yemen as a result of historical, political, and social factors. The proliferation of militias in these countries, given political and regional support by various warring parties, further complicates existing conflicts in the region. The violence has exacerbated Sunni-Shia polarization and the political use of the division by regional and international parties.

The overall political and security landscape in the Arab region has contributed to a precipitous deterioration in the human rights situation, sparking crises and humanitarian disasters unseen in the region's modern history. The basic features of this crisis are examined below.

## **Targeting of Civilians and Extrajudicial Killing:**

Civilians are targeted and killed on a daily basis in the armed conflagrations raging in Syria, Libya, Yemen, and Sudan. The humanitarian crisis in Syria entered its fifth year. Nearly a quarter million people have been killed and roughly half the civilian population—some 5 million people—has been internally displaced or become refugees abroad. The warring parties stepped up military operations in 2015, including in civilian areas, leading to great loss of life and swelling the ranks of refugees and internally displaced persons (IDPs). The regime's alarming use of barrel bombs against civilian facilities, including markets, schools, and hospitals in opposition-controlled areas, claimed scores of victims, while various armed factions committed serious international crimes, including indiscriminate attacks on civilian inhabited areas and killing on the basis of ethnicity.

In Yemen, civilians are experiencing severe hardship in one of the worst humanitarian disasters in the world, according to UN estimates. Civilians are caught in airstrikes by the Saudi-led Arab coalition or in Houthi fire, and they suffer from forced displacement, poor nutrition, and the collapse of basic services such as education and health. The conflict has now spread to 20 of the country's 22 provinces. According to the UN, the conflict, which began on March 26, 2015, has claimed the lives of some 6,000 people, nearly half of them civilians, including 600 children, while injuring another 900 children. This is five times the casualty figure for 2014. In addition, some 21.2 million people—or 82 percent of the population—are currently in need of some form of humanitarian assistance to meet their necessary needs or protect their basic rights. The UN Office for the Coordination of Humanitarian Affairs announced that 2.3 million had been forced to flee their homes and another 120,000 Yemenis had left the country.

In Libya, militias on all sides continued their direct, indiscriminate attacks on civilians and basic civilian infrastructure and engaged in unlawful killing. According to the most recent figures from the UN envoy to Libya, some 1.9 million Libyan citizens are still in need of basic healthcare while 1.2 million Libyans have difficulties accessing food. The country is currently home to nearly 500,000 IDPs. The state has failed to guarantee the safe return of IDPs to their homes or to

provide adequate housing for them and prevent violent incursions on IDP camps. For the last three years, these camps have been subject to an average of two attacks every month.

In May 2015, the city of Sirte, located just a few hundred kilometers from Europe, fell to the Islamic State (IS), which has set itself up as the ruler of the city and uses it as a base for its operations in Libya. IS preachers and loyalists have unleashed a campaign of terror against the city's residents, and all attempts to liberate the city from the extremist group have provoked an overwhelmingly violent response from it, most recently leading to the killing of dozens of people in mid-August 2015. Sirte was also the stage for IS's public execution of scores of Christians in 2015.

In Sudan, the government of President Omar al-Bashir stepped up military operations in disputed areas in Darfur, South Kordofan, and the Blue Nile. Mass displacement increased in turn in 2015. Currently there are 1.7 million IDPs in the provinces of South Kordofan and Blue Nile and more than 2.5 million in Darfur. The fighting has been marked by direct, indiscriminate attacks on civilian targets, killing and sexual violence, property destruction, and the loss of sources of livelihood. Airstrikes and indiscriminate ground attacks by government forces in Darfur, South Kordofan, and Blue Nile sent thousands of women and children fleeing for crowded camps in Darfur and neighboring Chad, as well as refugee camps in South Sudan and Ethiopia. Government forces as well as rebels and other militiamen raped and assaulted women and girls with impunity in numerous conflict zones. From January to August 2014, approximately 400,000 more people were displaced in the country. According to the UN, 6.9 million people in Sudan currently need humanitarian assistance.

In Iraq, it is estimated that 7,500–17,000 civilians have been killed and at least double that number wounded in the fighting between the Iraqi government and its allied militias and IS. This makes 2015 the fourth most deadly year in the country since the US invasion in 2003. Some 3.2 million Iraqis were forced to leave their homes in the face of the IS advance in Sunni-majority provinces between June 2014 and May 2015, and it seems unlikely they will soon return to cities and towns that were liberated in 2015 due to the widespread destruction

and the fear of reprisals from either Shia militias, especially in the ethnically and communally mixed province of Diyala, or IS remnants or cells in al-Anbar. The Iraqi government is facing substantial economic difficulties in rebuilding these looted areas following the sharp decline in the price of oil, which provides some 90 percent of state revenues.

Governments, militias, and jihadi organizations also engaged in extrajudicial killing as a means to eliminate their political opponents and human rights activists in Syria, Libya, Yemen, and Iraq. In the OPT, Israeli occupation forces in 2015 killed more than 100 Palestinians, some of them children, and injured hundreds in the West Bank and Gaza Strip. Victims were targeted in anti-occupation demonstrations, killed in airstrikes, or gunned down on suspicion of attempting to attack Israeli citizens. In Egypt, too, several cases of extrajudicial killing of persons affiliated with opposition currents were documented. The Egyptian authorities have imposed a blackout on information about the military campaign in the Sinai Peninsula against jihadi organizations. While journalists who attempt to report on the operations are subject to arrest and military trials, testimonies and other evidence indicate that civilians and their property are being targeted in combat operations in the peninsula. The Egyptian army expelled at least 3,000 families and demolished thousands of homes in its quest to eliminate the threat coming from the tunnels to the Gaza Strip; the government did not pay adequate compensation to the harmed parties.

The common feature in all the countries under review is that perpetrators of these crimes commit them with impunity. Judicial institutions in these states are either unable to hold security and military personnel to account due to armed conflicts and the collapse of state institutions or their integrity and independence are too severely compromised to do so. In addition, the international community has not made accountability and justice a priority for its approach to major issues in the region. In fact, much of the weaponry used by human rights violators like Saudi Arabia, Egypt, and Bahrain is imported from Western nations such as the US, France, Britain, and Germany. In August 2013, the European Council on Foreign Relations recommended a ban on the export of arms to the Egyptian authorities that could be used to violate human rights, but many European nations



have disregarded the recommendation and concluded arms deals with Egypt in 2014 and 2015.

### **Arbitrary Detention, Enforced Disappearance, and Torture:**

Arbitrary detention without a legitimate legal basis in international human rights law is a common occurrence in Egypt, Bahrain, Saudi Arabia, and Sudan, most frequently used against political dissidents, civil society activists, and journalists. Some detentions are based on counterterrorism or state security laws, which are typically marred by overly broad provisions that can be used to criminalize peaceful political activity. In Egypt, prolonged pretrial detention has become a punishment in and of itself. According to a recent report from the Egyptian Initiative for Personal Rights, at least 1,464 persons have been held in pretrial detention for more than two years.<sup>1</sup>

Arbitrary detention is also used as a weapon by warring parties and factions against their opponents in Syria, Libya, and Iraq, and the Israeli occupation authorities continue to hold hundreds of Palestinians in administrative detention, many of them for peacefully resisting the occupation. Amid the political wrangling among Palestinian factions, dozens of political activists have been arbitrarily detained in the West Bank and Gaza Strip, while the Moroccan authorities continue to arrest and prosecute Western Sahara activists for their defense of the region's right of self-determination.

Enforced disappearance is widespread in Syria and Libya and often seen in Egypt, while the torture and ill treatment of prisoners is a systematic practice in Syrian prisons and in Egypt and Bahrain. The security apparatus in Tunisia continues to engage in torture, particularly in the context of its war on terrorism. An independent national commission was recently announced to combat torture, and it is hoped that it can pursue the legislative and institutional reforms necessary to confront the practice. Sudan and Saudi Arabia continue to use cruel and degrading corporal punishments as sentences for

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<sup>1</sup>Egyptian Initiative for Personal Rights, "The New Emergency Law: Endless Pretrial Detention as Political Punishment At least 1,464 people in Four Governorates Held in Pretrial Detention Longer than the Two Year Legal Limit," May 10, 2016, <http://www.eipr.org/en/pressrelease/2016/05/10/2600>.

crimes, including lashings and amputations of limbs. In Saudi Arabia, some of these penalties are levied in cases involving political crimes or freedom of opinion and expression. Jihadi organizations also apply the same punishments in areas under their control in Syria, Iraq, and Libya.

### **Institutions of Justice in the Service of Rulers:**

Institutions of justice in Egypt, Sudan, Bahrain, and Saudi Arabia have been systematically used over the last two years as a means of settling scores with political opponents, human rights activists, and leaders of movements making social demands. In this context, most trials lack due process guarantees and some, as in Egypt, Saudi Arabia, and Bahrain, have ended with life sentences or death sentences. In early 2016, the Saudi authorities staged a mass execution, implementing 47 death sentences handed down in unfair trials in connection with terrorism charges. At least four Shia Saudis were executed as well, including prominent Shia cleric Nimr al-Nimr, who was convicted by a Saudi court on vague charges seemingly based on his peaceful criticism of Saudi officials.

Countries in the region also refer political cases or prisoners of conscience to military tribunals, state security courts, or special terrorism courts that lack neutrality and guarantees for defense. In 2015, Morocco continued to fabricate charges to prosecute several journalists and civil society activists known for their criticisms of the role of the monarchy, the spread of corruption in state institutions, or the defense of the right of self-determination in the Western Sahara.

### **Clampdown on Civil Society and Freedom of Opinion and Expression:**

The governments of Bahrain and Saudi Arabia confiscate in whole the freedom and independence of civil society and prevent the growth and development of an independent media. Dozens of rights activists and journalists languish in prisons in these states for doing their jobs. In Bahrain, several prominent human rights activists, such as Abd al-Hadi al-Khawaja and his family, Nabeel Rajab, Naji Fatil, Ghada

Jamshir, and Abd al-Jalil Singace, are serving long prison terms, endure violence and ill treatment, or are subject to prosecution and travel bans. The most prominent leaders of liberal and Shia political associations in Bahrain have also been detained. In Saudi Arabia, rights activist Waleed Abu al-Khair, Raif Badawi, and others are imprisoned on charges related to the exercise of their right of opinion, expression, and association.

In Egypt, the authorities have initiated an unprecedented crackdown on independent human rights organizations, referring 41 organizations to questioning on charges related to the receipt of foreign funding and operating without a license. Dozens of human rights defenders have been banned from travel, some for more than 18 months, while the authorities have taken judicial measures to freeze the assets and property of several leaders and staff members of these organizations. The Sudanese authorities have also set siege to civil society organizations and the media. In 2015, the offices of some of the most prominent of these organizations were raided and their members arrested. Several issues of Sudanese newspapers were confiscated and press content was censored.

In Morocco, too, arbitrary measures were taken against civil society organizations known for their critical stances vis-à-vis the authorities. Dozens of rights activities sponsored by the Moroccan Association for Human Rights were arbitrarily banned, while local branches of the association and the Moroccan League for Human Rights were denied registration permits. The Freedom Now Association, which defends freedom of the press, as well as the Association for Digital Rights and the Moroccan Association for Investigative Journalism, were denied operating permits. Most worryingly, seven human rights activists and prominent journalists were prosecuted in a criminal court on charges of receiving foreign funding liable to infringe national security. Freedom of opinion and expression and electronic media also came under heightened surveillance in Bahrain, Saudi Arabia, and Egypt, with Morocco moving in the same direction.

## **Women's Rights:**

Violence against and the sexual exploitation of women continue in areas of conflict in Syria, Iraq, and Sudan, particularly in areas under the control of jihadi organizations such as IS in Syria and Iraq. In Sudan, criminal law, the civil code, and the personal status law are interpreted and applied against women in a flagrantly discriminatory fashion. Women and girls are often arrested and lashed for actions the authorities consider scandalous or indecent, under Article 152 of the Penal Code of 1991, which is titled "Scandalous acts and acts infringing public morality." Sudan allowed the UN rapporteur on violence against women to visit the country in May 2015, and the rapporteur noted that large numbers of women and girls live in contexts of profound inequality, backwardness, poverty, and conflict. The situation is exacerbated by both public and private violence, perpetrated by government and non-governmental agents.

In Egypt, while the official rhetoric on women's rights has improved, in reality sexual violence continues against women in public places despite the announcement of a national strategy to combat violence against women in May 2015. Criminal provisions in the Penal Code for rape, sexual assault, and harassment are inadequate and do not address numerous cases of violence, for example the rights of female survivors and their protection when filing police reports of violence.

Perhaps the most positive development in women's rights across the Arab region was the public debate on equality between men and women in Morocco following a report issued by the National Council on Human Rights on ways to promote gender equality in the country. The report recommended steps to achieve full equality between women and men in the areas of inheritance and personal status laws. While the recommendations were rejected and condemned by Islamist and conservative parties in the country and the monarchy has not yet declared a position, the report spurred a vital discussion, unprecedented in the Islamic world, of the renewal of religious discourse and human rights in Islamic law.

## **Hardship of Religious Minorities:**

Religious minorities in the Arab region are facing a profound existential crisis. Although the roots are long standing, the crisis has been exacerbated by the spread of armed conflicts, the rising influence of militant religious groups, and the severe Sunni-Shia sectarian polarization in the Gulf and Arab Levant.

In Iraq, members of religious and ethnic minorities continued to be targeted, killed, expelled, or denied freedom of movement in 2015 due to the activities of IS, the Popular Mobilization Forces, and Kurdish forces, as well as the political and cultural dominance of extremist religious groups and rhetoric, including among the security bodies tasked with protecting these minorities. IS continued to target Yezidi, Christian, and Turkmen minorities in the areas under its control, particularly in the Nineveh province, engaging in killing, abduction, the imposition of a special minority tax, forced displacement, and forced conversion for non-Muslims, as well as rape and sexual slavery and the destruction of houses of worship.

Restrictions on religious freedoms in Sudan were tightened, while security and judicial harassment of members of Christian countries in the country increased. In Saudi Arabia, members of the Shia minority are treated as possible agents of Iran, amid a militantly intolerant, anti-Shia religious discourse. The Saudi authorities engage in systematic discrimination against Shia citizens, who constitute 10–15 percent of the population. Shia Saudis endure inequality in educational and government job opportunities and in the judicial system, while the government suppresses Shias' freedom of worship. Shia citizens are only rarely allowed to build mosques.

In Egypt, the authorities typically resort to customary reconciliation instruments in the cases of sectarian violence, instead of holding offenders to account. Christian and other minorities' homes and places of worship have been attacked, especially in Upper Egypt, and the government took no action to bring the perpetrators to justice.

## **Muzzling the HRC:**

The response of the UN HRC to the human rights catastrophes afflicting numerous countries in the MENA region was not commensurate to the gravity of the situation. Many of the biggest human rights violators in the world have been able to weaken the HRC and its instruments and even protect themselves and their allies from political accountability in the HRC. The most prominent example in 2015 was the HRC's failure to confront the human rights disaster in Yemen. Following political pressure from Saudi Arabia, the HRC reconsidered a resolution on crimes committed within the framework of the Saudi-led offensive on Yemen. Several Western countries known for their strong political and military backing of Saudi Arabia, such as Britain and the US, supported the withdrawal of the resolution.

Over the last two years, Saudi Arabia, Egypt, and other countries known for their antipathy to human rights have become bolder in their efforts to use the HRC and other UN agencies as a platform to weaken the international human rights order. They have attempted to undermine the independence and capacities of the UN High Commissioner for Human Rights and UN experts on human rights issues and have challenged the universality of human rights standards, especially in relation to women's rights and freedom of opinion and expression. Inserting overly broad terms such as "sovereignty" and "counterterrorism" into the lexicon of the international order, they increasingly deflect any effort by the UN to guarantee state adherence to human rights and international law with claims of illegitimate interference in domestic affairs and threats to national security.

On a positive note, the Palestinian delegation to the HRC played a leading role in March 2016 in guaranteeing the inclusion in an HRC resolution of a paragraph calling for the compilation of a list of multinational corporations that operate in and profit from Israeli settlements in the OPT in violation of international law; Britain and the US opposed the draft resolution.

## Section One

# **Challenges to Human Rights in the Arab Region**





# Egypt

Egypt has witnessed an unprecedented worsening of human rights. The regime of President Abdel Fattah al-Sisi took a series of legal and security measures to eliminate opposition voices, stifle freedom of expression, harass journalists, and crush independent worker's movements. The right to life and to a free and fair trial, as well as the freedoms of assembly and association, have been systematically violated. The popularity and support of the Sisi regime has significantly diminished. During his inaugural period, the general public treated Sisi as the savior who would tackle Egypt's complex political, economic, and security challenges and bring stability to the country. More than 20 million Egyptians voted for him in the fear that Egypt might disintegrate like other countries in the region.<sup>1</sup> The Sisi government, however, has failed to address economic, service, and legal problems, and has not brought security and stability to the country, especially in areas, such as Sinai, where the military is engaged in battle with armed Islamist groups.

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<sup>1</sup> "Al-Sisi's Popularity, From an Active Mass to a Static One," Nov. 9, 2015, *Daily News Egypt*, <http://www.dailynewsegyp.com/2015/11/09/al-sisis-popularity-from-an-active-mass-to-a-static-one>.

## Parliamentary Elections:

The parliamentary elections, held in October 2015, signaled the final stage in the army's "roadmap for political transformation" announced in July 2013. The parliamentary elections witnessed a low voter turnout rate of 26.56 percent (a figure that may even have been exaggerated) in 14 governorates in both rounds of the first phase of the parliamentary elections. The pro-government electoral list, 'For the Love of Egypt,' swept the polls in the first round of the elections<sup>2</sup>. The Sisi regime delayed the parliamentary elections for some time fearing it would have to face an unruly parliament. Authorities, backed by the security apparatus, therefore, promoted electoral lists with candidates loyal to the president. This meddling has raised serious concerns about the independence of the parliament and its ability to enhance good governance.<sup>3</sup>

The parliament is likely to face several challenges in relation to exercising its legislative and oversight authority, amidst a rising wave of terrorism and political violence as well as an obvious deterioration of the human rights record. Within 15 days of its inauguration, the parliament will have to review over 300 decrees<sup>4</sup> -some of which contravene the constitution and much of which infringe citizens' basic rights- issued by interim president Adly Mansour and later Sisi.<sup>5</sup> Calls by civil society to prioritize a number of issues during the approval

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<sup>2</sup>"Pro-Sisi List Tops Polls with First Round Voter Turnout of 26.56 percent," *Mada Masr*, Oct. 21, 2015, <http://www.madamasr.com/news/pro-sisi-list-tops-polls-first-round-voter-turnout-2656>.

<sup>3</sup> EUspring, Ragab Saad, "Did Egypt's Parliamentary Election just trump citizens' rights?," November 2015, [http://www2.warwick.ac.uk/fac/soc/pais/research/researchcentres/irs/euspring/publicationsnew/arabcitizenshipreviews1/arab\\_citizenship\\_review\\_n.12.pdf](http://www2.warwick.ac.uk/fac/soc/pais/research/researchcentres/irs/euspring/publicationsnew/arabcitizenshipreviews1/arab_citizenship_review_n.12.pdf)

<sup>4</sup>"Parliament Starts Reviewing Laws Passed in its Absence," *Mada Masr*, Jan. 13, 2016, <http://www.madamasr.com/news/parliament-starts-reviewing-laws-passed-its-absence>.

<sup>5</sup> Egyptian Constitution (2014), art. 156

process,<sup>6</sup> to restore and support the foundations of the rule of law and abide by constitutional provisions, have been ignored.

### **War on Terrorism:**

Egypt's war on terror has been used as a cover for violations. An undeclared state of emergency has been in force with the support of a deeply politicized judiciary. While the Egyptian government has used anti-terror discourse, it has only succeeded in closing down public space and stifling peaceful dissent. Meanwhile, it has failed to gain control of the insurgency in Sinai.

Although Egypt does not lack penal provisions to counter crimes of armed violence by extremists groups and organizations, it has passed two laws to combat "terrorism" that severely contravene the constitution and international conventions ratified by Egypt.

The president issued the Terrorist Entities Law on February 17, 2015 despite criticism by human rights organisations.<sup>7</sup> The law relies on a broad, vague definition of actions on the basis of which individuals or groups may be designated terrorists. Under this definition, human rights defenders, political parties, or developmental associations may be easily labelled terrorist entities and their members terrorists. Article 1 of the law contains undefined terms including "infringing public order, endangering the safety, interests, or security of society, obstructing provisions of the constitution and law, or harming national unity, social peace, or national security."

The law not only employs broad terms to designate entities or individuals as terrorists; it also allows them to be so designated for engaging in acts involving the use of violence or armed force without specifying the means. As such, it could cover statements, reports, protests, or newspaper articles if they are deemed to constitute "an infringement of the public order or social peace." Most puzzling is that the definition of terrorist entities and terrorists in the law is

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<sup>6</sup>Cairo Institute for Human Rights Studies, "From Rights Groups to the Parliament in its First Sessions: On the Parliamentary Agenda: Nine Issues to Anchor Democracy and the Rule of Law," Jan. 9, 2016, <http://www.cihrs.org/?p=17871&lang=en>.

<sup>7</sup>CIHRS, "Law on Terrorist Entities Allows Rights Groups and Political Parties to be Designated Terrorists," Feb. 28, 2015, <http://www.cihrs.org/?p=11031&lang=en>.

broader even than the definition of terrorism in Article 86 of the Penal Code, which was also condemned by rights groups for its overly broad language.

On August 15, 2015, President Abdel Fattah al-Sisi issued Law 94/2015 on the fight against terrorism.<sup>8</sup> The law permits the president or his authorized deputy to take any measure, including the imposition of a curfew, in order to “preserve public security and order” in the event of a terrorist danger. Such procedures establish an undeclared state of emergency that is not subject to constitutional protections. The president may declare this disguised state of emergency to counter the dangers of terrorist crimes or environmental disasters for a period of six months, renewable indefinitely with the approval of a parliamentary majority.

The law expands the scope of criminal acts to a worrying degree by using imprecise language and including unspecified actions. It also evokes Article 195 of the Penal Code, which established the criminal liability of newspaper editors for material published in their papers. In Article 35, the law establishes the criminal liability of the legal personhood of news outlets for news and information published which conflicts with the official Ministry of Defence statements.

Even more seriously, as was the case under the emergency law and despite SCC rulings on the unconstitutionality of arbitrary arrest, Article 40 of the new law allows the arrest of persons not caught in a criminal act and without a judicial warrant, by calling the arrest a “holding.”

### **The Right to Life:**

The Egyptian security apparatus has failed to adhere to basic international standards in their dealings with protests and public order issues, either with political opponents from various groups or even football fans.

On January 24, 2015, human rights defender Shaimaa al-Sabbagh was shot and killed by security forces trying to disperse a peaceful

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<sup>8</sup>CIHRS, "Latest Counterterrorism Law Encourages Extrajudicial Killing and Cements Impunity," Aug. 26, 2015, <http://www.cihrs.org/?p=17219&lang=en>.

protest march calling for bread, freedom, and social justice and carrying flowers to commemorate the martyrs of the January revolution. The next day, security forces used lethal force against demonstrators in various locations in Cairo and Alexandria, leaving dozens of protestors and ordinary citizens dead or injured.<sup>9</sup>

On February 7, the police failed to adhere to basic standards of the use of force and fired tear gas directly into an enclosed area where thousands of people were trying to enter a football stadium for a match. 22 people were killed.<sup>10</sup> On July 1, 2015, nine Muslim Brotherhood members were shot dead by Egyptian security forces in an apartment in the 6<sup>th</sup> of October district – in what can qualify as an extra-judicial killing.<sup>11</sup>

According to the quasi-governmental NHRC, between June 2013 and December 2014, violence had resulted in approximately 2,600 deaths, including 700 security personnel, 1,250 supporters of the Muslim Brotherhood, and 550 other civilians.<sup>12</sup> With the exception of the killer of Shaimaa al-Sabbagh, no high-ranking officers have yet been held to account for their actions; the few cases that were subject to investigation or trial ended with acquittal.

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<sup>9</sup> CIHRS, "Two Years After Adoption: President Must Repeal Unfair Protest Law and Immediately Release Thousands of Innocents", Nov. 25, 2015, <http://www.cihrs.org/?p=17651&lang=en>.

<sup>10</sup> CIHRS, "The Second Massacre of Football Fans: When will the impunity given to police crimes be lifted? 18 rights groups warn: The Interior Ministry's crimes are leading to the spread of counter-violence and terrorism in the country", Feb. 10, 2015, <http://www.cihrs.org/?p=10866&lang=en>.

<sup>11</sup> Human Rights Watch, "Egypt: Police Account of Deadly Raid in Question", Jul. 31, 2015, <https://www.hrw.org/news/2015/07/31/egypt-police-account-deadly-raid-question>.

<sup>12</sup> National Council for Human Rights, "Tenth Annual Human Rights Report 2013-2014", <http://www.nchregypt.org/index.php/activities/2010-02-07-16-22-57/2010-02-07-16-23-32/1586-annual-report-10.html>>

## **The Right to a Free and Fair Trial and the Independence of the Judiciary:**

Violations of the right to a free and fair trial have made, according to UN experts, “a mockery of justice” in Egypt.<sup>13</sup> At least 41,000 people were detained, charged, or sentenced between July 2013 and May 2014. Despite admitting the presence of innocent youth in prison and promising to use his presidential pardon powers to release them<sup>14</sup>, Sisi has issued only minimal pardons; indeed comparatively less than his former counterpart Morsi, and even the Supreme Council of Armed Forces.

No efforts have been made to address the politicization of and dysfunction in the Egyptian justice system that has led to the imprisonment of thousands of people, many of whom have been deprived of their liberty by protracted periods in pre-trial detention. This included the photojournalist Mahmud Abou Zied, known as Shawkan. Shawkan has been in pre-trial detention since August 14, 2013 for taking photographs. After a local and international outcry, his trial commenced on December 12, 2015, after more than two years. In October 2015, the Interior Ministry stated that 11,877 people had been arrested on terrorism-related charges that year.<sup>15</sup>

Several human rights defenders have had their trials postponed, thus unjustifiably prolonging their detention, or have been jailed on trumped-up charges. This includes human rights lawyer Mahienour El Masry, who has been detained since May 11, 2015. El Masry’s imprisonment is related to a sit-in staged at the First Raml Police Station calling for the release a number of activists who were being held at the police station. On May 31, 2015, El Masry and other activists were sentenced to one year and three months in prison.

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<sup>13</sup> OHCHR, “Egypt: Mass Death Sentences – a Mockery of Justice” (statement by 8 experts following death sentence given to 529 defendants), Mar. 31, 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14457&LangID=E>

<sup>14</sup> Television Interview, 22 February 2015, <https://www.youtube.com/watch?v=AsfuTbE5Cfk>

<sup>15</sup> “Almost 12,000 People Arrested for Terrorism in 2015: Interior Ministry,” *Mada Masr*, Oct. 30, 2015, <http://www.madamasr.com/news/almost-12000-people-arrested-terrorism-2015-interior-ministry>

Death sentences had reached grotesque levels. On February 2, 2015, the Giza Criminal Court ratified the death sentences of 183 defendants, all of whom are accused of killing eleven police officers and two civilians during an attack on the Kerdassa police station in August 2013.<sup>16</sup> These mass death sentences were handed down after farcical trials during which the defendants' most basic rights were not met. The mass death sentences coincided with a controversial court decision to acquit former president Mubarak, his Minister of Interior and six of his aides, on charges of killing protestors during the January 25 revolution.

There are various other indications that point to the lack of independence of the judiciary. On March 14, 2015, 41 judges were subjected to forced retirement for protesting the removal of former President Mohammed Morsi in 2013.<sup>17</sup> In April 2015, two prominent independent judges were referred to a disciplinary council for their participation in a conference on combating torture in Egypt organized by the United Group law firm.<sup>18</sup> This is the first time that Egyptian judges will be investigated and possibly could be sanctioned for participating in a human rights conference held by an established human rights organization, labeled by the investigative authorities as an illegal entity.

### **Continued Torture and Police Violations:**

Torture and collective punishment occurred on a large scale in Egyptian prisons and security facilities. In less than a year, 289 cases of torture, 27 cases of group torture, 97 cases of medical negligence, 16 cases of sexual assaults, and 3 cases in which family members of

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<sup>16</sup> Aswat Masriya, "Court Ratifies Death Sentences to 183 over Kerdasa Clashes", Feb. 2, 2015 <http://en.aswatmasriya.com/news/view.aspx?id=2146631f-d510-4705-8753-d8872a099fa5>.

<sup>17</sup> CIHRS, "Rights Groups Condemn Forced Retirement of 41 Judges for Expressing their Opinions," Mar. 18, 2015, <http://www.cihrs.org/?p=14650&lang=en>

<sup>18</sup> CIHRS, "After Three Interrogation Sessions, Rights Groups: Questioning Negad El-Borai Demonstrates that Freedom of Work is Granted only to Legal Professionals and Judges who Turn a Blind Eye to Torture," Jun. 3, 2015 <http://www.cihrs.org/?p=15114&lang=en>

detainees were detained during detention visits were reported.<sup>19</sup> According to Nasser Amin, Chairman of the Complaints Committee of the National Council for Human Rights (NCHR), the actual number of torture cases far exceeds those documented or reported in the media, describing torture as a systematic practice of the police.<sup>20</sup> The NHRC reported that overcrowding reached 160% capacity in prisons and 300% at police stations.<sup>21</sup>

On February 23, Karim Hamdy was tortured to death in Matareya police station. Hamdy, the attorney of a number of Islamists, was taken from his house and, according to witnesses, tortured for hours until he died. Under pressure from the Bar Association, the Public Prosecutor has opened an investigation into the death, and ordered a ban on the publication of any news about the investigations. On March 28, the officers accused of torturing Hamdy to death were released on bail.

In March 2015, rights groups documented torture and ill treatment in Liman II (ward B) of Abu Zaabal prison complex. Prison forces took 15 prisoners from their cells and tortured them for three hours in front of the rest of the prisoners, stripping them of their clothes, forcing them to verbally abuse themselves; and then transferred them to disciplinary cells in solitary confinement.<sup>22</sup>

In a related context, the practice of enforced disappearances has significantly increased. Between August and November 2015, at least 340 cases of enforced disappearance were documented by rights

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<sup>19</sup> Nadeem Centre for the Rehabilitation of Victims of Torture, Statement of Account, June 2014 – Jun. 2015, <https://drive.google.com/file/d/0B2-QqOchi4gFdEgtNFJlIam1ONIU/view>

<sup>20</sup> Nasser Amin, chairman of the Complaints Committee of the National Council for Human Rights in an interview with *al-Masry al-Youm*: United Nations adopted 13 Cases of Enforced Disappearance in January 25, Dec. 29, 2015, <http://today.almasryalyoum.com/article2.aspx?ArticleID=489056>,

<sup>21</sup> NHCR, "Tenth Annual Human Rights Report."

<sup>22</sup> CIHRS, "Stop Torture in Egyptian Prisons: Rights organizations express their concern regarding testimonies of torture of prisoners in Abu Zaabal, call for an immediate investigation and repeat their request for permission to visit prisons and meet with prisoners," Mar. 24, 2015, <http://www.cihrs.org/?p=14727&lang=en>.



groups.<sup>23</sup> The NCHR has verified 9 cases of enforced disappearance, and said it will further review 55 cases.<sup>24</sup>

## **Freedom of Expression and Media Freedoms:**

The number of journalists behind bars in Egypt rose dramatically in 2015 despite claims by Sisi that “Egypt enjoys unprecedented freedom of expression” and that “no one in Egypt was prosecuted for expressing his views.”<sup>25</sup> In a report issued by the Committee to Protect Journalists, Egypt was ranked the second worst jailer of journalists, with at least 23 journalists held behind bars.<sup>26</sup>

On November 8, 2015, Hossam Bahgat, an investigative journalist and the founder of the Egyptian Initiative for Personal Rights, was arbitrarily detained on charges of “deliberately spreading false information with the purpose of harming public order or public interest” and “publishing, with malicious intent, false news that is likely to disturb public order.”<sup>27</sup>

He was initially summoned for interrogation by Military Intelligence in relation to an investigative report he wrote for the online newspaper Mada Masr on October 13, 2015. Although Bahgat was released after an international outcry, including concerns raised

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<sup>23</sup> Egyptian Coordination for Rights and Freedoms, "Enforced Disappearance Awaiting Justice," Dec. 22, 2015, <http://www.ec-rf.org/?p=1194>

<sup>24</sup> HRW, "Dozens Detained Secretly," Jul. 20, 2015, <https://www.hrw.org/news/2015/07/20/egypt-dozens-detained-secretly>

<sup>25</sup> "Egypt's Sisi to CNN: Egypt Enjoys Unprecedented Freedom of Expression," *Ahram Online*, Sept. 28, 2015 <http://english.ahram.org.eg/newscontent/1/64/148600/egypt/politics-/egypts-sisi-to-cnn-egypt-enjoys-unprecedented-free.aspx>.

<sup>26</sup> Committee to Protect Journalists, "2015 Prison Census: 199 Journalists Jailed Worldwide," Dec. 1, 2015, <https://cpj.org/imprisoned/2015.php>.

<sup>27</sup> CIHRS, "Bahgat is Detained Incommunicado at an Unknown Location," Nov. 9, 2015, <http://www.cihrs.org/?p=17551&lang=en>

by the United Nations Secretary General Ban Ki-Moon,<sup>28</sup> it is unconfirmed whether charges against him are still pending.

On November 29, 2015, the researcher and journalist Ismail Alexandrani, who writes about Islamist movements and developments in the Sinai Peninsula, was detained upon his return to Egypt from Germany at Hurgada airport. Alexandrani was brought before the State Security Prosecution and was questioned in the presence of attorneys for more than eight hours. He was then remanded in custody pending investigation.<sup>29</sup>

The grip has been tightened on public figures critical of the regime. Many have been prevented from appearing on TV talk shows, holding public talks, and getting their work published in newspapers. On December 10, 2015, security banned the famous novelist Alaa al-Aswany's monthly seminar because of its content. Aswany was previously prevented from appearing on state-owned television, and was forced to stop publishing his weekly articles in al-Masry al-Youm newspaper after a defamation campaign against him.<sup>30</sup>

Restrictions that contravene the freedom of cultural works and the freedom of creativity have significantly increased. The authorities have carried out an unprecedented crackdown on cultural institutions. For example, security forces raided the Zero Production Company in August and stormed the Contemporary Image Collective (CIC) in November. Three art institutions, namely Townhouse Gallery, Rawabet Theatre, and Merit Publishing House were raided in the last week of December alone.<sup>31</sup>

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<sup>28</sup> UN, "Highlights of the Noon Briefing by Stephane Dujarric, Spokesman for the Secretary-General," Nov. 9, 2015,

<http://www.un.org/sg/spokesperson/highlights/index.asp?HighD=11/9/2015>.

<sup>29</sup> CIHRS, "Release Ismail Alexandrani and All Prisoners Of Conscience; Societies Are Built with Freedom," Dec. 1, 2015,

<http://www.cihrs.org/?p=17674&lang=en>.

<sup>30</sup> "Alaa Al-Aswany's Monthly Seminar Banned by Security Forces," *Daily News Egypt*, Dec. 8 2015,

<http://www.dailynewsegyp.com/2015/12/08/alaa-al-aswanys-monthly-seminar-banned-by-security-forces>

<sup>31</sup> CIHRS, "War on Creativity: Closure of Townhouse Gallery & Rawabet Theater is Another Step to Shut Public Space in Egypt," Jan. 2, 2016, statement available in Arabic, <http://www.cihrs.org/?p=17847>

## Restrictions on Civil Society:

The government has taken serious steps toward eliminating the human rights movement.<sup>32</sup> After the November 10, 2014 ultimatum, a government deadline for NGOs to register under a repressive associations law, the Egyptian authorities swiftly swung into action, banning 4 democracy advocates from the Egyptian Democratic Academy (EDA) from traveling abroad.<sup>33</sup> The bans were based on investigations related to the infamous foreign funding case that led to prison sentences against 43 national and international staff members of international NGOs in 2013.<sup>34</sup> The democracy advocates were also accused of breaching the NGO law by establishing a civil company working in the NGO field.

Airport security officers have confiscated the passport of at least 32 political activists and workers in non-governmental groups.<sup>35</sup>

Existing organizations are being squeezed in terms of the work they can do, and human rights defenders are facing judicial and security harassment. On April 4, 2015, a force from the Sayyida Zeinab police station and the Artistic Products Investigations Unit of the Interior Ministry raided the office of Radio Horytna, arresting human rights defender Ahmed Samih and referring him to the Sayyida Zeinab Prosecution the same day. Samih was released on a bail of 5,000 EGP; the five charges against him include disseminating audio and visual content without a license from the competent authorities and managing a facility without a permit.<sup>36</sup>

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<sup>32</sup> CIHRS, "From Restriction to Closure of Public Space in Egypt: Egyptian Government Clamps Down on Rights Groups, Seeking their Eradication" May 4, 2015, <http://www.cihrs.org/?p=14940&lang=en>.

<sup>33</sup> CIHRS, "The Recent Travel Ban Decisions: A Way to Harass Democracy Advocates and a Serious Violation to the Constitution," Jan. 16, 2015, <http://www.cihrs.org/?p=10572&lang=en>.

<sup>34</sup> CIHRS, "20 Egyptian Organizations in Solidarity with the NGO Workers Sentenced to Prison: Politically Motivated Case a Fatal Blow to Freedom of Expression and Association," Jun. 6, 2013, <http://www.cihrs.org/?p=6759&lang=en>

<sup>35</sup> HRW, "Egypt: Scores Barred From Traveling," 1 November 2015, <https://www.hrw.org/news/2015/11/01/egypt-scores-barred-traveling>

<sup>36</sup> CIHRS, "Human Rights Defenders Continue to be Targeted and Harassed: Radio Horytna Office Raided and Director Detained," Apr. 6, 2015, <http://www.cihrs.org/?p=14821&lang=en>

Repressive actions and the creation of a hostile environment have forced some independent human rights organizations to downsize their work or move part of their activities outside Egypt. Cairo Institute for Human Rights Studies (CIHRS) was referred to investigation on June 9, 2015 when the investigating judge in the “NGO foreign funding case” delegated a committee from the Ministry of Social Solidarity to visit the offices of the CIHRS in Cairo and look into its activities and examine whether the CIHRS engages in the activities of civic associations under the provisions of Law 84/2002.<sup>37</sup>

### **Labour rights:**

On April 18, 2015 the Supreme Administrative Court upheld a court decision, criminalizing the right to strike. The decision considers striking “a crime” punishable by disciplinary measures, including forced early retirement or delayed promotions. This court decision will stifle the last social protest movement which has not yet lost momentum.<sup>38</sup> Despite this court ruling, workers continued to strike.

In December, strikes were held across several governorates by workers employed in seven companies subcontracted by the state-owned Suez Canal Authority (SCA), as well as the Asyut Cement Company and two privatized textile mills: the Nile Cotton Ginning Company and the Shebin al-Kom Textile Company. The workers have demanded higher wages, equality in the work environment, restoring dismissed workers, and the payment of overdue bonuses and profit shares.<sup>39</sup>

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<sup>37</sup> CIHRS, " Government Refers CIHRS to Investigation," Jun. 10, 2015, <http://www.cihrs.org/?p=15159&lang=en>.

<sup>38</sup> Legal Agenda, "Egypt's Supreme Administrative Court Says Labor Strikes Are a Crime," 6 July 2015, <http://www.english.legal-agenda.com/article.php?id=715&folder=articles&lang=en>

<sup>39</sup> "New wave of labor strikes across Suez Canal, Nile Delta, Assiut," *Mada Masr*, Dec. 10, 2015, <http://www.madamasr.com/news/new-wave-labor-strikes-across-suez-canal-nile-delta-assiut>

## **Women's Rights :**

Sexual violence against women in public spaces persisted despite changes in state discourse on women's rights and a national strategy to combat violence against women announced in May. Legislation relating to crimes of rape, sexual assault and harassment in the Penal Code are inadequate and do not address a number of issues including but not limited to the rights of survivors of abuse and their protection while submitting reports.<sup>40</sup>

Women continue to lack fair representation in decision-making positions. However, this year women's representation in the parliament has improved. The total number of women in the 2015 elections constituted 15.3% (87 candidates) compared to roughly 2% in the 2012 parliament. 73 women were elected - a number that the National Council for Women described as unprecedented- and a further 14 women were appointed by Sisi. It is worth mentioning that the parliamentary elections law stipulated a quota for women within lists requiring parties and coalitions to include seven women in 15-seat lists and 21 women in 45-seat lists.<sup>41</sup> However, integrating women through the quota system reflects the absence of the debate about the importance of women's participation in the political process among political forces.

## **Minority Rights:**

Whilst there have been some minor improvement in state discourses toward Coptic citizens, there has been very little development in reality. Authorities continued to follow the Mubarak-era method of responding to attacks on Copts by calling for customary "reconciliation meetings" rather than holding those responsible to account according to the law. Christians and other religious communities, especially in Upper Egypt, have had their homes and

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<sup>40</sup>Euspring, Mozn Hassan, "Women's Rights in the Aftermath of Egypt's Revolution",

<sup>41</sup>"Sisi Makes his Parliamentary Appointments, Parliament to Convene Jan 10," *Mada Masr*, Dec. 31 2015

<http://www.madamasr.com/sections/politics/sisi-makes-his-parliamentary-appointments-parliament-convene-jan-10>.

places of worship attacked, while the government did not take necessary measure to hold perpetrators accountable.

There has also been a continuance of political and religious incitement by state media and religious institutions against the Shia population.

Regarding another minority issue, the Bedouins in Sinai - who have long suffered political and economic marginalization - have been severely affected by the ongoing fighting between the Egyptian army and armed Jihadist groups. At least 3,000 families were evicted from their homes and thousands of houses were demolished by the Egyptian military during operations to destroy smuggling tunnels. Meanwhile the government has failed to provide adequate compensation.<sup>42</sup>

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<sup>42</sup> HRW, "Egypt: Thousands Evicted in Sinai Demolitions," Sept. 22, 2015, <https://www.hrw.org/news/2015/09/22/egypt-thousands-evicted-sinai-demolitions>

## Tunisia

Tunisia presents the most successful model for democratic transition in the Arab region, and of the peaceful management of political and ideological diversity. The Tunisian National Dialogue Quartet, a coalition of civil society and rights organizations, professional syndicates, and business, was awarded the Noble Peace Prize in 2015 for its role in political transition, and mediation between polarized political forces. The award acted, not only as a commitment to the role of civil society, but as a rebuke against other regimes in the region that have opted to repress their civil society in an effort to protect authoritarian regimes. These regimes have done so at the expense of achieving integration and sustainable development that might have led to progress and prosperity. Despite Tunisia's progress, however, it still faces major challenges including economic problems, security concerns, much of which is tied to the deteriorating humanitarian situation on the border with Libya, and religious extremism.

Guarantees for Tunisia's democratic transition are institutional and legislative reform, necessary for the protection of human rights, the balance of power, and accountability. Democratic transition also rests on the state's ability to balance its fight against the threat of terror and its protection of political pluralism and civil freedoms.

## Political Context, Post-2014 Elections:

The end of 2014 in Tunisia was marked by the second free and democratic electoral process since the 2011 uprising. The lead-up to the presidential and legislative elections of 2014 had been eventful and characterized by fierce political competition between the Islamist party Ennahda and the secular new party Nidaa Tunis. Nidaa Tounes, a new political party, formed in 2012, presented itself as the alternative to the threat of a religious rule that Ennahda ostensibly represented, and brought together a number of different people; from members of Ben Ali's Constitutional Democratic Rally (RCD) and Ben Ali's entourage, and businessmen associated with the old regime to unionists and leftist independents that were in the opposition before the revolution. Nidaa Tounes claims to have been founded on the values of modernity, secularism and progress with a strong Bougibist<sup>1</sup> referencing and a complex composition. It started gaining ground on the political battlefield in the summer of 2013 by leading a secular opposition alliance, christened the National Salvation Front, and pressuring Ennahda party to peacefully resign from government after what they claimed to be three years of failed rule. According to the National Salvation Front, this failed rule was marked by the rise of violent extremism, mainly the assassination of two leftist leaders, Chokri Bel Aid and Mohamed Brahmi, a delayed constitution drafting process, a highly criticized foreign policy, and a failure to answer to the "demands of the revolution."

The political parties at the forefront of the National Salvation Front<sup>2</sup> had participated in the national dialogue sponsored by the

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<sup>1</sup> In reference to the first Tunisian president Habib Bourguiba (1957-1987) widely praised for leading the building of the first republic that was shaped by a drive for modernity exemplified in the drafting of Tunisia's personal code, which came into force after the country gained independence from the French in 1957 granting women exceptionally progressive rights in the Arab region at the time and focusing on education and building a modern state.

<sup>2</sup>Announcement of the formation of the National Salvation Front <http://nawaat.org/portail/2013/07/26/%D8%A7%D9%84%D8%A7%D8%B9%D9%84%D8%A7%D9%86-%D8%B9%D9%86-%D8%AA%D8%A3%D8%B3%D9%8A%D8%B3-%D8%AC%D8%A8%D9%87%D8%A9-%D9%84%D9%84%D8%A7%D9%86%D9%82%D8%A7%D8%B0-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A-%D9%81/> (in Arabic)



Nobel Peace Prize winners, the quartet of civil society organizations, that led the agreement on the road map and timeline to elections after the adoption of the constitution.<sup>3</sup> The lead up to the elections in October 2014 after the deliberations of the dialogue agreement in October 2013 and the resignation of the Ennahda-led governing coalition and the creation of a technical non-partisan government was marked by an acute polarization between two seemingly contradictory political agendas: Ennahda's and Nidaa Tounes'.

However, the complexity of the fierce competition between the two parties and its implications goes far beyond the clash between backward religious ideologists and enlightened secularist advocates. The challenges faced by the successive governments after January 2011, and that will be faced by the next party to rule, were multi-layered and are still the main priorities for the political class and civil society today. The social and economic rights related demands, especially on issues of unemployment, which fueled the uprising, remain unanswered by governments that have so far failed to devise clear employment strategies and have struggled to handle the increasing protests of various social movements.<sup>4</sup> In the light of the increasing rate of unemployment, which reached 15.3% at the end of 2015, there is a crisis between workers unions and the government.<sup>5</sup> This has brought to light the necessity of creating a sound foundation for democratic rule that protects and respects fundamental rights as well as insures the requirements for transitional justice. This includes taking the responsibility to hold accountable perpetrators of human rights violations during the previous regime and installing safeguards for non-recurrence of these violations. In addition, the government and parliament have the responsibility to uphold the constitution by legislating the organic laws that will put into practice and uphold the implementation of its values and to protect the rights it stipulates. The

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<sup>3</sup><http://www.publicprivatedialogue.org/workshop%202015/2015%20-%20Public%20Private%20Dialogue%20in%20Tunisia3.pdf>

<sup>4</sup> According to the Tunisian Social Observatory, in October 2015 the total number of protest movements reached 910 which constitutes a drastic raise from 275 in august 2015 <http://ftdes.net/2015/11/rapport-ost-mouvements-de-protestation-en-octobre-2015/>

<sup>5</sup> According to the Tunisian National Institute of Statistics <http://www.ins.nat.tn/indexar.php>

aforementioned responsibilities should be at the heart of any political debate and top the agenda of the government and parliament that came about after a tedious and delicate transition period and after an acute political crisis that led the Troika out of government in 2013.<sup>6</sup>

However, these responsibilities only formed a layer of the political scene because the rise of the terrorist threat and the magnification of the misguided binary between secular and Islamist debate have been prioritized over other imperatives. Accordingly, the ideological debate has dominated the political scene and overshadowed other urgencies. It is important to note that the frenzied race between the two parties has been overwhelming for a nascent democracy, from the election of the Constituent Assembly to the drafting of the constitution, political assassination, legislative challenges and the presidential and legislative elections. However, the strategic grounds for dealing with the ailing economic and social environment, the crucial need for concrete transitional justice mechanisms and the protection of the gains of the revolution in terms of rights and freedoms should not be in the background of the political debate but at its heart.

After the legislative election results, released on October 30, it became clear that neither of the parties would be able to constitute a majority. Nidaa Tounes, the main anti-Islamist political force topped the elections, but in an assembly of 217 seats, they only obtained 85 seats. Whilst victory went to the party's candidate for presidency, El Beji Caid Essebsi, the party still had to form a strong alliance in parliament. While the Nidaa Tounes electoral campaign was built on their opposition to Ennahda and their strong messaging against its policies and religious referencing, they have managed to adopt a language of consensus. In an interview with the private channel *al-Hiwar al-Tounsi* on October 27, El-Beji Caid Essebsi declared, "We [Nidaa Tounes] took a decision before [the elections] that Nidaa Tounes, even in the case of obtaining an absolute majority, will not govern alone. We must govern with others, in the interest of Nidaa Tounes and the country's," he continued, "we will form an alliance

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<sup>6</sup> For more information, see, Crisis Group, "The Tunisian Exception: Success and Limits of Consensus" Jun. 5, 2014, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/north-africa/tunisia/b037-l-exception-tunisienne-succes-et-limites-du-consensus.aspx>

with the closest to us, the democratic family between quotation marks.”

Such a statement, widely understood to imply the exclusion of Ennahda party from a potential coalition on the grounds of what was assumed to be ideological differences between the two parties, was quickly proven wrong. Nidaa Tounes found itself compelled to ally itself with Ennahda's parliamentary group of 69 deputies. This was unexpected by the electorate and predicted by political analysts. The coalition, which includes the two major groups in parliament as well as two other smaller parties, will govern for five years and will share the political responsibility of maintaining the gains of the transition period, best exemplified in the constitution and the strong open political dynamic marked by the participation of a strong and thriving civil society.

This coalition government will also face new challenges related to national security and stemming the rise of violent extremism without stifling the progress made in terms of rights and freedoms or prioritizing security and counter-terrorism strategies over transitional justice, and repressing social protests instead of devising social and economic strategies to respond to the urgent needs and demands of the people. From the beginning, high doubts were cast on the ability of the coalition government to address these demands in a strategic, comprehensive and timely manner not only because the electoral programs of these parties differed, but also because the coalition itself is built on very precarious grounds. On the one hand, the ideological differences between Nidaa Tounes and Ennahda make it difficult to believe in the sustainability of their joint-rule and their ability to compromise on problematic issues related to rights and freedoms. On the other hand, the cracks within Nidaa Tounes, due to major rivalry between its members and the great disparity of their backgrounds have led to an internal crisis that could constitute the end of this coalition government at a time where the country needs strong political stability

to face security threats and where signs of regression in terms of human rights protection increase in the name of security and stability.<sup>7</sup>

The year 2015 was also marked by a legislative struggle that included all stakeholders and triggered much debate over human rights safeguards in the country. After the adoption of the constitution, the parliament moved to adopt many organic laws. The discussion on the law on the High Judicial Council was a significant landmark in this process. The first draft of the law<sup>8</sup> was challenged by several civil society actors mainly the Tunisian Judges Association<sup>9</sup> for falling short of international standards<sup>10</sup> and containing some unconstitutional provisions in a fight to ensure that the law guarantees optimal independence of the judiciary. The opponents of this draft took the law to the temporary commission for the examination of the constitutionality of laws, where it was deemed that some of its provisions were unconstitutional. The commission demanded parliament revise the law accordingly. This was a victory for civil society. The law is nonetheless still a subject of discussion as further revision was asked from the committee and the Judges Association.<sup>11</sup>

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<sup>7</sup> Ezzeddine Abdelmoula, “Analysis: The identity crisis in Tunisia's ruling party, As Rising Internal Struggles Grip the Leadership of Nidaa Tounes, is Tunisia's Nascent Democracy at Risk of Collapse?” *alJazeera*, Nov. 7, 2015, <http://www.aljazeera.com/news/2015/11/analysis-identity-crisis-tunisia-ruling-party-151107080841744.html>

<sup>8</sup> [http://www.e-justice.tn/fileadmin/fichiers\\_site\\_arabe/actualites/projet\\_loi\\_csm.pdf](http://www.e-justice.tn/fileadmin/fichiers_site_arabe/actualites/projet_loi_csm.pdf)  
<sup>9</sup> <http://www.assabahnews.tn/article/111496/%D8%B1%D8%A6%D9%8A%D8%B3%D8%A9-%D8%AC%D9%85%D8%B9%D9%8A%D8%A9-%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A9-%D8%AA%D9%86%D8%AA%D9%82%D8%AF-%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D9%85%D8%AC%D9%84%D8%B3-%D8%A7%D9%84%D8%A3%D8%B9%D9%84%D9%89-%D9%84%D9%84%D9%82%D8%B6%D8%A7%D8%A1>

<sup>10</sup> International Court of Justice, “Tunisia: Amend Draft Law on the High Judicial Council to Comply with International Standards, Sept. 14, 2015, <http://www.icj.org/tunisia-amend-draft-law-on-the-high-judicial-council-to-comply-with-international-standards/>

<sup>11</sup> Table figuring the unconstitutional elements in the draft law on High Judicial Council. <http://goo.gl/A8FkcR>

The Constitutional Court Law has also caused much concern among rights advocates and lawmakers for not complying with international standards with regard to judicial independence. The independence of the constitutional court is the cornerstone for rule of law and will safeguard human rights as guaranteed by the constitution.<sup>12</sup>

Torture has also surfaced again as a priority concern for rights advocates in Tunisia as cases of torture and other ill-treatment, especially in detention facilities, were reported.<sup>13</sup>

### **Countering Terrorism and Human rights:**

Tunisia was no exception to other countries in the MENA region after the events of the Arab Spring and has been struggling with serious security threats from the rise of violent extremism and the terrorist movement in the region. Subsequent to various attacks against security forces and the army since 2011<sup>14</sup> and the Bardo Museum attack of March 18, 2015, which resulted in 23 casualties, mostly foreign tourists, the Tunisian government brought forward with nervous urgency different legislative initiatives that are indicative of the shaky reaction to the rising threat of terrorism. The reaction raised concern about the sustainability of the democratic transition process and the progress made so far in terms of human rights protection, triggering a public debate that did not spare human rights NGOs.

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<sup>12</sup> ICJ, “Tunisia: Revise Draft Law to Ensure the Constitutional Court is Independent and Able to Protect Rights,” Nov. 3, 2015,

<http://www.icj.org/tunisia-revise-draft-law-to-ensure-the-constitutional-court-is-independent-and-able-to-protect-rights/>

<sup>13</sup> Human Rights Watch,

<https://www.hrw.org/news/2015/08/13/tunisia-case-tests-political-will-end-torture>

<sup>14</sup> Terrorism in Tunis: Timeline for events after January 14th

<https://inkyfada.com/maps/تونس-20%0خارطة-20%0التسلسل-20%0الزمني-20%0ارهاب/>  
<https://inkyfada.com/maps/%D8%AA%D9%88%D9%86%D8%B3-%D8%AE%D8%A7%D8%B1%D8%B7%D8%A9-%D8%A7%D9%84%D8%AA%D8%B3%D9%84%D8%B3%D9%84-%D8%A7%D9%84%D8%B2%D9%85%D9%86%D9%8A-%D8%A7%D8%B1%D9%87%D8%A7%D8%A8/>

Various human rights organizations, including major international rights NGOs,<sup>15</sup> expressed alarm when the government proposed a bill in April 2015 entitled “repression of attacks against the armed forces” following the Bardo Museum attack. While the bill’s purpose was said to enhance the protection of armed forces, it contained provisions that directly hindered a number of fundamental rights. The bill was incompatible with Tunisia’s obligations to protect human rights including freedom of expression, access to information, due process and fair trial.<sup>16</sup> The bill, for example, would criminalize the “denigration” of police and other security forces, thereby undermining freedom of expression for example.

The bill also exonerates the security forces from criminal liability for using lethal force in the case of attacks against their homes, objects and vehicles if it is deemed necessary and proportionate.<sup>17</sup> This triggered an unprecedented public debate about the priority of security versus rights. National human rights groups including the Tunisian League for the Defense of Human Rights (hereafter LTDH), the journalists’ union, the judges’ association, the Tunisian Forum for Social and Economic Rights along with different political groups have voiced strong criticism and called upon the government to revoke the bill. For them, the bill exemplifies the state’s security approach in its reaction to the terrorist threat and signals the return of the police state which people had revolted against in 2010/11. It also shows a tendency to backtrack on the rights and liberties stipulated in the constitution of 2014.

The review of this draft law was put on hold for a number of reasons. The parliament and government were faced with immense pressure from human rights groups who drew attention to the way the

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<sup>15</sup> Amnesty International, Article 19, Avocats Sans Frontières – Belgium, Action of Christians Against Torture (ACAT), Euro Mediterranean Human Rights Network, International Federation of Human Rights, Human Rights Watch, International Commission of Jurists, International Media Support, World Organisation Against Torture, Oxfam, Reporters Sans Frontières and The Carter Center

<sup>16</sup> For more details on the bill see: Human Rights Watch, “Tunisia: Drop or Amend Security Bill: Provisions on State Secrecy and ‘Denigrating’ Security Forces Undermine Free Speech,” May 13, 2015,

<https://www.hrw.org/news/2015/05/13/tunisia-drop-or-amend-security-bill>

<sup>17</sup> *ibid.*

bill violates Tunisia's human rights obligations under international law. The debate over the security versus rights-approach to terror resurfaced after a law on counter-terrorism and the suppression of money laundering was hastily adopted in the aftermath of the Sousse attack on 26 June and after the declaration of a 30-day state of emergency by the president.<sup>18</sup> The adoption of the counter-terrorism law was considered a priority by the legislators and the government and triggered criticism from human rights advocates who voiced concern over some of its provisions that infringe civil liberties and do not respect human rights and analysts who considered it to be a reactionary state tool that prioritized security.

On July 25, 2015, amidst simmering tension, the law was voted in by 174 deputies of 217 with 10 abstentions. The few parliamentarians that had criticized the law's provisions chose not to vote against it but to abstain or not attend the voting session for fear of the political implications a negative vote will have in the context of such a debate. The media played a significant role in demonizing every critical voice of the law and ridiculing the human rights arguments in the face of the urgent need for a strong and strict security reaction. Newspapers, like the state-owned *La Presse*, ran a smear campaign against the ten parliamentarians that did not vote for the draft law.<sup>19</sup> Human rights organizations that expressed concerns were also accused by media outlets as being supporters of terrorism.<sup>20</sup>

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<sup>18</sup> "Deadly Attack on Tunisia Tourist hotel in Sousse Resort, *The Guardian*, Jun. 26, 2015,

<http://www.theguardian.com/world/2015/jun/26/tunisia-tourist-hotel-reportedly-attacked>

<sup>19</sup> See the two op-eds in *La Presse*; Faut-il attaquer en justice les deputes contre la loi anti-terroriste ("Should the deputies that opposed the terrorism law be brought to justice?")

<http://www.lapressenews.tn/article/faut-il-attaquer-en-justice-les-deputes-contre-la-loi-anti-terroriste/94/3911>

and Des Complices Intouchables

<http://lapresse.tn/28072015/102209/des-complices-intouchables.html>

<sup>20</sup> See Ces ONG qui commencent a agacer

<http://www.espacemanager.com/ces-ong-qui-commencent-agacer-reponse-du-collectif.html>

It is important to note that this law came to replace an infamous law adopted in 2003. The government of the ousted Zine El Abidine Ben Ali tried about 3,000 people on terrorism charges under this law before he was ousted in early 2011. The 2003 law was highly criticized for not conforming with international standards related to the respect of human rights while countering terrorism. Notably the law was criticized for its broad definition of terrorism and provisions undermining the right to a fair trial and due process. It also opened up the possibility for the former regime to use it against political dissidents. Former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism Martin Scheinin stated that this law contains deficiencies on several levels and needed to be revised in order to comply with international standards at the end of his visit to Tunisia in January 2010.<sup>21</sup> After 5 years of the Tunisian uprising and the visit of the special rapporteur, the hopes for a law that would make the fight against terrorism more efficient while respecting human rights were dashed with the adoption of a law that contains many of the same problematic provisions found in the 2003 law.

Human Rights NGOs severely criticized<sup>22</sup> the new law for not complying with international standards<sup>23</sup> and analysts claimed that it could pave the way for the return of authoritarianism in the name of counterterrorism. Moreover, the legislation itself was deemed to be inefficient and shortsighted because it did not entail a comprehensive national strategy that addresses the root causes of terrorism and ways of protecting the rights of citizens according to the constitution and international obligations. The new law criminalizes terrorist actions, but it does not provide measures for their prevention or for facing the

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<sup>21</sup> ICJ, “Tunisia: Revise Counter Terrorism Law to Conform to International Standards,” Aug. 6, 2015

<http://www.icj.org/tunisia-revise-counter-terrorism-law-to-conform-to-international-standards/>

<sup>22</sup> Human Rights Watch, “Tunisia: Flaws in Revised Counterterrorism Bill Strengthen Safeguards for Detention, Abolish Death Penalty,” Jul. 7, 2015, <https://www.hrw.org/news/2015/07/07/tunisia-flaws-revised-counterterrorism-bill>

<sup>23</sup> For more about these provisions, see ICJ, “Tunisia: Revise Counter-Terrorism Law to conform to international standards,” Aug. 6, 2015.

<http://www.icj.org/tunisia-revise-counter-terrorism-law-to-conform-to-international-standards/>



radicalization wave of Tunisian youth, who do not only execute attacks in Tunisia, but also constitute one of the largest contingents of ISIS' foreign fighters.<sup>24</sup> The government acknowledged the need for a global strategy to counter terrorism and violent extremism by announcing the convening of a national congress against terrorism to be held in September. The congress would bring together government, civil society, and stakeholders to discuss the different economic, social, political, and cultural dynamics and come up with a comprehensive strategy. There is, however, a lack of political will, as the congress never happened and keeps being postponed.<sup>25</sup>

Reactionary security measures have been taken after the most recent attack that killed a dozen presidential guards at a bus explosion at the heart of the capital on November 24.<sup>26</sup> In an atmosphere of panic where the president declared a month-long state of emergency and a curfew on the entire city, security forces demonstrated great hostility towards journalists<sup>27</sup> and human rights advocates found themselves the target of blame and attack.<sup>28</sup> The police violently raided more than 50 households in the northern suburb of Tunis arresting and interrogating a number of young men in total violation of their civil rights.<sup>29</sup>

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<sup>24</sup> "Why and how Westerners go fight in Syria and Iraq," Aug. 30, 2014, <http://www.economist.com/news/middle-east-and-africa/21614226-why-and-how-westerners-go-fight-syria-and-iraq-it-aint-half-hot-here-mum>

<sup>25</sup> "National Conference against Terrorism maintained, Essid Says," <http://www.tap.info.tn/en/index.php/politics2/29971-national-conference-against-terrorism-maintained-essid-says>

<sup>26</sup> "Tunisian Bus Blast Strikes Presidential Guard in the Heart of the Capital," *Washington Post*, Nov. 24, 2015, [https://www.washingtonpost.com/world/tunisian-bus-blast-strikes-presidential-guard-in-the-heart-of-the-capital/2015/11/24/5463cf6a-92da-11e5-8aa0-5d0946560a97\\_story.html](https://www.washingtonpost.com/world/tunisian-bus-blast-strikes-presidential-guard-in-the-heart-of-the-capital/2015/11/24/5463cf6a-92da-11e5-8aa0-5d0946560a97_story.html)

<sup>27</sup> <https://inkyfada.com/2015/12/terrorisme-excuse-droit-liberte-atteinte-police-tunisie/>

<sup>28</sup> <https://www.youtube.com/watch?v=tOyeXMYPopo&feature=youtu.be>

<sup>29</sup> <http://www.jawharafm.net/fr/article/descentes-musclees-a-la-goulette-une-citoyenne-denonce-la-violence-des-agents/90/30624>

## **Persistent Challenges to a Concrete Transitional Justice Process in Tunisia:**

Hesitant and shaky steps towards installing a transitional justice process have been taken by successive governments since 2011 and have constituted a priority for several main human rights organizations. However, the process has not been finalized at the end of the transitional period. The adoption of the new constitution and the legislative and presidential elections at the end of 2014 marked the beginning of what was thought to be the last opportunity for achieving justice and accountability for crimes committed under the previous regimes. The law on transitional justice<sup>30</sup> was constitutionalized and a national mechanism to implement it was set with the foundation of the Truth and Dignity Commission (IVD). The IVD is responsible for providing reparations to victims, investigating the state's previous human rights violations, and drafting, discussing, and adopting the legislations that will bring about institutional reforms and insure the strong basis for a democratic and rights-based rule of law.

After a slow start, the process of transitional justice seems to have been launched. However, criminal prosecution of individuals allegedly involved in human rights violations at the time of Ben Ali from various security services have been very limited. Only twenty-three suspects have been tried for acts of violence allegedly committed between December 17, 2010 and the January 14, 2011 (the period of the uprising). Furthermore, verdicts of the military courts were marked by relatively short sentences highly criticized by advocates of accountability and justice.<sup>31</sup> The sentences of high-profile members of the regime, including former Interior Minister Rafik BelHaj Kacem and the former head of the presidential guard of Ben Ali, Ali Seriati, have been the target of particular criticism. The defendants were sentenced to three years in prison for causing death and injury of demonstrators during the uprising in the cities of Thala, Kasserine, Sfax and Greater Tunis. The verdicts meant that each was released

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<sup>30</sup>Organic Law on Establishing and Organizing Transitional Justice <http://www.ohchr.org/Documents/Countries/TN/TransitionalJusticeTunisia.pdf>

<sup>31</sup> Human Rights Watch, "Flawed Accountability Shortcomings of Tunisia's Trials for Killings during the Uprising" Jan. 2015, [https://www.hrw.org/sites/default/files/reports/tunisia0115\\_ForUpload.pdf](https://www.hrw.org/sites/default/files/reports/tunisia0115_ForUpload.pdf)

within two months of the sentence because of time already served. Ben Ali was, however, given a long sentence on charges of misappropriation of public funds and the murder of protesters during the uprising. Frustration among the families and communities of the victims of state violence is growing and the willingness to seek truth and justice for victims has faded.

The president presented a draft bill in July dubbed the reconciliation bill<sup>32</sup> that further casts doubt on the political will to achieve transitional justice. This draft law triggered much protest from the opposition, rights advocates, and anti-corruption activists. The bill, presented without any consultation with civil society or the Truth and Dignity Commission, provided amnesty to former and current government employees charged with financial crimes, including embezzlement. The first article of the draft states that it aims at “supporting the transitional justice apparatus, to ensure an appropriate investment environment, to develop the national economy, and to boost trust in state institutions.” Yet, a closer look at the draft makes clear that by granting amnesty and immunity from any corruption charges under condition of returning the embezzled funds it is impunity that is being supported not transitional justice. This draft law was also criticized for impeding the work of the Truth and Dignity Commission. Article 12 of the law foresees the establishment of a committee to examine requests for restitution submitted by former employees and businessmen to whom the law would apply. Concern was raised over the independence of this committee particularly that the Truth and Dignity Commission, which is an independent constitutional body, has the mandate to scrutinize corruption charges.

Civil society organizations opposed to the bill believe it obstructs transitional justice.<sup>33</sup> This controversy has been another battlefield for Tunisian civil society who have expressed their criticism and renewed their pledge to secure a transitional justice process that will hold perpetrators of violations under the old regime accountable and bring

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<sup>32</sup> “Will Tunisia’s Economic Reconciliation Law Turn the Page,” Sept. 29, *Atlantic Council*, <http://www.atlanticcouncil.org/blogs/menasource/will-tunisia-s-economic-reconciliation-law-turn-the-page>

<sup>33</sup> Interview with Sihem Ben Sedrine  
<http://goo.gl/8MgA3u> (in Arabic)

forward substantial reform where the rule of law will guarantee non reoccurrence. The draft bill was presented to the government but has not yet been discussed by the parliament.

# Syria

The situation in Syria has revealed the incapacity of the international system to deal with internal conflicts and major crises. The humanitarian crisis in Syria continues in its fifth year. So far, the conflict has claimed almost a quarter of a million victims, and almost half the Syrian civilian population (5 million) is either internally displaced or seeking refuge outside the country.<sup>1</sup> Throughout 2015, Syria was in a deadlock with warring parties intensifying the fighting in and around civilian areas, causing mass civilian deaths and displacement. Regime forces used barrel bombs over civilian facilities in opposition-held areas<sup>2</sup>, including market places, schools and hospitals, causing a large number of casualties. In addition, regime forces engaged in massive and widespread use of arbitrary detention,<sup>3</sup> besiegement of civilian populations,<sup>4</sup> and other forms of crimes such as sexual violence.<sup>5</sup>

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<sup>1</sup> United Nations Office for the Coordination of Humanitarian Affairs, The Syrian Crisis Overview,

<http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>

<sup>2</sup><https://www.amnesty.org/en/latest/news/2015/05/syrias-circle-of-hell-barrel-bombs-in-aleppo/>

<sup>3</sup>[http://euromedrights.org/wp-content/uploads/2015/06/EMHRN\\_Womenindetention\\_EN-FINAL.pdf](http://euromedrights.org/wp-content/uploads/2015/06/EMHRN_Womenindetention_EN-FINAL.pdf)

<sup>4</sup><http://syriaundersiege.org>

<sup>5</sup>Report of the CoI on Syria on Aug. 13, 2015,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx>

The various armed opposition groups have committed serious international crimes including indiscriminate attacks in civilian populated areas, sexual violence, and killings on an ethnic basis.<sup>6</sup> In sum, all warring parties persisted in a devastating battle, where it seemed there was no end in sight. By summer most relevant actors including UN officials agreed that there would be no alternative to a political solution in Syria.<sup>7</sup> In fact, it became clear that neither party could completely overtake the other and end the conflict. The radicalization of a large part of the armed groups in Syria, and ISIS's expansion complicated the situation.

The political process undertaken by UN special envoy Steffen De Mistura, appointed in July 2015, begun with little hope.<sup>8</sup> A number of state diplomatic meetings ended with a meeting between De Mistura, the US Secretary of State John Kerry, and the Austrian Minister of Foreign Affairs initiating a new round of talks under the rubric of the International Syria Support Group (ISSG) between all involved states, without any Syrian representation in Vienna.<sup>9</sup>

The other major change in the last quarter of 2015 was Russian military intervention in Syria. The sudden announcement of the Russians to further engage on the Syrian front brought a large level of speculation and commentary.<sup>10</sup> On September 30, the regime officially invited the Russian army to intervene in Syria. The Russian government claimed that the purpose of this intervention is to fight terrorism. However, the Russian army is accused of focusing its strikes around the strongholds of moderate opposition forces aiming to overthrow the regime.<sup>11</sup>

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<sup>6</sup><http://www.un.org/sexualviolenceinconflict/countries/syrian-arab-republic/>

<sup>7</sup><http://www.un.org/apps/news/story.asp?NewsID=41359#.Vp4ECfnhDIU>

<sup>8</sup><http://www.theguardian.com/world/2015/jul/30/staffan-de-mistura-man-with-toughest-job-in-world-syria>

<sup>9</sup><http://www.theguardian.com/world/2015/oct/30/syria-peace-talks-vienna-iran-saudi-arabia>

<sup>10</sup><http://carnegieendowment.org/syriaincrisis/?fa=62207>

<sup>11</sup><http://www.independent.co.uk/news/world/middle-east/russia-in-syria-us-and-turkey-claim-russian-warplanes-hitting-moderate-syrian-rebel-groups-a6685496.html>

The situation of Syria has revealed the level of paralysis plaguing the current international order to address high scale crises. It has also shown, once again, that humanitarian concerns are of slight significance compared with political calculations and objectives. Three major elements need to be highlighted in the context of the Syrian crisis; first; the catastrophic conditions that Syrians are facing; second, the political deadlock that led to such deterioration, and finally the current options for a resolution.

### **At the Bottom of the Syrian Abyss: Humanitarian Conditions**

Syrians are facing deteriorating conditions both within the country and outside as refugees. This report does not pretend to be exhaustive about all human rights violations faced by Syrians, but shall highlight the main patterns in regime-held areas, rebel-controlled areas, and in places of refuge.

#### *Syrians in regime-held areas:*

From the eruption of the Syrian revolution in 2011 onwards the regime has extinguished any viable peaceful opposition to its totalitarian grip. Massive detentions, torture, and extrajudicial killings have taken place.<sup>12</sup> The regime continues to fill its prisons with civil society activists. There are also allegations that whole families, including children, are forcibly disappeared and detained in prisons.

Regime-held areas are also facing deteriorated economic conditions<sup>13</sup>, including high inflation rates, and unemployment. The situation has been exacerbated with the influx of Internally Displaced Persons (IDPs) who cannot be accommodated. In addition, citizens are facing limited access to energy, making life conditions in regime-controlled areas that have maintained a certain form of normality during the three past years, more difficult by the day.

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<sup>12</sup> <https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities>

<sup>13</sup> [https://www.washingtonpost.com/world/middle\\_east/syrias-assad-regime-cuts-subsidies-focuses-ailing-economy-on-war-effort/2014/11/29/5f830894-719c-11e4-a2c2-478179fd0489\\_story.html](https://www.washingtonpost.com/world/middle_east/syrias-assad-regime-cuts-subsidies-focuses-ailing-economy-on-war-effort/2014/11/29/5f830894-719c-11e4-a2c2-478179fd0489_story.html)

### *The human rights condition in opposition-controlled areas:*

It is important to note that most rebel-controlled areas are rural and previously marginalized communities. These areas have never been a priority for development over the past 40 years.<sup>14</sup> During the conflict the regime has punished these areas through sieges, starvation, and aerial shelling including the use of barrel bombs and other forms of indiscriminate attacks.

In addition, opposition-controlled areas are facing others forms of human rights abuses due to the overwhelmingly theocratic nature of governance there. ISIS and other opposition groups hold territory here. The other groups include al-Nusra, and what some wrongly characterize as “moderate” opposition forces such as Ahrar al-Sham and Jaysh al-Islam. In these areas, arbitrary detention, enforced disappearance of human rights activists, sexual violence and other forms of abuse are occurring in the absence of all accountability.<sup>15</sup>

### *Syrian Refugees:*

The picture of the child Aylan Al-Kurdi lying on the Turkish shore drew international attention to the Syrian crisis.<sup>16</sup> A growing percentage of Syria’s population is being forced to flee the country due to deteriorating living conditions.<sup>17</sup> The neighboring countries in which refugees have sought safety have been criticized for different forms of abuses.<sup>18</sup> Many of the abuses are related to the large number of refugees and the state’s alleged incapacity to absorb them.<sup>19</sup> This

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<sup>14</sup>[http://www.unrwa.org/sites/default/files/alienation\\_and\\_violence\\_impact\\_of\\_the\\_syria\\_crisis\\_in\\_2014\\_eng.pdf](http://www.unrwa.org/sites/default/files/alienation_and_violence_impact_of_the_syria_crisis_in_2014_eng.pdf)

<sup>15</sup> See the CoI report on Syria, August 2015

<sup>16</sup><http://www.independent.co.uk/news/world/europe/aylan-kurdi-s-story-how-a-small-syrian-child-came-to-be-washed-up-on-a-beach-in-turkey-10484588.html>

<sup>17</sup>[http://data.unhcr.org/syrianrefugees/regional.php#\\_ga=1.228172062.246526338.1453198143](http://data.unhcr.org/syrianrefugees/regional.php#_ga=1.228172062.246526338.1453198143)

<sup>18</sup> <http://www.theguardian.com/world/2015/nov/27/amnesty-international-turkey-syrian-refugees-human-rights-abuse>.

For Lebanon see for example: <https://www.hrw.org/news/2014/09/30/lebanon-rising-violence-targets-syrian-refugees>. For Jordan see for example:

<http://resourcecentre.savethechildren.se/library/gender-based-violence-and-child-protection-against-syrian-refugees-jordan-focus-early>

<sup>19</sup><https://www.foreignaffairs.com/articles/jordan/2015-09-28/syrias-good-neighbors>



has led most organizations to call for support for these states.<sup>20</sup> However even after high pledging from states to these refugees, abuse continues.

Certain countries in the west have recently decided to take in a certain number of refugees, and give them legal status. This initiative started in Germany, and has been followed by other states.<sup>21</sup> Recently refugees have been hosted in Canada.<sup>22</sup> The American government has also pledged to host a number of refugees.<sup>23</sup> However, abuse has also characterized the refugee experience. In Hungary, Syrians have had to face police abuse,<sup>24</sup> and in Denmark, the state declared its intention of seizing refugee valuables.<sup>25</sup> In addition, the US debate about Syrian refugees and their links to violent extremism has threatened to block the US administration's decision to host refugees.<sup>26</sup>

### **Breaking the Political Deadlock:**

The conflict in Syria is not merely local, but interests major international and regional players. Russia has found in its backing of the Syrian regime a good opportunity to escape its home crises related to sanctions resulting from the Crimea annexation and military attack on Ukraine. For other international players, regime change in Syria presented a good opportunity for weakening the formed alliance between Iran to Iraq, and weakening Syria in the Hezbollah-stronghold south Lebanon and Hamas controlled Gaza Strip. On the regional front Syria today lies at the very heart of sectarian strife and the competition for regional power. Turkey, Saudi Arabia and Qatar

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<sup>20</sup><https://www.amnesty.org/en/latest/news/2015/11/g20-must-pull-uturn-on-refugee-response/>

<sup>21</sup>See number of refugees that Each EU state has pledged to host : <http://www.resettlement.eu/sites/all/modules/pledgemap/index.html>

<sup>22</sup><http://www.unhcr.org/566ad0029.html>

<sup>23</sup> <http://www.theguardian.com/us-news/2015/nov/26/obama-americans-welcome-syrian-refugees-pilgrims>

<sup>24</sup> <http://www.theguardian.com/world/2015/sep/07/syrian-refugees-hungary-camp-cold-hungry>

<sup>25</sup><http://www.independent.co.uk/news/world/europe/refugee-crisis-denmark-wants-to-seize-jewellery-and-cash-from-asylum-seekers-a6777146.html>

<sup>26</sup> <https://www.rt.com/usa/322747-house-senate-syrian-refugees/>

are hoping for a Sunni-friendly regime, while Iran and Iraq are looking to keep Syria within the Shia Alawite zone of power.<sup>27</sup>

However, it seems that the ISIS attack in Paris has pressured countries to put aside differences with Russia to end the terrorist threat, and contain jihadist extremists and the flow of refugees.<sup>28</sup> Whilst this is leading to new negotiations that intend to bring about a political solution, one needs to question the willingness to actually break the current deadlock given that various interests seem to still feed the conflict.

UN Security Council resolution 2254 on the December 18, 2015 adopted in consensus between the 15 members of the UNSC came to crown the round of negotiations of the International Syrian Solidarity Group that started in Vienna on October 30.<sup>29</sup> The resolution highlights what has been agreed on, and remains silent on issues that are still subject to controversy. It aims at working on a road map for a political transition within 18 months from the adoption of the resolution and ensuring a ceasefire between the warring parties.

The Vienna talks had consensus on the need to fight against ISIS and other al-Qaeda affiliated groups, in particular al-Nusra front. This seriousness of stemming extremist expansion was highlighted in the highly technical resolution 2253 that was adopted on the same day as the resolution on peace building in Syria.<sup>30</sup> The UNSC resolution 2253 is unprecedented in triggering third state responsibility regarding the support of non-state actors, and includes a list of measures adopted under Chapter VII, the most binding form of international law, including refraining from financing terrorist groups, asset freezes, arm embargos, listings and information sharing among states concerning members and activities of the group.

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<sup>27</sup>For more understanding of Syria as a war of proxy see for example: <https://www.middleeastmonitor.com/articles/middle-east/17515-syria-proxy-war-not-civil-war>

<sup>28</sup><http://www.haaretz.com/middle-east-news/.premium-1.686286>

<sup>29</sup><http://www.un.org/press/en/2015/sc12171.doc.htm>

<sup>30</sup><http://www.un.org/press/en/2015/sc12168.doc.htm>

The Vienna round of negotiations for Syria also paved the way for two further steps: first, the Riyadh conference that has hosted opposition groups in view of harmonizing their positions to participate in the coming round of talks among Syrians.<sup>31</sup> It also agreed upon a security experts meeting to be held in the Jordanian capital that is required to examine armed groups in Syria and decide which should be considered as terroristic.<sup>32</sup> Concerning the ceasefire, the UNSG special envoy will establish a monitoring mechanism to view progress and press all parties to use their sphere of influence on warring parties to comply with the ceasefire.<sup>33</sup>

Regardless of this progress, doubts still hover around the seriousness of ending the Syrian crisis in the near future. The reception of the resolution by Syrian opposition was particularly telling of the fragility of this initial international consensus and the challenges its implementations is going to face.<sup>34</sup>

The most flagrant weakness of the resolution is that it does not address the future of the current regime or Assad. In fact the Vienna process does not go very far in determining how the transitional period would lead to peace and stability in Syria, and how it would be implemented in practice. The international community continues to be stuck in the same Geneva Communiqué framework of 2012, based on three major points: a ceasefire, a constitution and a transitional government, followed by free elections.<sup>35</sup> Doubts remain if these same points are still achievable today. In fact what paralyzed any implementation so far was the major divide on the fate of Assad. Assad's refusal to relinquish power and backed by Iran and Russia, may mean the latest round of talks will also fail.

Another doubt that hovers around this newly reached agreement is the lack of agreement on classifications of terrorist groups. In fact, at least two very controversial groups who have allegedly committed

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<sup>31</sup><http://www.wsj.com/articles/syrian-opposition-groups-hold-talks-in-riyadh-1449683546>

<sup>32</sup><http://www.jordantimes.com/news/local/jordan-says-terror-list-be-out-right-time%E2%80%99>

<sup>33</sup>This monitoring mandate has been set out in UN SC res. 2254

<sup>34</sup><http://europe.newsweek.com/did-riyadh-conference-move-syria-towards-peace-408229?rm=eu>

<sup>35</sup> <http://www.voltairenet.org/article189701.html>

international crimes and who are known to be very theocratic and anti-democratic both in rhetoric and in action participated in the Riyadh conference.<sup>36</sup>

These weaknesses and doubts in the initial agreement have one link in common: the reluctance of the international community to recognize that without accountability there can be no justice for Syrians and in consequence no sustainable piece.

### **Accountability: The Missing Piece of the Syrian Puzzle:**

The absence of consensus amongst international actors with regard to solving the Syrian conflict leads to a pessimistic outlook for dealing with the humanitarian crisis and solving its root causes. It is particularly notable that the international community has shown more readiness to cooperate, recognizing full third state responsibility when it comes to groups labeled as terrorists, while for the other warring parties there is no intention to bring about any form of deterrence or bring the committed crimes to justice. This is even more remarkable knowing that most of the Syrian victims and the continuous flow of refugees and IDPs are caused by one of the warring parties: the regime. There is almost no doubt that in order for the agreement to be implemented Assad needs to step down sooner or later.

Beyond the practical considerations, it is within international obligations of all states to ensure accountability for serious breaches of IHL and IHRL. Investigating, prosecuting and providing remedies for IHL violations is the primary obligation of states in cases of grave breaches according to common Article 1 of the four Geneva Conventions. In the Syrian context, this obligation is incumbent on the international community of states, which has thus far failed to take effective action to trigger accountability for mass atrocities.

The continuous impunity for international crimes is only inciting parties to continue disregarding human suffering in Syria. Triggering different accountability mechanisms in domestic, regional and international jurisdictions, directed against individuals and authorities

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<sup>36</sup><http://www.theglobeandmail.com/news/world/saudi-arabia-to-host-syrian-opposition-meeting-ahead-of-peace-talks/article27609462/>

directly or indirectly involved in the commission of serious violations of international law would create a deterrence effect against individuals and states seeking to become engaged in internationally unlawful acts.

States should cooperate to establish an information sharing network that allows cooperation criminally and judicially in the efforts to bringing to account individuals involved in criminal activities in Syria. The same mechanisms of judicial cooperation that have been established for the fight against terrorism in resolution 2253 could also be triggered to pursue all perpetrators involved in the fighting.

Instead of focusing on deterring warring parties, the situation on the ground is actually becoming more complicated, especially in light of the intensification of foreign military intervention in Syria. Today there is sufficient probable evidence of the commission of serious IHL violations by Russian forces in Syria, and accusations that the Russian army is targeting civilian locations.<sup>37</sup> In addition there are also allegation of the commission of IHL breaches by coalition forces targeting ISIS controlled areas in eastern Syria.<sup>38</sup>

The root causes that have led to deteriorating conditions in Syria are not very different from elsewhere in the region. The postcolonial era has failed to bring about an citizenship-based state, fostering discrimination and sectarianism instead. The Assad regime has, during the past 40 years, based its socio-political and economic power on a few loyalists who often share their sectarian roots. This has created very deep anger and a sense of injustice over the years, especially amongst the majority Sunni population. The militarization of the conflict, in part a result of the regime's crushing of the civil movement, has inflamed hidden social tensions. The support that armed groups have received from certain players in the region - Saudi Arabia, Qatar and Iran - has only deepened the sectarian divide.

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<sup>37</sup><http://www.independent.co.uk/news/world/middle-east/amnesty-report-russia-directly-targets-civilians-in-syria-killing-at-least-200-in-possible-war-a6783271.html>

<sup>38</sup> <http://www.aljazeera.com/news/2015/11/syrians-insane-nights-french-bombing-151117052945111.html>

Any future solution in Syria that aims to maintain a sustainable coexistence in a highly diverse country has to ensure that the aspiration and just representation of each group is taken into consideration. Measures should also be taken to guarantee that no retaliatory actions are taken, including by deploying international forces if such risks persist.

Regardless of doubts, current international will offers a glimmer of hope that the coming year will bring us a little closer to a stable, peaceful and democratic Syria.

# Libya

Libya faced enormous challenges in 2015, witnessed by the rapid expansion of ISIS, which gained control of further territories, a total breakdown of state structures with two concurrent authorities in power and their operation with armed and paramilitary groups. This has created political division and instability, which has threatened the country with chaos and undermined unity as territory has been divided into several sub-states, and extremist groups have taken control of more cities. Ongoing grave breaches to human rights and international humanitarian law continued to be perpetuated by all armed factions, targeting civilians and HRDs with total impunity. This year also witnessed the continuous failure of attempts to begin a peace process aimed at reestablishing state institutions and the rule of law. Regional and international actors also continue to worsen the situation in Libya by arming parties against one another, which constitutes a violation of the UNSC resolution and cripples any hope for peace.

## **General Context: Failure of State Institutions and a Crippled Peace Process:**

For 42 years the Qaddafi dictatorship ruled over Libya during which political parties, civil society and any form of activism were

prohibited and harshly punished. After the revolution, revenge operations were carried out against supporters of the Qaddafi regime. Revolutionary forces were divided into several armed groups, most of whom were loyal only to their own cities and often expressly motivated by a “revenge” agenda for Qaddafi-era abuses and repression. A complete breakdown of law and order and national security institutions in the country has emboldened armed groups to commit crimes with total impunity. Currently dozens of militias, paramilitary and extremists groups operate throughout Libya.<sup>1</sup> Over the last four years, the National Transitional Council, the General National Conference, the House of Representatives and successive governments have failed to establish the rule of law and build functioning state institutions. Instead, “state institutions” have become subservient to militias and paramilitary groups.

The successive governments thus far have set no standards for a mechanism to address the over-arching impunity in the country and have instead given militia and paramilitary leaders sovereign positions in the Ministry of Defense and Interior Ministry, such as the High Security Committee to Defend Libya, the Chamber of Libyan Revolutionaries, the National Guard, Libyan Dawn, and Operation Dignity. Furthermore, laws and decrees adopted by the Transitional Council, the General National Congress, and the Council of Deputies since 2011 have fostered the creation of paramilitary structures not controlled by the state. In addition, amnesties issued by the Libyan government have meant there is no accountability, and the Libyan authorities have failed to establish an instrument for transitional justice, thus denying Libyan citizens a national mechanism for redress. This coupled with the inability of the Libyan criminal justice system to carry out any national investigations has created weak state institutions that foster impunity instead of ensuring accountability.

The main opponents of a UN facilitated dialogue are armed groups and paramilitary groups who are seeking to preserve their zones of control, to escape from potential removal if a vetting process is put in place, and who fear mechanisms of accountability for the grave violations they are continuing to perpetrate throughout Libya. The

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<sup>1</sup> European Council on Foreign Relations, “Mapping Libya’s Factions,” <http://www.ecfr.eu/mena/mappinglibya>



most known groups are Haftar<sup>2</sup> leading dignity operation in the East and Salah Bady,<sup>3</sup> leading operation Libya dawn II, “Steadfastness Front “ in the West. There is also Zintan military forces<sup>4</sup> that have refused the proposition of a unity government and the announcement of members of a new presidency council according to the fifth version of the peace agreement presented by UNSMIL in September 2015.

In spite of signing the latest peace agreement on December 17, 2015<sup>5</sup> politicians from both the House of Representatives (HOR) and General National Congress (GNC) are not accepting concessions on their political gains and are seeking to insure that they will have influence and key positions. In addition, they are backing armed groups to ensure their own protection and the fulfillment of their political plans.

## **Expansion of Terrorism and Grave Breaches of International Human Rights and Humanitarian Law:**

As of last May, the Mediterranean city of Sirte, a few hundred kilometers away from Europe, fell under the total control of the self-proclaimed Islamic State (IS), with the latter using the city as its main nerve center in Libya. IS launched a campaign of terror against the city’s population. Recent attempts to break free from the extremist group’s grip were met with crushing violence, most recently the killing of an unidentified number of individuals in mid-August. Sirte is the same city that IS staged public executions of Christians in 2015.

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<sup>2</sup> “Haftar Pledges Loyalty to HoR – Unless it Accepts the Political Accord, *Libya Herald*, Oct. 18, 2015,

<https://www.libyaherald.com/2015/10/18/hafter-pledges-loyalty-to-hor-unless-it-accepts-the-political-accord/>

<sup>3</sup> “Steadfastness Front Rejects Leon government,” *Libya Observer*, Oct. 17, 2015, <http://www.libyaobserver.ly/news/steadfastness-front-rejects-leon-government>

<sup>4</sup> “Zintan Rejects Leon's Proposed Government, Lashes out at HoR,” Oct. 10, 2015, *Libya Observer*,

<http://libyaobserver.ly/news/zintan-rejects-leons-proposed-government-lashes-out-hor>

<sup>5</sup> Libyan Parties sign the Libyan Political Agreement in Skhirat, Morocco, Dec. 17, 2015,

<http://unsmil.unmissions.org/Default.aspx?tabid=3561&ctl=Details&mid=8549&ItemID=2099400&language=en-US>

As rival politicians and armed groups continue to stall the conclusion of a peace agreement, the enduring political and security vacuum has given IS the opportunity to quickly stretch its influence across the country, with additional territorial gains made in the east and west of Sirte and a significant presence in and around a number of Libyan cities, including Benghazi, Misrata, Derna and Tripoli. The most recent exception was in June 2015, during which Derna Shourah Council, managed to expel IS fighters from Derna following weeks of fighting.

The reason behind the rapid expansion of IS is apparent, especially to the international community exerting efforts to resolve the situation in Libya. IS and similar groups have been left with no real local counter-force on the ground to limit their expansion and combat extremist ideologies. As noted by the UN Secretary General's envoy on Libya in his briefing to the Security Council on August 26: "the message to Libya's leaders is clear: there is simply no other alternative to unified and collective action if Libyans are to successfully prevent a repeat of the catastrophic advances that Daesh has made in countries like Syria and Iraq." Simply put, the de-facto situation on the ground has proven that actors in Libya are invested more in fighting each other than in halting the threat of violent extremism.

Part of the problem lies in the continuous use of different political groups of armed factions and militias, which have led to a snowballing cycle of violence. This prepared the ground and created a suitable environment for ISIS and migrant smugglers to continue their criminal actions in total impunity. Another important factor is the continuous feeling of injustice among the community; impunity keeps fueling the cycle of violence and revenge. The violations committed during the Gaddafi era and during and after the revolution, were not accounted for and have even increased. Victims have yet to find effective channels for remedies. The chaos caused by continuous fighting on the ground, backed by politicians, combined with the lack of accountability also makes it easier for ISIS propaganda to spread across cities such as Sirte and Derna.

The Libyan population continues to suffer from parallel structures that continue to commit grave human rights violations in total impunity, and that impose severe restrictions on public space by targeting initiatives by civil actors and rights activists. Armed groups from all sides continue to commit serious human rights violations, some liable to amount to international crimes, including direct and indiscriminate attacks against civilians and civilian infrastructure, unlawful killings, torture and ill treatment in unlawful detention facilities, arbitrary arrests, abductions, enforced disappearances, and forced displacement. Additionally, the oil-rich country stands on the verge of economic collapse with severe malfunction in its infrastructure, including health care and other vital facilities, as well as a creeping shortage in food, electricity and other vital necessities across the country, especially in the east. According to recent figures relayed by the UN envoy on Libya, 1.9 million Libyans remain in need of access to basic health care, while 1.2 million face challenges to access to food. There are now over 500,000 IDPs in Libya. Libya failed to ensure the safe return of IDPs, to provide adequate housing and to prevent violent raids on IDP camps. Over the past three years, there has been an average of two attacks per month against IDP camps in Libya.<sup>6</sup>

Civilians, state institutions, and parties of the political dialogue are under the threat and indiscriminate fire of hundreds of armed groups across the country, involving more than 200,000 fighters who continue to be paid from central state funds. There is rampant violence and armed clashes targeting civilians, human rights activists, women, children, minorities, foreigners and continuous indiscriminate attacks on vital infrastructure and key state institutions as witnessed by daily attacks on medical facilities, airports used for civil aviation, schools, and oil fields. Armed groups commit daily gross and systematic human rights violations in the west, center, east and south of Libya in total impunity. Over the course of 2014, 2,825 individuals were killed and more than 394,000 people were forced from their homes to live as internally displaced persons across 25 cities in the country.

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<sup>6</sup> Mercy Association for Charitable and Humanitarian Aid (Alrahma) UPR report.

## **Powerlessness in the Libyan Criminal Justice System Under Rule of Armed Groups:**

Hundreds of cases of alleged grave violations, including extrajudicial killings, widespread use of torture and arbitrary arrest have been submitted to Libya's General Public Prosecutor, during 2012, 2013, and 2014 against a number of armed groups with no concrete measures taken to date towards achieving accountability. Additionally, the national courts in Libya are unable to prosecute alleged perpetrators of serious crimes due to continuing threats to judges, lawyers and prosecutors by armed groups. To date, no perpetrator belonging to any of the armed groups on the ground has been held accountable for committing human rights abuses in Libya since 2011.

The cycle of violence in Libya has been continuously fed by overarching impunity for serious violations and the lack of an effective vision liable to strengthen the country's security institutions.<sup>7</sup> Unless this is properly addressed, talking about peaceful coexistence and fighting violent extremism in a country built against the rule of law will remain void of any meaning.

The CIHRS holds militias and paramilitary groups responsible<sup>8</sup> for large-scale human rights violations all over Libya, adding that Daesh has been able to gain a foothold in several Libyan cities because of such actions. Without restructuring security institutions and bringing rights violators to justice, any attempt to bring peace to Libya will only lead to further deterioration. If there is no genuine progress on the ground to consolidate the rule of law and democratic governance and ensure basic liberties, the idea of reaching a permanent peaceful resolution to the crisis will remain an unattainable dream.

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<sup>7</sup>Cairo Institute for Human Rights Studies, "CIHRS Argues that Ensuring Accountability and Rebuilding Security Institutions are the Only Paths to Peace in Libya," Sept. 2, 2015,

<http://www.cihrs.org/?p=17205&lang=en>

<sup>8</sup>CIHRS, "Spiral of Violence in Libya is Natural Result of Impunity,"

<http://www.cihrs.org/?p=17427&lang=en>

Militias and paramilitary groups have continuously sought to derail peace in Libya. They have killed and terrorized demonstrators<sup>9</sup> across Libya, and assassinated activists, judiciary members and state officials. They are terrorizing civilians and attacking civilian infrastructure and aviation<sup>10</sup> under the justification of protecting the February revolution or fighting against terrorism. They are putting pressure on politicians from both assemblies to not accept any peace agreement unless their positions in security institutions are cemented and they are guaranteed immunity from persecution.

The UNSMIL, in its report on November 16, 2015<sup>11</sup> jointly with the OHCHR, continued to express its profound concern with regards to grave breaches of human rights and international humanitarian law, highlighting the deteriorating situation within the Libyan justice system to address these crimes.<sup>12</sup> The report stated the following:

The justice system continued to be severely hampered due to ongoing fighting and insecurity. Courts have not been functioning in Sirte, Derna and Benghazi since 2014. Although on June 14, 2015, judges and prosecutors at the Court of South Benghazi decided to reactivate the work of the Court, it is unclear whether their work had actually resumed ... Judges, prosecutors, and law enforcement officials have continued to face violent attacks and threats.

### **The report further stated that:**

Due to the collapse of the criminal justice system in parts of the country, victims have little avenue to seek protection and remedy amidst total impunity. Even in those rare cases where police reports

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<sup>9</sup> “Benghazi Survivors Tell of Missiles, Chaos at Protest Against UN Plan,” *Middle East Eye*, Oct. 24, 2015,

<http://www.middleeasteye.net/news/benghazi-survivors-tell-missiles-chaos-protest-against-un-plan-523933417#sthash.CQvCcUYo.dpuf>

<sup>10</sup> “Libyan Helicopter Shot Down, Killing Senior Tripoli Officers,” Oct. 27, 2015, <http://www.trust.org/item/20151027205248-snul3/?source=fiOtherNews2>

<sup>11</sup> UNSMIL, Report on the Human Rights Situation in Libya, Nov. 16, 2015, [http://www.ohchr.org/Documents/Countries/LY/UNSMIL\\_OHCHRJointly\\_report\\_Libya\\_16.11.15.pdf](http://www.ohchr.org/Documents/Countries/LY/UNSMIL_OHCHRJointly_report_Libya_16.11.15.pdf)

<sup>12</sup> “Human Rights Defenders Under Attack,” Mar. 25, 2015, <http://www.ohchr.org/Documents/Countries/LY/HumanRightsDefendersLibya.pdf>

had been filed, little action was taken to open prompt, thorough, effective, impartial, and independent investigations and to bring perpetrators to justice. To the best knowledge of UNSMIL, no perpetrator belonging to an armed group has been convicted since 2011.

Since the end of the reporting date of the abovementioned report, the ability of the justice system in Libya to carry out transparent and effective investigations and prosecute ongoing serious violations of international human rights and humanitarian law have continued to deteriorate<sup>13</sup> with courts around the country unable to begin or implement legal proceedings or prosecute perpetrators of crimes due to direct threats and attacks against judges, lawyers and other members of the legal community. Such attacks also included attacks against prosecution offices and courthouses. For example, on December 15, the Tajura public prosecutor's office was destroyed during fights between two armed groups.

According to the Libyan Judges Association (LJA),<sup>14</sup> 2014 was one of the worst years for the legal community in Libya after 2011. The legal community was targeted by all parties to the conflict including militias from the west of Libya, forces under the internationally recognized government, and extremist groups. Since 2014, attacks have intensified with dozens of documented cases of public prosecutors and judges being subjected to assassination, kidnapping, inhuman treatment, and other forms of intimidations and threats that forced a considerable number to flee Libya. According to the LJA, in the period between 2013 - 2015, 8 members of the judiciary and 3 lawyers were murdered, including human rights activist Salwa Bugaighis,<sup>15</sup> who was also one of the prominent actors in the national initiative for reconciliation launched in August 2013 in addition to

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<sup>13</sup>Interview with Marwan Tashani, head of Libyan Judges Association on Dec. 15, 2015.

<sup>14</sup> 2014 Annual Report of the Libyan Judges Association: in Arabic, Annex I.

<sup>15</sup>Amnesty, "Libya Must Ensure Proper Investigation After Prominent Lawyer Shot Dead," Jun. 26, 2014, <https://www.amnesty.org/en/latest/news/2014/06/libya-must-ensure-proper-investigation-after-lawyer-salwa-bugaighis-shot-dead/>.

being a member of the independent National Dialogue Preparatory Commission.<sup>16</sup>

The latest documented attack was on December 13, 2015 where Khaled Ali Koweid,<sup>17</sup> a member of the prosecutor's office, was kidnapped while on duty in the prosecutor's complex in Tripoli by armed groups and kept for four hours before he was released.

### **Continuing Attacks on Human Rights Defenders, CSOs, and Media:**

Human rights defenders, local CSOs<sup>18</sup> and the media<sup>19</sup> continue to face serious threats to their lives, and have been prevented from working. They have been confined to exile, death or a decision to abandon their activities. Many have fled the country, and now operate from neighboring countries in very fragile and unsafe environments, where they face socioeconomic challenges, continuous threats, and a professional incapacity to continue working with their colleagues remaining inside the country.

According to CIHRS's partner, the Coalition of Human Rights Organizations:

On November 21, 2015, the Head of the General Authority of Information and Culture, Omar El-Gawairi, issued a statement urging security agencies to "capture the spies and traitors and thus ban any media or civil society organizations funded by foreign sponsors or linked to foreign departments. In addition, Libyan citizens should take the initiative to close shops of agents and hideouts of spies, and then expel them outside of Libya." The Culture and Civil Society Ministry also issued a notification on November 25, 2015 requiring all

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<sup>16</sup> Libya National Dialogue Preparatory Commission: <http://ndpc.ly/en/>.

<sup>17</sup> Libyan Judges Association, Press Release, Dec. 14, 2015, Annex II.

<sup>18</sup> International Federation for Human Rights, "Libya- Exile or Death: Violence and Collapsed State Leave Human Rights Defenders with Few Options, Aug. 8, 2015, <https://www.fidh.org/en/region/north-africa-middle-east/libya/libya-exile-or-death-violence-and-collapsed-state-leave-human-rights>.

<sup>19</sup> Human Rights Watch, "War on the Media- Journalists Under Attack in Libya," Feb. 9, 2015, <https://www.hrw.org/report/2015/02/09/war-media/journalists-under-attack-libya>.

individuals working for civil society organizations to provide notice and seek approval from the ministry prior to attending meetings, workshops and conferences outside of Libya.<sup>20</sup>

What is needed is a bottom up approach in Libya, which means understanding the Libyan context and making use of its various power holders and the historic tensions that has led to its current power dynamics. The role of key civil actors from local municipalities and the National Council for Human Rights and Liberties as well as activists on the ground also need to be augmented and included as major components to the success of the UN-led peace process. Empowering and enabling those actors could very well be Libya's only hope to fight extremism of all kinds. The only way to empower them is through limiting the threat of militias against them.

### **Accountability as Deterrence Mechanism to Achieve Peace in Libya:**

To date, the Libyan justice system throughout the country has been unable to ensure effective national accountability for grave violations and abuses of human rights and humanitarian law. This is due in large part to attacks against judges, lawyers and others and other forms of interference of armed groups within the judicial, executive, and legislative institutions of the country. The escalation of the armed conflict, in May 2014 in the east of the country and in July 2014 in the west, coupled with weak state institutions has made the prospects of a functioning national accountability process extremely unlikely at this time. As such, it is the responsibility of the Libyan government and international community to ensure accountability and rule of law for international crimes committed in Libya through international investigations and legal proceedings.

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<sup>20</sup> Lawyers for Justice in Libya, "The Coalition of Libyan Human Rights Organizations is Concerned by Recent Attempts to Restrict Unlawfully Freedom of Expression, Assembly and Association," Dec. 2, 2015, <http://www.libyanjustice.org/news/news/post/221->



There have been some attempts on the international level, albeit not comprehensive nor sufficient, to address the issue of impunity for violations in Libya. In June 2015, the UN Security Council discussed sanctions against leaders of militias and paramilitary groups from both sides of the conflict, followed by the EU in July, which threatened sanctions against spoilers of the Libyan peace process. These steps arguably allowed municipalities and local actors in the west of the country to work together, as they were given some space to conclude ceasefire agreements and exchange detainees. Also, in large part due to the threat of international accountability and fear of targeted sanctions, significant militias within the Misrata armed groups (one of the most influential armed factions that compose the GNC backed Operation Libyan Dawn) stopped opposing local ceasefire efforts and instead, in July 2015, declared their support of local ceasefire agreements and the UN mediated peace talks. However, no genuine follow-up steps have been taken to effectively enforce the provisions of the UN Security Council Resolution 2174 (2014) authorizing asset freezes and travel bans against individuals believed to have committed serious rights violations in the country.

On November 5, 2015, the ICC asked the UNSC, during a briefing to the Council's members, to provide necessary resources to proceed to investigate violations based on information submitted by civil society organizations and other information collected by the UN.

### **The ICC report noted:**

The Office remains equally concerned that all sides including the Libyan National Army (“LNA”), Libya Dawn, Islamists, ISIL; and their respective allies, and international actors continue to commit attacks resulting in civilian casualties, some of which appear to be indiscriminate in nature. Common methods of attack include air strikes, sniper fire and shelling.

However, there still remains a lack of sufficient international evidence gathering activities and an absence of formal legal proceedings against individuals that have or continue to carry out grave violations of international law in Libya.

Due to ongoing and widespread attacks against judges, lawyers and other members of the judiciary, the fostering of impunity through government policies, and the breakdown of state institutions, international accountability measures are currently required to deter ongoing violations and provide the necessary conditions for peace and the building of state institutions in Libya.

In this context, capacity building and technical cooperation with the Libyan judicial and security institutions will remain largely ineffective until sufficient measures are taken to ensure international criminal accountability for ongoing violations committed by particular individuals in Libya. International, independent, effective, and transparent investigations into past and ongoing violations is the most immediate requirement to provide the basis for an effective international accountability process. Any such investigation must establish the facts, identify individuals and groups that have perpetrated grave violations, and delineate a clear chain of command and individual responsibility for such crimes.

The investigation mission led by the Office of the UN High Commissioner for Human Rights into violations committed in Libya since the beginning of 2014 has a critical role to play in providing information and making recommendations on how such information should be used to ensure effective accountability measures are taken by the international community, including in relation to follow-up UN action, ICC investigations and the use of universal jurisdiction by particular states.

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## Iraq

Armed combat between the Iraqi government and the Islamic State (IS or Daesh) continued to cast a pall over human rights conditions in Iraq in 2015. With air cover from the US, the Iraqi government led the fight against IS with the support of Shia militias and Kurdish forces, as well as smaller Sunni tribal units and Turkmen, Yezidi, and Christian factions. UN and independent reports estimate that between 7,500 and 17,000 civilians were killed in the fighting and at least double that number were injured, making 2015 the fourth most deadly year in Iraq since the US invasion in 2003.<sup>1</sup>

More than 3.2 million internally displaced persons (IDPs) continued to suffer, having been forced to leave their homes after IS's push into Sunni-majority governorates between June 2014 and May 2015. Currently, they look unlikely to return to the cities, towns, and villages that were liberated in 2015 due to the widespread destruction and fear of reprisals from both Shia militias, especially in the

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<sup>1</sup> According to Iraq Body Count, 2006 and 2007 were the years with the highest death toll, with some 55,000 Iraqis killed in the waves of sectarian violence that erupted after the bombing of the Askari shrine in Samarra in February 2006. The year 2014, with 20,000 dead, was the third bloodiest year, which saw the spread of IS in northern and western Iraq and in the Diyala governorate near the Iranian border in the east. See figures at <https://www.iraqbodycount.org/database/>.

ethnically and communally mixed province of Diyala, and IS remnants or sleeper cells in al-Anbar. Major economic challenges face the Iraqi government as it attempts to rebuild these areas after the sharp decline in the price of oil, which accounts for 90 percent of government revenues.

Ironically, military successes against IS, in which some 40 percent of the territory seized by the group since its occupation of Mosul in June 2014 was reclaimed, coincided with the central government's continued loss of control over state institutions. This was due to several major developments, most significantly the growing power of Shia militias in the security realm and the increasingly strident Kurdish demands for independence. Reform and anti-corruption programs also proved to be severely limited, while regional and international interference in the country increased.

All of these developments exacerbated the already severe imbalances endemic in state structures before and after the US invasion in 2003. The dysfunction is most clearly demonstrated by the ill-defined relationship between the central government in Baghdad and the Kurdistan province, particularly over the distribution of wealth<sup>2</sup> and the borders of disputed areas, as well as conflicts over powers and responsibilities between the federal government and the 19 governorate-level assemblies. Although Iraqi Prime Minister Haidar al-Abadi promised to combat the corruption rife in state institutions,<sup>3</sup> the package of reforms he unveiled in August 2015<sup>4</sup> did not persuade large swathes of the population. Iraqis in Baghdad and

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<sup>2</sup> Despite the prospect of improved relations between Baghdad and Kurdistan after the signing of the oil agreement on December 1, 2014 following years of tension, the agreement collapsed in just six months amid mutual recriminations. For more details, see <http://m.ahewar.org/s.asp?aid=492298&r=0&cid=179&u=&i=0&q>.

<sup>3</sup> Iraq continues to be classed as a very corrupt country. In its annual 2015 report, Transparency International listed it among the ten most corrupt countries in the world. See [www.transparency.org/cpi2015](http://www.transparency.org/cpi2015).

<sup>4</sup>Al-Jazeera,

<http://www.aljazeera.net/news/arabic/2015/8/10/%D8%A7%D9%84%D8%B9%D8%A8%D8%A7%D8%AF%D9%8A-%D9%8A%D8%B9%D9%84%D9%86-%D8%A5%D8%B5%D9%84%D8%A7%D8%AD%D8%A7%D8%AA-%D9%88%D9%85%D8%B8%D8%A7%D9%87%D8%B1%D8%A7%D8%AA-%D8%AA%D8%B7%D8%A7%D9%84%D8%A8%D9%87-%D8%A8%D8%A7%D9%84%D9%85%D8%B2%D9%8A%D8%AF>

northern and southern governorates continued to demonstrate, accusing authorities of failing to diligently fight corruption. Corruption affects not only the business sector, but also the provision of basic services, which have continued to deteriorate, especially electricity, water, education, and health.<sup>5</sup>

The government does not bear sole responsibility for the rampant corruption, which can be ascribed in part to deep-seated structural problems in the Iraqi state since the US invasion in 2003. Oversight mechanisms, including the parliament and the Commission of Integrity, are ineffective due to sectarian quotas in appointments<sup>6</sup> and the nature of the electoral system, which tends to require the formation of broad coalition governments that limit genuine parliamentary opposition. The judiciary's lack of independence and its subordination to the executive also prevent it from playing a more active role.<sup>7</sup>

### **Erosion of State Institutions and Increasing Sectarian Conflict:**

A sense of cautious optimism accompanied al-Abadi's assumption of the premiership, succeeding Prime Minister Nouri al-Maliki in August 2014,<sup>8</sup> who was accused by opponents across the sectarian

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<sup>5</sup> See the International Crisis Group (ICG), <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs={18CB966A-0073-4264-B3F5-ED0472ED975C}#results>.

<sup>6</sup> For a deeper look at the distortions in the political system, see the ICG report, "Failed Oversight: Iraq's Unchecked Government," <http://www.crisisgroup.org/en/publication-type/media-releases/2011/mena/failing-oversight-iraqs-unchecked-government.aspx>.

<sup>7</sup> The government drafted three laws for judicial reform: a bill on the Supreme Federal Court (February 2015) and two bills on the Public Prosecution and a judicial oversight body (April 2015). But observers say that the three bills only promise cosmetic improvements. See the analysis of the Supreme Federal Court law at <http://aliraqtimes.com/ar/print/38803.html%29>.

<sup>8</sup> Al-Maliki, who was the secretary-general of the Shia Islamic Dawa Party became prime minister in May 2006. For more details on Maliki's policies and style of governance, see the ICG report, "Déjà Vu All Over Again: Iraq's Escalating Political Crisis," July 2012, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/iraq/126-deja-vu-all-over-again-iraqs-escalating-political-crisis.aspx>.

spectrum of concentrating power in his hands, mismanaging the country, contributing to the spread of corruption, sidelining Sunni and Kurdish forces, and proving incapable of building up Iraq's military and security capacities. As a result of the latter the Iraqi army rapidly collapsed in the face of IS, which occupied huge swathes of northern and western Iraq in 2014.

Nevertheless, a closer review of al-Abadi's policies and decisions reveals that building a unified, democratic Iraq based on national accord and respect for human rights is still a distant goal. The most serious developments seen under al-Abadi include the rapid increase in the activities of armed militias, particularly the Popular Mobilization Forces (PMF),<sup>9</sup> as well as the ill-defined constitutional and legal framework that govern their operations. As a result, members of the PMF have not been subject to legal accountability for sectarian crimes or violations, some of which may amount to war crimes.<sup>10</sup> Following increasing domestic protest at the acts of militias and regional and international pressure, the Cabinet on April 7, 2015 issued directives to all ministries and state institutions instructing them, when dealing with the PMF, to treat them as an official agency under the control and command of the prime minister and commander of the armed forces. But the decree did not remove the taint of

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<sup>9</sup> The PMF was established in June 2014 pursuant to a fatwa issued by Shia Grand Ayatollah Ali Sistani allowing the formation of paramilitary forces to defend Baghdad after IS occupied Mosul earlier that month. Sources estimate that as of late 2015, the PMF included 60,000–90,000 fighters belonging to some 20 Shia political and military factions. While Shias dominate the base and leadership positions of the PMF, the force does include Sunni Arabs, as well as some Christians and Turkmen. For more details, see,

[https://en.wikipedia.org/wiki/Popular\\_Mobilization\\_Forces\\_%28Iraq%29](https://en.wikipedia.org/wiki/Popular_Mobilization_Forces_%28Iraq%29). See also the report from the Middle East Institute, "The Hashd: Redrawing the Military and Political Map of Iraq," April 2015,

<http://www.mei.edu/content/article/hashd-redrawing-military-and-political-map-iraq>.

<sup>10</sup> See Human Rights Watch, "Iraq: Possible War Crimes by Shia Militia," <https://www.hrw.org/news/2016/01/31/iraq-possible-war-crimes-shia-militia>.



unconstitutionality from the status of the PMF.<sup>11</sup> In addition, the decree was not followed by a law clarifying the militia's institutional subordination to either the military or security establishment or defining the framework for its domestic operations and rules for command, planning, control, and the financing of its various structures. This leaves militia members outside of any framework for accountability, whether in the ordinary or military justice system. As a result of this confused legal situation, these militias continued to commit grave violations, especially against Sunnis in the governorates of Baghdad, Diyala, Salah al-Din, al-Anbar, and Babel, including extrajudicial killing, abduction, property theft, the burning of homes and mosques, and forced displacement.<sup>12</sup>

The lack of accountability is not the only grave consequences of the lack of regulation of the PMF (attempts to integrate them into a new legal entity known as the National Guard failed).<sup>13</sup> The ongoing institutionalization of the PMF threatens the structure of the Iraqi state itself, perhaps no less of an existential threat than IS. The continued

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<sup>11</sup> Article 9(b) of the Iraqi constitution prohibits the formation of paramilitary forces outside the framework of the armed forces. For a discussion of the constitutional and legal framework of the PMF, see the report by Abd al-Qader Mohammed, April 2015,

<http://www.kitabat.com/ar/page/17/04/2015/49130/%D8%AF%D8%B3%D8%AA%D9%88%D8%B1%D9%8A%D8%A9-%D9%87%D9%8A%D8%A6%D8%A9-%D8%A7%D9%84%D8%AD%D8%B4%D8%AF-%D8%A7%D9%84%D8%B4%D8%B9%D8%A8%D9%8A-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%89/1.html>.

<sup>12</sup> For example, in January 2015, the PMF carried out the extrajudicial execution of more than 50 Sunnis in the village of Barawna in Diyala who were handcuffed at the time, on the grounds that they were members of IS. See the section on Iraq in Amnesty International's 2015 annual report,

<https://www.amnesty.org/en/countries/middle-east-and-north-africa/iraq/report-iraq/>.

<sup>13</sup> Although the government submitted a bill on the National Guard in February 2015, it faced major opposition during the debate in parliament, which refused to ratify it in 2015. See,

<http://www.aljazeera.net/encyclopedia/events/2015/9/13/%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%AD%D8%B1%D8%B3-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A>.

illegal conduct by militias threatens the Iraqi state's ability to win hearts and minds among the Sunni community, to turn the majority of the community away from a group like IS as the representative Sunni voice, both in liberated areas in Diyala, Salah al-Din, and al-Anbar<sup>14</sup> and in areas still under the control of IS, especially in Nineveh. The success of the Islamic State is partially due to the Sunni community's sense of growing marginalization since the US invasion in 2003, reflected in their positions in state institutions and the security services in particular, their share of national wealth, or laws that seem to target Sunnis such as the de-Baathification law.

Many Sunnis are also dissatisfied with the political forces that ostensibly speak for them, seeing them as not representing their interests. Many Sunnis believe these forces emerged as a result of the corruption of some Sunni elite, which is loyal to Baghdad for reasons of money or positions, or are subordinate to other countries in the region, such as Turkey, Jordan, Qatar, and Saudi Arabia. As a result, Shia militias' increasing role in setting the political and security agenda will only further foreclose any possibility of a broad national reconciliation aimed at ending violence and terrorism and bringing Sunnis into the political process. It also threatens to reprise the experience of al-Qaeda in Iraq—the spiritual father of IS—which was militarily defeated in cities it had occupied from 2005 to 2008 before coming back in new form in 2014.<sup>15</sup>

The increasing military role of the PMF may even pose a danger to the cohesion of the Shia majority, as it may set off domestic conflict that could engulf the whole country. Most of these militias have political and region-based institutional extensions, some of which are represented in the parliament, such as the Islamic Supreme Council of Iraq, led by Ammar al-Hakim, and the Sadrist movement, led by

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<sup>14</sup> See “The Hell After Isis,” in *the Atlantic*, which looks at the fate of a Sunni family from the Anbar province under IS and later in a Baghdad neighborhood under the control of the League of the Righteous, a militia with the PMF.

[http://www.theatlantic.com/magazine/archive/2016/05/the-hell-after-isis/476391/?utm\\_source=SFFB](http://www.theatlantic.com/magazine/archive/2016/05/the-hell-after-isis/476391/?utm_source=SFFB).

<sup>15</sup> For a more detailed discussion of the status of the Sunni community after 2003, see the ICG report, “Make or Break: Iraq's Sunnis and the State,”

<http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/iraq/144-make-or-break-iraq-s-sunnis-and-the-state.aspx>.

Muqtada al-Sadr. The overlap of paramilitary and ostensibly political entities could encourage the use of weapons as an effective means of resolving any political dispute in the future as an alternative to traditional constitutional channels. In addition, most of these militias have strong ties with Iran for training, financing, and guidance, which gives them greater autonomy, not only vis-à-vis the central government, but also in their relationship with their public and voters in Shia provinces.<sup>16</sup> Finally, the continued military reliance on these militias or the idea of integrating them into the regular armed forces will only exacerbate the difficulty of building a professional, cross-sectarian, Iraqi army and police force. In turn, this may bring about a repeat of the Iraqi army's rapid collapse in the face of the IS advance in the provinces of the Sunni triangle.

In addition to the strong Iranian role in Iraq, the country is still a stage for conflict between other regional powers, especially Turkey, Saudi Arabia, Jordan, and Qatar, all of which have strong financial, political, and military ties with various Sunni and Kurdish parties and movements. Turkey, for example, which sent small military forces to the city of Baashiqa near Mosul in 2015, is accused of supporting the Masoud Barzani, the president of the Iraqi Kurdistan Region and the leader of the Kurdistan Democratic Party (KDP), against Barzani's enemies, in particular the Patriotic Union of Kurdistan (PUK) and the Gorran movement, which is close to Iran. The Turkish military incursion into northern Iraq was welcomed by some influential Sunni forces and figures, such as Osama al-Nujaifi, the leader of the United for Parliamentary Reform coalition, and opposed by other Sunni politicians close to Iran and Qatar.<sup>17</sup>

In 2015, the largely independent Kurdistan Region was thrown into crisis after Barzani refused to vacate the presidency when his term ended on August 19. The last four months of the year saw widespread tension, protests, strikes, and acts of violence in which many were killed and injured, especially in the Suleimaniya province, which is

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<sup>16</sup> For example, neither the Baghdad government nor the US were able to prevent the PMF from taking part in the siege of Fallujah, the liberation of some cities in Salah al-Din in 2015, or preparations for the anticipated liberation of Mosul in the second half of 2016.

<sup>17</sup> See "The Sunni Predicament in Iraq," Carnegie Middle East Center, <http://carnegie-mec.org/2016/03/03/sunni-predicament-in-iraq/iuys>.

not under the control of the KDP. Protestors demanded that Barzani step aside and a constitution be drafted for the region that would abandon the presidential system for a parliamentary system and establish institutional and legal foundations for the peaceful rotation of power, instead of through partisan compromises as is normal.<sup>18</sup>

The most violent crisis in the province since 2003, it severely undermined the ability of the major players in the region to preserve Kurdistan as an oasis of stability in Iraq and threatens to revive the military tensions seen in the Kurdistan region in the 1990s. The crisis could even open the door to the territorial partition of Iraq, if Barzani chooses to demand separation of the region to evade the internal crisis. This in turn would invite greater military intervention from Iran and Turkey, which both oppose Kurdish separatism.

### **Targeting and Killing of Civilians:**

Indiscriminate killing and violence against civilians continued in 2015, claiming the lives of 17,078 Iraqi civilians in bombings, car bombs, suicide bombings, assassinations, extrajudicial executions, and military operations against IS. This is a 14 percent decrease from 2014, the year that saw the expansion of IS, in which 20,035 civilians were killed.<sup>19</sup>

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<sup>18</sup> See the report on the crisis from al-Jazeera on October 1, 2015, <http://www.aljazeera.net/news/reportsandinterviews/2015/10/13/%D8%A3%D8%B2%D9%85%D8%A9-%D8%B1%D8%A6%D8%A7%D8%B3%D8%A9-%D9%83%D8%B1%D8%AF%D8%B3%D8%AA%D8%A7%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D8%AA%D8%AA%D9%81%D8%A7%D9%82%D9%85-%D9%88%D9%84%D8%A7-%D8%AA%D8%B3%D9%88%D9%8A%D8%A9-%D8%A8%D8%A7%D9%84%D8%A3%D9%81%D9%82>.

<sup>19</sup> Figures from Iraq Body Count, an independent, non-governmental organization established after the invasion of Iraq. The group's statistics are widely seen as credible due to its documentation method. Its casualty figures are compiled using only deaths and injuries that have been reported, rather than extrapolating figures based on a sample of Iraqis. The group compares reports from the Ministries of Defense, Interior, and Health (the bodies responsible for documenting the number of casualties) with local and international media reports from all of Iraq's provinces. It provides the names of victims, date and place of death or injury, and the party responsible and the manner of death or injury if known. The manner of death or

As was the case in 2014, a varied assortment of actors were responsible for the deaths of Iraqi civilians in 2015, most importantly IS, the PMF, Iraqi forces, Kurdish Peshmerga forces, and small Christian and Yezidi militias, as well as US-led airstrikes targeting IS.

Killings in 2015 were concentrated in the five Sunni-majority or ethnically and religiously mixed provinces, where 85 percent of all deaths occurred, as follows: Nineveh (4,089), Anbar (3,930), Baghdad (3,426), Salah al-Din (1,745), and Diyala (1,315).<sup>20</sup>

Iraq Body Count estimates that IS was responsible for the deaths of 7,101 Iraqi civilians, who were either executed or assassinated in areas under the group's control for various reasons, including to eliminate any Sunni organizations or clans opposed to IS, to punish violators of the group's extremist interpretation of Islamic law, to target Shia, Christian, Kurdish, Turkmen, and Yezidi minorities in areas its control, or to eliminate former IS supporters or persons suspected of being spies for the Iraqi government.<sup>21</sup> Iraq Body Count also documented the extrajudicial execution of 1,246 Iraqis undertaken by unknown persons in areas outside IS's control, perhaps reprisals against Iraqi Sunni Arabs. According to the organization, airstrikes by the international coalition and Iraqi forces were responsible for the death of 1,295 Iraqis in 2015.<sup>22</sup>

## **Right of Assembly, Association, and Freedom of Opinion and Expression:**

Freedom of protest, association, and opinion and expression, including media freedoms, alternately improved and deteriorated throughout 2015. In January, the parliament established a consultative council for human rights non-governmental organizations, to consult

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injury, the perpetrators, and even the motive (criminal or political) may be unknown in cases in which bodies are found in public places. For more information, see <https://www.iraqbodycount.org/>.

<sup>20</sup> Iraq Body Count, <https://www.iraqbodycount.org/analysis/numbers/2015/>.

<sup>21</sup> Amnesty International, 2015 annual report.

<sup>22</sup> Iraq Body Count.

with political groupings and rights groups about legislation related to human rights, but the council discussed no legislation during the year.

In September, the president ratified Law 36/2015 on the regulation of political parties.<sup>23</sup> The law prohibits parties from setting up armed wings, a provision that might later be used to dismantle militias in Iraq. But Article 8 of the law, which prohibits party membership for any persons who promotes ideas opposed to the provisions of the constitution, could allow the manipulation of the country's party system, especially since many articles of the 2015 Iraqi constitution are still quite controversial, such as those related to federalism, the role of religion, or de-Baathification.<sup>24</sup> Article 19 of the law, also controversial, establishes a department for political party affairs within the Ministry of Justice to monitor parties' compliance with the law in their charters and political activities. The provision may turn the ministry into an opponent of political parties, which could have been avoided by entrusting this task to the judiciary. Article 45 of the law prohibits parties from receiving foreign funding and requires them to disclose their annual budgets. The law also provides for state funding for nascent parties, as is the case in several democracies.

The Iraqi authorities continued to use excessive force to deal with peaceful demonstrators. In July and August, Iraqi forces killed at least five people in Baghdad and Basra who were protesting corruption and water and electricity shortages.<sup>25</sup>

In June the government approved Law 26/2015 on the Iraqi media network. Welcomed by many Iraqi media workers and politicians, the

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<sup>23</sup> Text of the law at <http://www.iraq-ig-law.org/ar/content/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%A7%D8%AD%D8%B2%D8%A7%D8%A8-%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A%D8%A9-%D8%B1%D9%82%D9%85-36-%D9%84%D8%B3%D9%86%D8%A9-2015>.

<sup>24</sup> For a critical look at the law, see Ahmed Fadel al-Maamouri, [almothaqaf.com/index.php/qadaya2015/901149.html](http://almothaqaf.com/index.php/qadaya2015/901149.html).

<sup>25</sup> Amnesty, 2015 Annual Report.

law transfers oversight, appointment, and funding authority over the network from the prime minister to the parliamentary culture committee.<sup>26</sup> Nevertheless, in 2015 journalists and media workers continued to operate in some of the most dangerous conditions in the world, targeted by the authorities, Shia militias, Kurdish authorities, and IS. According to the annual report of Reporters Without Borders, Iraq was ranked 158 of 180 states on journalistic freedoms.<sup>27</sup> Iraq was ranked fourth in the world for the numbers of journalists and media personnel killed or abducted.<sup>28</sup> The city of Mosul made the list of the worst Iraqi cities for journalistic freedom and journalists. Reporters Without Borders estimated that IS abducted 48 journalists between June 2014 and October 2015 and executed 13.<sup>29</sup>

### **Crisis of Religious and Ethnic Minorities:**

In 2015, religious and ethnic minorities continued to be targeted for killing, expulsion, or restrictions on freedom of movement due to the activities of IS, the PMF, and Kurdish forces, as well as the dominance of extremist discourses and groups on the political and cultural stage, including within the security establishment tasked with protecting these minorities.

IS continued to target members of Yezidi, Christian, and Turkmen minorities in areas under its control, especially in the Nineveh province. Under IS, these minorities were subject to killing, abduction, a special minority tax, forced displacement, and forced

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<sup>26</sup> See the al-Jazeera report on the law, [www.aljazeera.net/news/reportsandinterviews/2015/6/1/%D8%AC%D8%AF%D9%84-%D8%A8%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D8%A8%D8%B4%D8%A3%D9%86-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B4%D8%A8%D9%83%D8%A9-%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85](http://www.aljazeera.net/news/reportsandinterviews/2015/6/1/%D8%AC%D8%AF%D9%84-%D8%A8%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D8%A8%D8%B4%D8%A3%D9%86-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B4%D8%A8%D9%83%D8%A9-%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85).

<sup>27</sup> [rsf.org/en/Iraq](http://rsf.org/en/Iraq).

<sup>28</sup> Committee to Protect Journalists, <https://cpj.org/killed/2015/>.

<sup>29</sup> "Mosul, Cemetery for Freedom of Information," <https://rsf.org/en/news/mosul-cemetery-freedom-informationhttps://cpj.org/killed/2015/>.

conversion, as well as rape, sexual slavery, and the demolition of their houses of worship.<sup>30</sup>

On the legislative front, the adoption of the national identity card law by the Iraqi parliament in November sparked large protests among representatives of religious minorities in and out of the parliament. Article 26(1) of the law only permits non-Muslims to change their religion, while paragraph 2 states that children shall follow the religion of either Muslim parent.<sup>31</sup> Although these provisions violate the right of freedom of belief, guaranteed in all international human rights conventions, reading the law against the Iraqi constitution gives rise to confusion, as is the case with other Arab and Islamic constitutions. Article 42 of the Iraqi constitution guarantees individuals the freedom of thought, conscience, and belief, regardless of their religious background, though Article 2 declares Islam to be the primary source of legislation and prohibits laws that contravene the immutable judgments of Islam.

The most controversial provision in the new law was the one on the religion of children. Representatives of religious minorities in the parliament cited Article 2(2) of the Iraqi constitution, which guarantees freedom of belief for Christian, Yezidi, and Sabeian sects, and the civil code, which sets the age of legal majority at 18.<sup>32</sup>

In the present Iraqi context, the article introduces major legal complications, especially for Christian and Yezidi women who became pregnant following rape by IS members. The new law will compound their suffering if their children are required to adopt Islam,

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<sup>30</sup> <https://www.youm7.com/story/2015/2/2/%D8%AF%D8%A7%D8%B9%D8%B4-%D9%8A%D9%81%D8%AC%D8%B1-%D8%A3%D9%83%D8%A8%D8%B1-%D9%83%D9%86%D9%8A%D8%B3%D8%A9-%D9%84%D9%84%D8%B3%D8%B1%D9%8A%D8%A7%D9%86-%D8%A7%D9%84%D8%A3%D8%B1%D8%AB%D9%88%D8%B0%D9%88%D9%83%D8%B3-%D9%88%D8%B3%D8%B7-%D8%A7%D9%84%D9%85%D9%88%D8%B5%D9%84/2051407>.

<sup>31</sup> Text of the law at [www.parliament.iq/details.aspx?LawN=%D9%82%D8%A7%D9%86%D9%80%D9%88%D9%86%20%D8%A7%D9%84%D8%A8%D8%B7%D8%A7%D9%82%D9%80%D8%A9%20%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D9%80%D8%A9](http://www.parliament.iq/details.aspx?LawN=%D9%82%D8%A7%D9%86%D9%80%D9%88%D9%86%20%D8%A7%D9%84%D8%A8%D8%B7%D8%A7%D9%82%D9%80%D8%A9%20%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D9%80%D8%A9).

<sup>32</sup> For a critical view of Article 26 of the national identity card law, see Walim Warda, <http://www.ishtartv.com/viewarticle,64399.html>.



but ignoring the law makes the children subject to legal action if they decide to retain their mothers' religion on official documents, before or after the age of majority.

### **Women's Rights:**

Iraqi women of all sects and ethnicities continued to face hardships in 2015, especially in areas under IS control where the group's extremist interpretation of Islamic law was applied. International and local rights reports documented systematic restrictions on Iraqi women and girls, including mandatory dress codes, restrictions on freedom of movement without a male relative, and for some sects, prohibitions on work. Non-Sunni women and girls were also subjected to killing, torture, rape, sexual slavery, and trafficking among IS members.

Human Rights Watch reported that hundreds of Yezidi women were taken captive in 2014 and 2015, for up to a year in some cases. During this time, they were forced to convert to Islam, were separated from their children, and were bought and sold in slave markets by IS members.<sup>33</sup> The organization noted that both Muslim and non-Muslim women face restricted access to healthcare and education because of IS's discriminatory policies "including rules limiting male doctors from touching, seeing, or being alone with female patients. In more rural areas, ISIS has banned girls from attending school. ISIS fighters and female ISIS 'morality police' hit, bit, or poked women with metal prongs to keep them in line, making them afraid to try to get services they needed."<sup>34</sup> In March, Amnesty International reported that armed IS elements killed at least nine Shia women belonging to the Turkmen minority because they refused to marry IS fighters after the latter had killed their husbands.<sup>35</sup>

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<sup>33</sup> HRW, "Iraq: Women Suffer under ISIS," <https://www.hrw.org/news/2016/04/05/iraq-women-suffer-under-isis>.

<sup>34</sup> Ibid.

<sup>35</sup> 2015 annual report.

## **Rights of refugees and IDPs:**

The situation of refugees and IDPs remained a major political, social, and economic issue in Iraq. According to the UN High Commissioner for Refugees, by the end of 2015, some 3.2 million Iraqis were internally displaced, most of them after fleeing areas that fell under IS control in Nineveh, Salah al-Din, and Anbar, largely to the Kurdistan Region. There were also about 243,000 Syrian refugees in the country. Hundreds of thousands of Iraqis, particularly from Mosul, Ramadi, and Fallujah, faced life-threatening dangers due to the IS siege on these cities and its refusal to allow the population to flee airstrikes or due to a shortage of food and healthcare.

According to the UN Assistance Mission to Iraq, huge numbers of IDPs live in areas without regular adequate access to basic services such as water, sanitation, and electricity.<sup>36</sup>

Reports from international and local bodies documented the various kinds of abuses faced by IDPs, especially Sunni Arabs, including killing, abduction, and assault, particularly in Baghdad and the Kurdistan Region, where they are suspected of ties to IS or are subject to reprisals based on their identity following suicide attacks or car bombings by IS.<sup>37</sup>

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<sup>36</sup>[www.uniraq.org/index.php?option=com\\_k2&view=itemlist&layout=category&task=category&id=167&Itemid=645&lang=ar](http://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=167&Itemid=645&lang=ar).

<sup>37</sup> Amnesty International, 2015 annual report.

# Sudan

President Omar al-Bashir has ruled Sudan with an iron fist for nearly 26 years. The government continued to use repressive tactics and legislations to silence political opposition and clamp down on civil society. The 2010 National Security Act grants the National Intelligence and Security Services (NISS) extensive powers to arrest and detain people for up to four and a half months without judicial review. Detained opponents and human rights defenders have been often held in NISS cells that fall outside the jurisdiction of prisons laws and regulations, where they have also suffered ill treatment and torture.

The human rights and humanitarian violations committed in the war zones of Darfur, South Kordofan and Blue Nile have reached alarming levels. The Sudanese government has engaged in indiscriminate aerial bombardments, targeting civilians and civilian property - including villages, health facilities, schools, and places of worship, leading to massive forced displacement. Civilians are often subjected to arbitrary and incommunicado detentions, torture, sexual violence, and other forms of ill treatment, amidst deliberate obstruction of humanitarian assistance by the authorities.

The al-Bashir regime continues to defy the indictment issued by the International Criminal Court regarding the war crimes, crimes against humanity, and crimes of genocide committed in Darfur, where arbitrary shelling continues to target towns and villages and brutal attacks and massacres are committed against civilians by tribal militias loyal to the regime.

### **General Elections:**

The 2015 presidential and parliamentary elections were the first to take place after the establishment of the Republic of South Sudan following secession.<sup>1</sup> The elections were heavily criticized as being even worse than the 2010 elections, which were somewhat competitive, although neither fair nor free. The election process was mostly dominated by internal dynamics and politics, and little or no influence was exerted from the international community.<sup>2</sup>

The main opposition parties and some civil society organizations boycotted the elections. The opposition's "Irhal" or "leave" campaign urged Sudanese people not to vote. Opposition parties protested against the restrictions imposed on them and the press, and about the ongoing conflicts in Darfur, South Kordofan and the Blue Nile region.<sup>3</sup>

Al-Bashir made promises for an inclusive national dialogue in January 2014, following the unaddressed consequences of the 2005 Comprehensive Peace Agreement (CPA) and South Sudan's 2011 independence as well as the large, violently repressed nationwide September 2013 protests in Khartoum and other cities, followed by a

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<sup>1</sup>UN Security Council, *Resolution 1996 (2011)* / adopted by the Security Council at its 6576th meeting, on 8 July 2011, 8 July 2011, S/RES/1996(2011), [http://www.un.org/en/peacekeeping/missions/past/unmis/documents/sres1996\\_2011.pdf](http://www.un.org/en/peacekeeping/missions/past/unmis/documents/sres1996_2011.pdf).

<sup>2</sup> Cristina Barrios, "Elections in Africa: Half-Full, Half-Empty?" European Union Institute for Security Studies (ISS), Issue Alert 29, June 2015, [http://www.iss.europa.eu/uploads/media/Alert\\_29\\_Africa\\_elections.pdf](http://www.iss.europa.eu/uploads/media/Alert_29_Africa_elections.pdf)

<sup>3</sup>James Copnall, "Sudan: The Election Will Not Change Anything", *The Guardian*, Apr. 13, 2015 <http://www.theguardian.com/global-development/2015/apr/13/sudan-election-omar-al-bashir-opposition-boycott>

costly, unsuccessful and unpopular military campaign in South Kordofan.<sup>4</sup> However, several opposition leaders were detained and a crackdown on the press was intensified; the talks never really got going. The situation has prompted doubts as to whether free and fair polls can be held amidst these conditions.<sup>5</sup>

These concerns were reiterated in a statement by Federica Mogherini on behalf of the 28 EU member states: “When dialogue is bypassed, some groups are excluded and civil and political rights are infringed, the upcoming elections cannot produce a credible result with legitimacy throughout the country.”<sup>6</sup>

According to Sudan’s National Electoral Commission (NEC) nearly six million (6,091,412) out of the 13 million (13,126,989) registered voters have participated in the elections, amounting to 46.4 percent.<sup>7</sup> However, the African Union Election Observation mission reported<sup>8</sup> that there was “a generally low turnout of voters” throughout the voting days in both rural and urban polling stations. It further added that “most polling places visited by AU observers had short queues,” and attributed the low turnout to the boycott by some opposition parties and civil society organizations.

Some sources suggested that the low voting turnout is not associated with the opposition’s boycotting campaign. It rather argued that people are simply not engaging because they do not see that the

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<sup>4</sup>Crisis Group, Sudan: The Prospects for “National Dialogue,” Mar. 11, 2015, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan/b108-sudan-the-prospects-for-national-dialogue.aspx>

<sup>5</sup> “Sudan: The Election Will Not Change Anything,” *The Guardian*.

<sup>6</sup> Federica Mogherini, Declaration by the High Representative on Behalf of the European Union on the lack of a Conducive Environment for the Upcoming Elections in Sudan, Brussels, Apr. 9, 2014, [http://www.eeas.europa.eu/delegations/sudan/documents/press\\_corner/2015/20150409\\_en.pdf](http://www.eeas.europa.eu/delegations/sudan/documents/press_corner/2015/20150409_en.pdf)

<sup>7</sup> National Electoral Committee, “The Announcement of the Results and Statistics of General Elections,” Apr. 2015, [nec.org.sd/wp-content/uploads/2015/04/-نتائج-و-احصائيات-الانتخابات-2015.pdf](http://nec.org.sd/wp-content/uploads/2015/04/-نتائج-و-احصائيات-الانتخابات-2015.pdf)

<sup>8</sup> African Union, Preliminary Report of the African Union Election Observation Mission to the April 2015 General Elections in the Republic of Sudan, Apr. 13, 2015,

process will address their problems or serve their interests, confirming that “it’s a one-sided election.”<sup>9</sup>

In a repeated pattern, President al-Bashir’s ruling National Congress Party (NCP), controlled 90 percent of the 450 parliamentary seats prior to its 94 percent win in the April 2015 elections.<sup>10</sup>

## **Media Freedoms:**

Although the interim constitution of 2005 recognizes the freedom of press, the authorities continued to censor the media by confiscating newspapers and targeting journalists. The government-appointed Press Council, founded as part of the 2009 Press and Publications Act to “oversee the overall performance of the journalistic institutions and companies,”<sup>11</sup> continued to limit freedom of expression and the press.

Members of the NISS intensified their raids<sup>12</sup> on printing facilities and confiscated print runs of newspapers considered to be in violation of the Act. The NISS has instructed editors and media institutions not to cross certain “red lines” in their coverage, including publishing articles that portray the elections negatively, report low voter turnout, or criticize the armed forces, economic policy, the situation in Darfur, or the armed conflicts in Southern Kordofan and Blue Nile. These patterns have particularly increased a few months before the scheduled general elections. The escalated restrictions were believed to be a tactic by the NISS to circumscribe the already restrictive space for freedom of expression in Sudan and prevent dissemination of news deemed critical of the ruling National Congress Party (NCP).<sup>13</sup>

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<sup>9</sup> “Sudan: The Election Will Not Change Anything,” *The Guardian*.

<sup>10</sup> African Democratic Institute, “Omar al-Bashir –Sudan’s Almighty Constitution,” <http://www.african-di.org/omar-al-bashir-sudans-almighty-constitution>.

<sup>11</sup> Press and Publications Act (2009), Article 8(A), <http://moj.gov.sd/content/lawsv4/12b/6.htm>

<sup>12</sup> East and Horn of Africa Human Rights Defenders, “Caught up in a Bitter Contests; Human Rights Defenders Working in the Context of Elections in Sudan, Ethiopia, Burundi and Uganda,” September 2015.

<sup>13</sup> A ican Center for Justice and Peace Studies, “Sharp Increase in Media Restrictions 5 frWeeks Before Sudanese General Elections,” 26 February 2015,

<http://www.acjps.org/sharp-increase-in-media-restrictions-5-weeks-before-sudanese-general-elections>

Security officials continued to arrest and obstruct journalists' work. On January 17, 2015, Ms. Madiha Abdulla, Chief Editor of Al Midan and another two journalists faced charges relating to "criminal conspiracy" and the "publication of false news," brought forward by the Prosecutor of Crimes against the State. The charges are believed to be related to articles about the economic situation facing the Lagawa people in West Kordofan and the burning of palm trees by the government to clear land in Northern Sudan.<sup>14</sup>

On January 18, 2015, the NISS summoned Ms. Nada Ramdan, a journalist working with al-Gereeda newspaper, to their offices in the Khartoum 2 area. She remained at the office for three hours before she was released. She was not interrogated or informed of the reason for the summons, but was told that she would likely be called to report back. On February 11, 2015, the NISS of Khartoum summoned Ms. Enaam Adam, a female journalist working with al-Tayar newspaper, and interrogated her about an article she wrote on containers of radioactive material. She was released the same day.<sup>15</sup>

### **Restrictions on Political Opposition:**

Authorities continued to impose heavy restrictions on political parties and their members. Despite promises on April 6, 2014 by al-Bashir to release all political detainees and alleviate restrictions on the opposition, al-Bashir issued decree No. 158 on April 15, 2014, forbidding political parties from organizing meetings in their own venues without approval and requiring permission for public meetings 48 hours in advance.<sup>16</sup>

The NISS continued to target and detain prominent leaders of political opposition parties. While some of them have been detained incommunicado, often without charge, others have been charged with serious criminal offences for speaking out against government policy.

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<sup>14</sup> ACJPS, "Sharp Increase in Media Restriction."

<sup>15</sup> Ibid.

<sup>16</sup> ACJPS, "Sudan's Political Parties Affairs Council Bans Republican Party Amidst Calls for National Dialogue," <http://www.acjps.org/sudans-political-parties-affairs-council-bans-republican-party-amidst-calls-for-national-dialogue>.

Prominent human rights defender Amin Mekki Medani, political opposition leader Farouq Abu Eissa, and political activist Farah Ibrahim Alagar, were detained for over four months after returning from political negotiations<sup>17</sup> in Addis Ababa. They were detained in December 2014 and held incommunicado for 15 days before being charged with “waging war against the state,” the charge that carries the death penalty. They were released on April 9, 2015 after the Minister of Justice decided to freeze the case against them pursuant to his discretionary powers.<sup>18</sup>

Between February and April, the authorities arrested and detained dozens of people both before and after the general elections.<sup>19</sup> On April 12 alone, the eve of the elections, at least 22 people were arrested across Sudan, in connection with their outspoken views on the elections.<sup>20</sup> In North Darfur, students at al-Fasher University held a protest on April 14, 2015 calling for a boycott of the presidential elections and a change of government. Police and NISS arrested and charged 20 students for demonstrating. They showed marks of severe beating and their clothes were stained with blood on the first day of their detention.<sup>21</sup>

In August, at least 17 members of opposition parties were arrested, detained, and interrogated by the Sudanese security agents. Most of those arrested are affiliated with the Sudanese Congress Party (SCP), which has an active student and youth wing and conducts public rallies and events. Several of those detained were reportedly subjected to violence and other abuse, including severe beatings.<sup>22</sup>

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<sup>17</sup> “Sudan Call, A Political Declaration on the Establishment of a State of Citizenship and Democracy,” Dec. 3, 2014, <http://www.sudantribune.com/spip.php?article53263>

<sup>18</sup> Front Line Defenders, “Human Rights Defender Amin Mekki Medani Released,” Apr. 10, 2015, <https://www.frontlinedefenders.org/node/28493>.

<sup>19</sup> Human Rights Watch, “Sudan: Surge in Detention, Beatings, Around Elections,” 28 April 2015

<sup>20</sup> ACJPS, “Sudan’s Electoral Period Marred by Arrests and Incommunicado Detention; Insecurity in Darfur,” Apr. 17, 2015.

<sup>21</sup> Amnesty, “State Sponsored Assault.”

<sup>22</sup> HRW, “Wave of Opposition Arrests,” Aug. 28, 2015, <https://www.hrw.org/news/2015/08/28/sudan-wave-opposition-arrests>



## **Crackdown on Civil Society Organizations and Human Rights Defenders:**

The crackdown on civil society intensified after the decision of the International Criminal Court on March 4, 2009 to issue an arrest warrant against President Omar al- Bashir. Authorities, including the NISS and government regulatory bodies, such as the Ministry of Culture and the Humanitarian Affairs Commission (HAC), have continued to impose severe restrictions on the operation and mandates of civil society organizations and a number have been forcibly closed.

On January 18, the NISS of Omdurman, Khartoum state, raided the Mahmud Mohamed Taha Cultural Centre, whilst a ceremony commemorating the life of Mahmud Mohamed Taha was taking place. The ceremony marked the thirty-year anniversary of the execution of Mahmud Mohamed Taha, founder of the Republican Party in Sudan, which opposed Islamic fundamentalism and promoted secularism. The NISS informed the Centre's chairperson that the Centre was being closed because its license had not been renewed by the Ministry of Culture in Khartoum and that formal notification would be received shortly. On January 21, 2015, the Centre received letter No. 1/2015 from the Ministry of Culture, cancelling its registration.<sup>23</sup>

On January 29, 2015, the Registrar of Cultural Groups within the Sudanese Ministry of Culture cancelled the registration of the Sudanese Writers Union (SWU) without citing reasons or relevant legislation.<sup>24</sup> The SWU works through culture to promote dialogue and seek solutions to conflicts, with an emphasis on freedom of expression and diversity. It convenes meetings of writers and its members publish in print and online media.

On March 26, 2015, armed NISS officers raided the Khartoum-based TRACKS for Training and Human Development whilst it was

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<sup>23</sup> ACJPS, Sudan's Security Services Raid and Order Closure of Mahmoud Mohamed Taha Cultural Centre, Jan. 23, 2015,

<http://www.acjps.org/sudans-security-services-raid-and-order-closure-of-mahmoud-mohamed-taha-cultural-centre>

<sup>24</sup> ACJPS, "Sudan's Ministry of Culture Orders the Closure of the Sudanese Writer's Union," Feb. 3, 2015,

<http://www.acjps.org/sudans-ministry-of-culture-orders-the-closure-of-the-sudanese-writers-union/>

hosting a training session. Participants were accused of discussing the boycott of the upcoming general elections. Four laptop computers and the central computer server were seized.<sup>25</sup> Three weeks later, the NISS arrested human rights defender Adil Bakheit at the Tracks Training Centre in Khartoum. He was released on bail after being held in police custody for 17 days. Serious criminal charges previously leveled against him were not completely dropped.<sup>26</sup>

On April 12, unidentified men kidnapped human rights defender Sandra Kodouda from her car. Kodouda, an outspoken advocate for youth, women, and environmental rights, returned home four days later with multiple injuries. Local rights groups and family members publicly blamed the NISS for her disappearance.<sup>27</sup>

On April 20, NISS agents went to Sandra's home and detained her colleague Dr Galal Mustafa Mohamed Yusuf. Dr Jalal, a prominent member of the opposition Sudanese Congress Party (SCP), was on the phone to Sandra at the time of her abduction and reported the incident to police the following day.<sup>28</sup>

### **Human Rights Violations in the Context of Armed Conflict:**

In 2015, there have been rising hostilities, mass displacement, and a deepening food crisis in Sudan's conflict areas of Darfur, South Kordofan, and Blue Nile. There are currently 1.7 million internally displaced persons in South Kordofan and Blue Nile states<sup>29</sup>, and more than 2.5 internally displaced in Darfur. The conflicts have been

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<sup>25</sup> ACJPS, "Sudanese Human Rights Defender Detained on Baseless Charges and Others at Risk After Armed Raid on Khartoum Training Centre," Apr. 18, 2015, <http://www.acjps.org/sudanese-human-rights-defender-detained-on-baselesscharges-and-others-at-risk-after-armed-raid-on-khartoum-based-training-centre/>

<sup>26</sup> Front Line Defenders, "Sudan – Adil Bakheit Conditionally Released," May 6, 2015,

<https://frontlinedefenders.org/node/28654>

<sup>27</sup> Front Line Defenders, "Sudan HRD Sandra Kodouda Injured During Four Day Disappearance," Apr. 16, 2015, <https://www.frontlinedefenders.org/node/28557>

<sup>28</sup> Amnesty, "Sudan: State-Sponsored Assault."

<sup>29</sup> USAID, "Sudan – Complex Emergency," Feb. 12, 2015,

<http://reliefweb.int/sites/reliefweb.int/files/resources/02.12.15%20-%20USAID-DCHA%20Sudan%20Complex%20Emergency%20Fact%20Sheet%20%232.pdf>

characterized by direct and indiscriminate attacks on civilian targets, killings, sexual violence, destruction of property, and loss of livelihoods.<sup>30</sup>

The government's indiscriminate aerial bombing and ground attacks in Darfur, South Kordofan, and Blue Nile, sent thousands of women and children into crowded camps in Darfur and neighboring Chad and into refugee camps in South Sudan and Ethiopia. Government forces, rebels, and other armed men have raped and assaulted women and girls with near-total impunity across several conflict zones in the region.<sup>31</sup>

About 400,000 new internally displaced people (IDPs) were registered between January and August 2014 in the country. According to UN figures, 6.9 million people are in need of humanitarian assistance in Sudan.<sup>32</sup>

## **Darfur:**

The security situation in Darfur remains very serious. The ongoing conflict has created obstacles for the protection of innocent civilians and hindered humanitarian assistance. Many civilians in Darfur were killed by violence or conflict-induced disease, starvation, or dehydration. Thousands of villages and countless livelihoods have been destroyed. Sexual violence against women and girls has been widespread.

The government has made no tangible progress in providing accountability for crimes committed in Darfur since 2003, the killing

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<sup>30</sup> ACJPS, "Sudan Forcibly Displaces and Sets Villages on Fire in Blue Nile; Civilians Presumed to be Affiliated with Rebels Detained Incommunicado, Jun.17, 2015,

<http://www.acjps.org/sudan-forcibly-displaces-and-sets-villages-on-fire-in-blue-nile-civilians-presumed-to-be-affiliated-with-rebels-detained-incommunicado/>

<sup>31</sup> HRW, "Dispatches: Sudan's War on Women and Girls," Oct. 12 2015,

<https://www.hrw.org/news/2015/10/12/dispatches-sudans-war-women-and-girls>

<sup>32</sup> UNHCR, "2015 UNHCR Country Operations Profile – Sudan,"

<http://www.unhcr.org/pages/49e483b76.html>

of more than 170 protesters in September 2013, or other serious abuses.<sup>33</sup>

On December 23, 2014, President al-Bashir announced the resumption of “Operation Decisive Summer,” with the aim of eliminating those armed movements that did not heed the government’s call for dialogue. The announcement was followed by intensified fighting between government forces and SLA/AW in East Jebel Marra and with SLA/MM near Tawilla, North Darfur.<sup>34</sup>

Consequently, the Rapid Support Forces (RSF), a government force, under the command of NISS and consisting largely of former militias created in mid-2013, led two brutal counterinsurgency campaigns in 2014 and 2015. The RSF repeatedly attacked villages, burned and looted homes, beating, raping and executing villagers. The RSF received support in the air and on the ground from the Sudanese Armed Forces (SAF) and other government-backed militia groups, including a variety of proxy militias, commonly known as Janjaweed.<sup>35</sup>

Humanitarian organizations have verified over 104, 000 newly internally displaced persons in 2015 and received unconfirmed reports of an additional 69, 000 persons, most of whom are in inaccessible areas in and around Jebel Marra. Approximately 50, 000 people displaced since the beginning of the year have returned to their places of origin. More than 2.6 million persons remain displaced across Darfur.<sup>36</sup> Sudanese army forces raped more than 200 women and girls

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<sup>33</sup> HRW, Universal Periodic Review Submission, Sept.2015,

<https://www.hrw.org/news/2015/09/21/universal-periodic-review-submission-sudan>

<sup>34</sup> SC, "Report of the Secretary-General on the African Union United Nations Hybrid Operation in Darfur," Feb. 26, 2015, S/2015/141,

[http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2015\\_141.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_141.pdf)

<sup>35</sup> HRW, “Men With No Mercy: Rapid Support Forces Attacks against Civilians in Darfur, Sudan,” Sept. 9, 2015, <https://www.hrw.org/node/280756/>.

<sup>36</sup> UN Security Council, “Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur,” Sept. 25, 2015, S/2015/729, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S\\_PV\\_7545.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_PV_7545.pdf)

in an organized attack on the north Darfur town of Tabit in October 2014.<sup>37</sup>

The situation is further marked by deeply concerning<sup>38</sup> increase in violent attacks by armed assailants against United Nations peacekeepers and humanitarian personnel. On May 24, unknown gunmen aboard a motorcycle killed a UNAMID national staff member near the mission's base in Zalingei, Central Darfur. The motive behind the attack has not been determined.

### **Southern Kordofan and Blue Nile:**

The conflict between Sudanese Government forces and the armed opposition, the Sudan People's Liberation Army-North (SPLA-N), which began in June and September 2011, continued throughout the year. The four-year campaign of ground and indiscriminate aerial attacks launched by the Sudanese government continued to target rebel-held areas in the Nuba Mountains in Southern Kordofan and Blue Nile.<sup>39</sup>

The government of Sudan's "decisive campaign" to eradicate the SPLA-N rebels intensified significantly during May 2015, as the government attempted to gain ground ahead of the coming rainy season.<sup>40</sup> The fighting caused the displacement of approximately 50,000 people in Southern Kordofan and Blue Nile (known as the "Two Areas") this month.<sup>41</sup> Many of the displaced suffered loss of

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<sup>37</sup>HRW, "Sudan's War on Women and Girls,"

<sup>38</sup> UN Security Council, 7460th Meeting (AM), SC/11924, Edmond Mulet, 10 June 2015,

<http://www.un.org/press/en/2015/sc11924.doc.htm>

<sup>39</sup> Letter to Permanent Representatives of Members and Observer States of the UN Human Rights Council, "Gravely deteriorating human rights and humanitarian situation in Sudan," Sept. 3, 2015, <https://www.defenddefenders.org/2015/09/un-human-rights-council-gravely-deteriorating-human-rights-and-humanitarian-situation-in-sudan/>

<sup>40</sup> The Sudan Consortium, "Human Rights Update - May 2015,"

[http://www.sudanconsortium.org/darfur\\_consortium\\_actions/reports/2015/SK-BNUupdateMay15FINAL.pdf](http://www.sudanconsortium.org/darfur_consortium_actions/reports/2015/SK-BNUupdateMay15FINAL.pdf)>

<sup>41</sup> SKBN CU, "Humanitarian Update," May 2015,

most of their household goods and food stocks, which were looted or burnt by government aligned militias - mainly Rapid Support Forces (RSF) and Popular Defense Forces (PDF).

The government forced around 12,000 people in Blue Nile to move to the outskirts of the capital Damazin. The new IDPs are now living in critical humanitarian conditions, having lost their food stocks and assets including seeds, and will be unable to plant in the rainy season. Many newly displaced in South Kordofan are expected to move to the refugee camps in South Sudan. Neither international organizations nor the CU are able to assess the situation of the IDPs in government-held areas due to government prohibitions on access.<sup>42</sup>

Three villages inhabited by members of the Ingessana ethnic group, in Blue Nile region, have been burned to the ground by the SAF. The armed forces have also ordered residents of four villages to relocate from their homes, threatening that those who stay behind will be presumed to be members of the SPLM-N.<sup>43</sup>

Indiscriminate and targeted aerial bombardment and shelling continue to create fear and stress for the civilian populations. Between January and April 2015, the Sudanese air force dropped 374 bombs in 60 locations across South Kordofan.<sup>44</sup> In March 2015, 21 bombs were dropped in different areas of Blue Nile State, with two of the bombs detonating at altitude, indicating the use of cluster bombs.<sup>45</sup> An estimated 180 bombs, including four cluster bombs, and about 300 shells were dropped on civilian locations in the Two Areas, in May 2015, resulting in the death of five people and injuring nineteen.<sup>46</sup>

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<http://reliefweb.int/sites/reliefweb.int/files/resources/SKBN-CU-Humanitarian-Update-May-2015.pdf>>

<sup>42</sup> Ibid

<sup>43</sup> ACJPS, "Sudan Forcibly Displaces and Sets Villages on Fire in Blue Nile."

<sup>44</sup> Amnesty, "Don't We Matter?: Four Years of Unrelenting Attacks against Civilians in Sudan's South Kordofan State," Aug. 4, 2015,

<https://www.amnesty.org/en/documents/afr54/2162/2015/en/>

<sup>45</sup> ACJPS, Sudan Forcibly Displaces and Sets Villages on Fire in Blue Nile

<sup>46</sup> SKBN CU, "Humanitarian Update"

Reportedly, at least 100 civilians including 26 children were killed in 2014 and 2015 from aerial bombardment or after the initial attack by unexploded ordnance and other explosive remnants of war in Southern Kordofan.<sup>47</sup>

The increase in aerial bombardment of civilian locations in May and June has been a consistent strategy of the Sudan Armed Forces since the start of the civil war, to disrupt cultivation and planting activities, with visible negative impact on the war affected populations in the Two Areas.<sup>48</sup>

### **Torture and Ill Treatment:**

The use of torture across Sudan is endemic.<sup>49</sup> Sudanese authorities use torture and other forms of ill treatment to intimidate and silence opposition. Human rights defenders, political and other social activists, internally displaced persons and students are particularly vulnerable to torture and ill treatment. The NISS have the powers to arrest and detain people for up to four and a half months without judicial review. Detained opponents and human rights defenders have been often held in NISS cells that fall outside the jurisdiction of prisons laws and regulations, where they have also suffered ill treatment and torture.

Methods of torture include the use of beatings with water pipes, gun butts, metal bars, sticks and fists, prolonged enforced standing, exposure to bright sunlight and heat, extremely cold temperatures, sleep deprivation, blindfolding, death threats against detainees and their families, threats of sexual violence and exposure to the torture and beatings of fellow detainees, as well as verbal and racist insults. Detainees have been held in inadequate facilities with no electricity,

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<sup>47</sup> HRW, "Sudan: Bombing Campaign's Heavy Toll on Children," May 6, 2015 <https://www.hrw.org/news/2015/05/06/sudan-bombing-campaigns-heavy-toll-children>

<sup>48</sup> SKBN CU, "Humanitarian Update."

<sup>49</sup> ACJPS, "On the International Day in Support of Torture Survivors, End Torture and Repeal Enabling Legislation," Jun. 26, 2015,, <http://www.acjps.org/sudan-on-the-international-day-in-support-of-torture-survivors-end-torture-and-repeal-enabling-legislation/>

bedding or sufficient ventilation. Some detainees were forced to provide their email, Facebook and Skype passwords.<sup>50</sup>

Sudan continues to implement a number of degrading physical punishments despite their being banned under the International Convention against Torture, including stoning, amputation, cross amputation and lashing. Sudanese courts orders lashing for punishments including adultery, wrongful accusation of adultery and drinking of alcohol, and for 18 other offences in the 1991 Criminal Act.

### **Religious Freedoms:**

Restrictions on religious freedoms have been increasing, particularly targeting members of Christian groups in Sudan. On December 2, 2014, the Evangelical Church of Khartoum Bahri was raided by police to disperse a sit-in concerning a corruption scandal. Police beat a number of peaceful demonstrators with pipes and water sticks and arrested 38 church members. Later in December 2014 and January 2015, two South Sudanese pastors were arrested by police and held for more than seven months, including more than two months incommunicado. They were charged with various serious crimes that carry the death penalty and flogging. They were arrested after making public remarks criticizing the corruption scandal at the Khartoum Bahri church and the treatment of Christians in Sudan.<sup>51</sup>

### **Women's Rights:**

The discriminatory interpretation and implementation of provisions of some laws, including the Criminal Law, the Public Order Law and the Personal Status Law, continues to be an issue of concern. Women and girls are often arrested and subjected to lashes if they commit acts considered by the authorities to be “disgraceful” or that “undermine

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<sup>50</sup> ACJPS & FIDH, “Submission to the Universal Periodic Review of Sudan 2016,” Sept. 2015,

<https://www.fidh.org/en/region/Africa/sudan/submission-to-the-universal-periodic-review-of-sudan-2016>

<sup>51</sup> Ibid.



public morals” under article 152 on ‘indecent behavior’ of the penal code.<sup>52</sup>

In May 2015, Sudan permitted a visit by the UN Special Rapporteur on violence against women. The special Rapporteur reported<sup>53</sup> that a large number of women and girls live in a context of deep inequality, underdevelopment, poverty and conflict. The situation is further exacerbated by violence in both the public and private spheres, whether at the hands of state or non-state actors.

In the context of conflict, sexual and gender-based violence, including rape and sexual harassment and humiliation, is increasingly worrying. Women and girls, in particular asylum seekers and refugees, are subjected to trafficking either during transit or in the destination country. The insecurity prevalent in most IDP camps further renders women and girls vulnerable to violence, whether at the hands of criminal elements, rebel groups or the authorities.

The racial targeting of Darfuri women students, includes particular humiliations linked to their perceived racial identity, and includes the practice of cutting their hair and questioning their ‘Arab’ identity was documented during the UN Rapporteur visit. The special Rapporteur, at the end of her visit to Sudan, urged the Sudanese government to “set up a Commission of Inquiry, consisting of both national and international persons, to look into the reports of allegations of mass rapes in different regions, including recent allegations regarding the village of Thabit.”

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<sup>52</sup> Cairo Institute for Human Rights Studies, "Delivering Democracy Annual Report 2013: Sudan, <http://www.cihrs.org/?p=6590&lang=en>

<sup>53</sup> Special Rapporteur on violence against women finalizes country mission to Sudan and calls for more open and constructive dialogues on violence against women, its causes and consequences, May 24, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16009&LangID=E#sthash.EyOcZ0KA.dpuf>



# Yemen

One of the most dire humanitarian crises in the world today—this is how the UN summarizes the state of Yemen in 2015, some three years after the initiative of the Gulf Cooperation Council (GCC) that produced the country's transitional roadmap following the ouster of President Ali Abdullah Saleh. Yemenis' hopes for a democratic transition in the wake of the 2011 uprising were dashed, and today war-torn Yemen faces the same fate of neighboring countries like Syria and Iraq. The year 2015 saw the split of the national army, the collapse of what was left of state institutions, and the country's slide into a sectarian civil and regional proxy war. The Arab military coalition, led by Saudi Arabia and backed by the West, supports the government of President Abd Rabbuh Mansour Hadi against the Houthis, who are allied with supporters of former President Saleh and are accused by Saudi Arabia of enjoying Iranian backing.

Under its new monarch, Saudi Arabia seems concerned about the consequences of the Iranian nuclear deal with the West for the centrality of the Sunni kingdom and its regional influence. As Saudi Arabia waged an open-ended war in Syria against Iran and its proxies, it brought its economic and political influence to bear on allied Arab governments to open a new front in Yemen, launching a war on the Houthis, whom Saudi Arabia views as Iran's proxies. While there is no end of the war in sight, Saudi Arabia is confident of its ability to win.

Saudi Arabia and the UAE supported Qatar against the Muslim Brotherhood until they were swept from power on July 3, 2013. This sparked a diplomatic crisis in the Arab Gulf when Saudi Arabia, the UAE, and Bahrain recalled their ambassadors from Doha due to Qatari support for the Brotherhood. Yet, 2015 saw Riyadh open up to the Muslim Brotherhood in Yemen, represented by the Islah Party, apparently motivated by the belief that flexibility with the Brotherhood was unavoidable if it wished to devote itself to Iran, which it views as an existential threat.

At the same time, al-Qaeda and the Islamic State (IS) are exploiting the political vacuum and the collapse of state institutions to expand, recruit more members, carry out suicide attacks,<sup>1</sup> fight the Houthis, and gain more ground. Complete state failure in Yemen and the extension of extremist groups in its territory threaten to expand the scope of destruction and instability seen in the region in recent years.

The international community in 2015 failed to protect civilians in Yemen and gave diplomatic cover to persons responsible for law-of-war violations and human rights abuses, disregarding demands from international organizations and the high commissioner for human rights to form an international fact-finding committee to investigate human rights violations committed by parties to the conflict in Yemen.

### **International Community Fails to End the Conflict:**

Yemen began 2015 with a conflict over the proposed constitution between the Houthis and former President Saleh, on one hand, and President Abd Rabbuh Mansour Hadi, on the other. The conflict escalated after the Houthis took control of the capital and President Hadi fled to Aden. Later, hours after the Houthis seized a military base in north Aden and arrested the Yemeni defense minister, Saudi Arabia on March 26, 2015, in coordination with other Arab states, launched Operation Decisive Storm to stop the Houthi expansion and

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<sup>1</sup>Fareh al-Muslimi, “Extremism Grows in Yemen’s Civil War,” *Carnegie Endowment for International Peace*, Sep. 7, 2015, <http://carnegieendowment.org/syriaincrisis/?fa=61210>.

support Hadi's government.<sup>2</sup> The Saudi coalition includes Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Sudan, and the UAE.

UN Security Council Resolution 2216, issued on April 14, 2015, affirmed the legitimacy of President Hadi and the need to implement the GCC initiative and the results of the National Dialogue Conference, including the drafting of a new constitution, the reform of the electoral system, a referendum on the constitution, and the organization of general elections. The resolution demanded that Houthis refrain from the use of violence and withdraw from all territory they seized, including Sanaa. It also called on the Houthis to respond to President Hadi's request to attend a conference in Riyadh, held under GCC auspices, with the goal of supporting the political transition in Yemen. The Security Council resolution was based on an Arab resolution and adopted under Chapter VII of the UN Charter. It established an arms embargo on the Houthis and imposed sanctions on its leaders and the son of former President Saleh. While the resolution banned arms supplies to the Houthis, it failed to include a similar provision for the Arab coalition, a lapse that subsequently led to the death and injury of thousands of Yemeni civilians.

Two days after the resolution was issued, UN envoy Jamal Benomar resigned, amid allegations that he caused the collapse of the peace agreement and national partnership of 2014 and blamed him for the failure of the entire transition process.<sup>3</sup> The Houthis did not take part in the Riyadh conference, held on May 17, 2015, which was attended by the new UN envoy, Ismail Ould Cheikh Ahmed.<sup>4</sup> On June 15, 2015, the UN called for talks in Geneva to push Yemeni parties toward a peace accord, but the talks failed to reach an agreement and the warring parties exchanged accusations of blame for the failure. The UN envoy said the divide between the parties was deep and that

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<sup>2</sup>International Crisis Group, "Yemen at War," March 27, 2015, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/yemen/b045-yemen-at-war.aspx>.

<sup>3</sup>Farea al-Muslimi, "Why Yemen's Political Transition Failed," Carnegie Endowment for International Peace, Apr. 16, 2015, <http://carnegieendowment.org/syriaincrisis/?fa=59803>.

<sup>4</sup>"Mu'tamar al-Riyadh li-inqadh al-Yaman yantaliq al-yawm bi-ghiyab al-huthiyin," Jazeera online, May 17, 2015.

no party was willing to make concessions, which “precluded an agreement, which was within reach.”<sup>5</sup>

Saudi Arabia and its military coalition received the backing of the GCC in Resolution 2216, as well as military, intelligence, and diplomatic support from Western capitals. The nuclear agreement between Iran and the West in July 2015 allowed Saudi Arabia to obtain more Western support as a consolation prize “after the kingdom failed to dissuade its Western allies from the deal with Iran.”<sup>6</sup> Some analysts believe that the outcome of the war in Yemen will have repercussions in Syria. Tehran may be willing to abandon the Houthis if it sees the victory tipping to the Arab alliance, in order to make some gains in the more important battle in Syria. It may thus accept a compromise that would ensure Assad’s survival while in turn Saudi Arabia “is likely to accept a degree of Iranian influence in the Levant in return for Saudi control in the Gulf.”<sup>7</sup>

The Saudi military offensive, since the beginning, has enjoyed American support. As soon as Decisive Storm began, the White House announced that President Obama had approved logistic and intelligence assistance to support the Saudi-led campaign, via a joint planning unit with Saudi Arabia to coordinate American military and intelligence support.<sup>8</sup> US direct military support of its Saudi ally continued in the subsequent months, both in the form of munitions and through a direct role in coordinating coalition airstrikes. Saudi Arabia disregarded appeals from international rights organizations calling for swift inquiries into apparently unlawful strikes by coalition aircraft, in which a number of civilians were killed. These organizations noted that Saudi Arabia’s disregard for the laws of war could implicate those

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<sup>5</sup> “Wald al-Shaykh Ahmad ya’saf li-l-inqisam al-‘amiq bayn al-atraf al-yamaniya,” *UN Radio*, June 24, 2015, <https://www.unmultimedia.org/arabic/radio/archives/172245/#.Vv0ci3DP87B>.

<sup>6</sup> Farea al-Muslimi, “What Will the Nuclear Agreement with Iran Mean for the War in Yemen?” *Carnegie Endowment for International Peace*, Sep. 21, 2015, <http://carnegieendowment.org/syriaincrisis/?fa=61348>.

<sup>7</sup> Lina Khatib, “Saudi Arabia’s Comeback Via Yemen,” *Carnegie Middle East Center*, Apr. 1, 2015, <http://carnegie-mec.org/2015/04/01/saudi-arabia-s-comeback-via-yemen/i5az>.

<sup>8</sup> “al-Bayt al-abyad: Ubama ajaz al-da’m li-l-‘amaliya al-sa’udiya fi-l-Yaman,” *Reuters*, Mar. 26, 2015, <http://ara.reuters.com/article/topNews/idARAKBN0MM07C20150326>.

countries that supplied it with weapons and that “[t]he participation of US forces in specific attacks may make them responsible for possible laws-of-war violations by the coalition.”<sup>9</sup> Saudi Arabia also received British support in the form of weapons and diplomatic cover. The UK sold the kingdom military equipment, claiming it was monitoring the coalition forces’ compliance with international humanitarian law, while several British ministers rejected the claim that Arab coalition forces were violating the laws of war.<sup>10</sup>

Western nations and Arab states involved in the Saudi-led coalition defeated a resolution from the Netherlands put to the UN Human Rights Council in Geneva, which would have tasked a UN mission with documenting violations by all parties to the conflict in Yemen since September 2014. The resolution came in response to a recommendation from UN High Commissioner for Human Rights Zeid Raad to form an independent, impartial international commission to investigate claims of violations of international human rights law and international humanitarian law, including in his report on Yemen issued on September 7, 2015.<sup>11</sup> The UN special advisor on the prevention of genocide declared his support for Raad’s recommendation for an international committee, while Jordan utterly rejected the high commissioner’s report on Yemen.<sup>12</sup>

Facing strong pressure from Saudi Arabia and lacking support from Washington and London, the Netherlands withdrew its proposed resolution. Saudi Arabia, accused by international rights groups of responsibility for serious violations of the laws of war in Yemen, was then permitted, with its allies, to draft a resolution that included no reference to an international inquiry for human rights abuses in

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<sup>9</sup> Human Rights Watch, “US: Reject Bomb Sales to Saudi Arabia,” Nov. 18, 2015, <https://www.hrw.org/news/2015/11/18/us-reject-bomb-sales-saudi-arabia>.

<sup>10</sup> HRW, “Yemen: Coalition Used UK Cruise Missile in Unlawful Airstrike,” Nov. 25, 2015, <https://www.hrw.org/news/2015/11/25/yemen-coalition-used-uk-cruise-missile-unlawful-airstrike>.

<sup>11</sup> Situation of Human Rights in Yemen, Report of the UN High Commissioner for Human Rights, Sep. 7, 2015, A/HRC/30/31.

<sup>12</sup> “Mufawwad huquq al-insan ya’saf li-l-intiqadat al-lati wujihat li-taqiririh hawl al-Yaman,” UN News Center, Sep. 29, 2015, <http://www.un.org/arabic/news/story.asp?newsID=24608#.VoBZNVKUqZZ>.

Yemen.<sup>13</sup> This is tantamount to protection and backing for government and military leaders responsible for what amount to war crimes, thus guaranteeing impunity and eroding the rights of Yemen's civilian victims.

Yemeni government forces, supported by the Arab coalition and the West, scored a breakthrough on July 17, 2015 with the liberation of Aden and the withdrawal of Houthi fighters and Saleh's forces to the north. Houthi positions in the governorates of Lahij, Abyan, Dhale, and Shabwa fell as well,<sup>14</sup> while coalition forces continued to shell Houthi positions in Taiz, though they were not able to displace them.<sup>15</sup> The Houthis and Republican Guard forces maintained their tight blockade on Taiz, thus impeding the arrival of humanitarian aid to the city, which has been besieged since mid-2015.<sup>16</sup> The UN managed to persuade the parties to the conflict to take part in new peace talks in Geneva in mid-December 2015,<sup>17</sup> while Washington and London pressured President Hadi and his government to make concessions and not insist on the application of UNSC Resolution 2216.<sup>18</sup> An agreement for a ceasefire was reached and a truce announced on December 15, 2015, to coincide with the start of negotiations in Geneva, but the ceasefire was violated by both sides and the talks made no tangible process. The UN envoy in Yemen

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<sup>13</sup> Human Rights Watch, "UN: Rights Council Fails Yemeni Civilians," Oct. 2, 2015,

<https://www.hrw.org/news/2015/10/02/un-rights-council-fails-yemeni-civilians>.

<sup>14</sup> "Am min al-azma al-siyasiya wa-l-sira' al-musallah fi-l-Yaman," *BBC Arabic*, Sep. 21, 2015,

[http://www.bbc.com/arabic/middleeast/2015/09/150921\\_yemen\\_sanaa\\_one\\_year\\_un\\_der\\_huthis](http://www.bbc.com/arabic/middleeast/2015/09/150921_yemen_sanaa_one_year_un_der_huthis).

<sup>15</sup> "al-Harb fi-l-Yaman: al-huthiyun yusaytirun 'ala mawaqi' jadida fi Ta'izz," *BBC Arabic*, Dec. 5, 2015.

<sup>16</sup> "al-Niza' fi-l-Yaman: qasf madinat Ma'rib wa ightiyal muqaddam fi-l-jaysh fiha," *BBC Arabic*, Dec. 26, 2015,

[http://www.bbc.com/arabic/middleeast/2015/12/151226\\_yemen\\_conflict\\_marib](http://www.bbc.com/arabic/middleeast/2015/12/151226_yemen_conflict_marib).

<sup>17</sup> "al-Amin al-'am yurahhib bi-bad' muhadathat al-Yaman," *UN Information Center*, Dec. 15, 2015, <http://www.unic-eg.org/16737>.

<sup>18</sup> "al-Gharb yadghat min ajl al-salam fi-l-Yaman," *Reuters*, Dec. 14, 2015, <http://ara.reuters.com/article/topNews/idARAKBN0TX1V920151214?sp=true>.



announced that after six days of negotiations in Switzerland, the two sides had agreed to another round of talks on January 14, 2016.<sup>19</sup>

The UN Security Council convened to discuss Yemen<sup>20</sup> after the lack of progress in peace talks and the failure of parties to the conflict to respect the fragile ceasefire. During the meeting in New York, the 15 members of the UNSC called on “all Yemeni parties to resume and accelerate United Nations-brokered inclusive political consultations.” The council stressed the need for Yemeni ports to be opened for the delivery of aid “without delay,” a criticism of the siege imposed by the Saudi-led coalition to support of government forces. It appears Western states, which provided protection and support to Saudi Arabia, are seeking to put a rapid end to the war in Yemen, to devote themselves to open fronts in Syria and Iraq, fearing the expansion and strengthening of al-Qaeda in and IS in Yemen given the absence of a central authority.

The Security Council, convened amid Western pressure on Saudi Arabia to end the war, was the first public Security Council meeting on Yemen since the start of the Arab military offensive in March 2015. The meeting was attended by Prince Zeid Raad al-Hassan, the UN high commissioner for human rights, who declared that the Saudi-led military campaign in Yemen bore apparent responsibility for “a disproportionate number” of attacks on civilian areas. Raad added that he had “observed with grave concern the shelling from land and sea of areas in Yemen with high concentrations of civilians and the destruction of civilian infrastructure such as hospitals and schools.”<sup>21</sup> Samantha Power, the US ambassador to the UN—the US was heading the Security Council in December—said that all parties must comply with international humanitarian law, and Houthis must stop the indiscriminate shelling of civilians and cross-border attacks. Power added, “We will also continue to urge the Saudi-led coalition to ensure legal and specific strikes, conduct a comprehensive investigation into

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<sup>19</sup> “al-Mab’uth al-umami ila-l-Yaman ya’mal bi-waqf da’im li-itlaq al-nar,” *AFP*, Dec. 22, 2015.

<sup>20</sup> Security Council Press Statement on Situation in Yemen, UN press release, Dec. 23, 2015, <http://www.un.org/press/en/2015/sc12184.doc.htm>.

<sup>21</sup> “al-Umam al-muttahida: al-tahaluf al-‘arabi mas’ul ‘an mu’zam al-hajamat ‘ala-l-madaniyin bi-l-Yaman,” *Reuters*, Dec. 22, 2015.

all credible allegations of civilian casualties, and undertake the changes needed to avoid such incidents.”<sup>22</sup>

As battles continued between Houthis and allied forces, on the evening of December 23, the day of the UN Security Council meeting on Yemen, and just a few days after the agreement to resume peace talks in January 2016, Houthi leader Abd al-Malak al-Houthi urged his supporters not to waste time betting on the UN, accusing the international organization of carrying out its activities in line with US policies.<sup>23</sup>

The mistakes made by the UN and Western diplomatic missions in 2015 in supporting Saudi Arabia and undermining efforts to form an international fact-finding committee to appease Riyadh may ultimately erode the credibility of the international organization and weaken its ability to manage negotiations by warring parties and lead serious talks that can bring peace and justice for victims. Yemen will pay the price of the UN failure and the collusion of Western governments in the form of more bloodshed and casualties and further instability that could spread to other neighboring countries and tear the region apart.

### **Humanitarian Situation in Yemen in 2015: Humanitarian Catastrophe:**

The efforts of all Yemeni and regional parties were combined against the interests and rights of Yemeni civilians, whose suffering increased by the day. Yemenis face death in Arab coalition strikes or by Houthi gunfire. They also endured forced displacement, malnutrition, and the collapse of basic services like education and health. The conflict has spread to 20 of the country’s 22 provinces. According to the UN, the conflict, which began on March 26, 2015, has killed 6,000 people, nearly half of them civilians, including some

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<sup>22</sup> “al-Umam al-muttahida: al-tahaluf al-‘arabi fi-l-Yaman muttahaam bi-shann hajamat istahdafat al-madaniyin,” *France 24*, Dec. 23, 2015.

<sup>23</sup> “Istimrar al-ma’arik fi-l-Yaman wa za’im al-huthiyin yad’u li-‘adam al-rihan ‘ala-l-umam al-muttahida,” *AFP*, Dec. 24, 2015.

600 children and another 900 injured children. The casualty rate is five times what it was in 2014.<sup>24</sup>

According to UN estimates, basic services are rapidly collapsing. More than 14 million people have no access to adequate healthcare, while 3 million children and women are malnourished and have no access to preventive services. Some 21.2 million people—or 82 percent of the population—are currently in need of some form of humanitarian assistance to meet basic needs or protect their fundamental rights. The UN coordinator for humanitarian affairs announced that 2.3 million people have been forced to flee their homes and another 120,000 have fled the country. “More than 19 million people lack drinking water and sanitation,” he said. “More than 14 million people are food insecure, 7.6 million of them critically so. Some 320,000 children face severe malnutrition.”<sup>25</sup> As 2015 drew to a close, the World Health Organization and its partners called for \$31 million to ensure the continued provision of health services to some 15 million in Yemen amid the collapse of the country’s health system.<sup>26</sup>

### **Civilians Targeted:**

Each party to the conflict in Yemen claims to be defending the rights of the Yemeni people, but this claim does not hold up to reality, in which large numbers of civilians are killed in coalition airstrikes and Houthi forces unnecessarily endanger and kill civilians.

From the first days of the Saudi-led military campaign, civilians died in airstrikes.<sup>27</sup> Saudi and US leaders have disregarded appeals from international organizations to protect civilians and reduce harm

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<sup>24</sup> “al-Umam al-muttahida: al-tahaluf al-‘arabi mas’ul ‘an mu’zam al-hajamat.”

<sup>25</sup> “al-Umam al-muttahida tuhadhdhir min wad’ insani qatim fi-l-Yaman,” UN News Center, Nov. 18, 2015,

<http://www.un.org/arabic/news/story.asp?NewsID=25046#.Vn8ImlKUqZZ>.

<sup>26</sup> “Munazzamat al-sahha al-‘alamiya: thammata haja massa li-l-da’im,” UN News Center, Dec. 15, 2015,

<http://www.un.org/arabic/news/story.asp?NewsID=25215#.Vn8RUlKUqZY>.

<sup>27</sup> HRW, “Yemen: Saudi-led Airstrikes Take Civilian Toll,” Mar. 28, 2015, <https://www.hrw.org/news/2015/03/28/yemen-saudi-led-airstrikes-take-civilian-toll>.

to civilians in military operations.<sup>28</sup> Saudi-led coalition forces have consistently shown disregard for civilian lives. Coalition aircraft has shelled civilian facilities and killed many civilians in strikes targeting a camp for displaced persons,<sup>29</sup> a factory,<sup>30</sup> and a warehouse for humanitarian aid in north Yemen.<sup>31</sup> Coalition forces have also used banned cluster munitions in attacks on areas under Houthi control in northern Yemen.<sup>32</sup> Experts say that this type of weapon cannot distinguish military from civilian targets and their unexploded ordnance threatens civilians even long after the fighting is done. There is evidence that coalition forces have repeatedly used missiles bearing cluster munitions in Yemen.<sup>33</sup>

Arab coalition forces carried out 12 airstrikes on Houthi strongholds in Saada in northern Yemen, with the documented damage or destruction of civilian homes, five markets, a school, and a gas station, although there is no evidence that the positions were used for military purposes. The strikes killed 59 civilians, among them 35 children.<sup>34</sup> In addition, coalition aircraft targeted residential buildings and killed at least 65 civilians, among them 10 children,<sup>35</sup> while

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<sup>28</sup> HRW, "Saudi Coalition/US: Curb Civilian Harm in Yemen," Apr. 23, 2015, <https://www.hrw.org/news/2015/04/13/saudi-coalition/us-curb-civilian-harm-yemen>.

<sup>29</sup> HRW, "Yemen: Airstrike on Camp Raises Grave Concerns," Apr. 1, 2015, <https://www.hrw.org/news/2015/04/01/yemen-airstrike-camp-raises-grave-concerns>.

<sup>30</sup> HRW, "Yemen: Factory Airstrike Killed 31 Civilians," Apr. 15, 2015, <https://www.hrw.org/news/2015/04/15/yemen-factory-airstrike-killed-31-civilians-0>.

<sup>31</sup> HRW, "Yemen: Warehouse Strike Threatens Aid Delivery," Apr. 22, 2015, <https://www.hrw.org/news/2015/04/22/yemen-warehouse-strike-threatens-aid-delivery>.

<sup>32</sup> HRW, "Yemen: Cluster Munitions Harm Civilians," May 31, 2015, <https://www.hrw.org/news/2015/05/31/yemen-cluster-munitions-harm-civilians>.

<sup>33</sup> HRW, "Yemen: Cluster Munition Rockets Kill, Injure Dozens," Aug. 26, 2015, <https://www.hrw.org/news/2015/08/26/yemen-cluster-munition-rockets-kill-injure-dozens>.

<sup>34</sup> HRW, "Yemen: Unlawful Airstrikes Kill Dozens of Civilians," Jun. 30, 2015, <https://www.hrw.org/news/2015/06/30/yemen-unlawful-airstrikes-kill-dozens-civilians>.

<sup>35</sup> HRW, "Yemen: Coalition Strikes on Residence Apparent War Crime," Jul. 27, 2015, <https://www.hrw.org/news/2015/07/27/yemen-coalition-strikes-residence-apparent-war-crime>.

coalition aircraft destroyed a hospital in northern Yemen run by Doctors Without Borders.<sup>36</sup>

According to the UN, military operations have killed some 6,000 people, about half of them civilians. International organizations have documented violations by coalition forces of the laws of war and strikes on civilians and civilian facilities, but Saudi Arabia denies its responsibility and that of its forces. Questioning UN estimates and data, the KSA says that the UN is not present on the ground in Yemen, and it has accused the UN of relying on one party—Houthi militias—for its estimates of alleged casualties.<sup>37</sup>

Houthis have shown similar disregard for the fate of civilians and residents of civilian facilities. As a result of Houthi attacks on the areas surrounding a hospital in Aden,<sup>38</sup> hospital staff and patients have come under repeated gunfire and two civilians were killed. Pro-Houthi forces have also violated the laws of war by repeatedly and indiscriminately firing mortars and rockets at populated areas of the southern coastal city of Aden, as a result of which dozens of civilians were killed, including children.<sup>39</sup> Before withdrawing from Aden, Houthi forces planted anti-personnel landmines,<sup>40</sup> which have killed several people and endangered others. Houthis have also recruited, trained, and mobilized children as soldiers, in a violation of international law.<sup>41</sup>

Houthi forces have set siege to Taiz, confiscating food and medical supplies for civilians in the city, which has undermined the

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<sup>36</sup> HRW, “Yemen: Coalition Airstrikes Hit Hospital,” Oct. 27, 2015, <https://www.hrw.org/news/2015/10/27/yemen-coalition-airstrikes-hit-hospital>.

<sup>37</sup> BBC interview with advisor to the Saudi defense minister, Gen. Ahmed al-Asiri, Dec. 2015, <https://www.youtube.com/watch?v=XT5CrpmU1Cc>.

<sup>38</sup> HRW, “Yemen: Houthis, Southern Fighters Endanger Aden Hospital,” Jun. 17, 2015, <https://www.hrw.org/news/2015/06/17/yemen-houthis-southern-fighters-endanger-aden-hospital>.

<sup>39</sup> HRW, “Yemen: Houthi Artillery Kills Dozens in Aden,” Jul. 29, 2015, <https://www.hrw.org/news/2015/07/29/yemen-houthi-artillery-kills-dozens-aden>.

<sup>40</sup> HRW, “Yemen: Houthis Used Landmines in Aden,” Sep. 5, 2015, <https://www.hrw.org/news/2015/09/05/yemen-houthis-used-landmines-aden>.

<sup>41</sup> HRW, “Yemen: Houthis Send Children into Battle,” May 12, 2015, <https://www.hrw.org/news/2015/05/12/yemen-houthis-send-children-battle>.

humanitarian situation in the city.<sup>42</sup> The same forces and others loyal to the former president have also repeatedly, indiscriminately shelled residential areas in the southern city of Taiz with artillery and mortars, killing and injuring civilians, including women and children.<sup>43</sup> Houthis have targeted civilians crossing the Yemeni border by indiscriminately firing artillery from northern Yemen on southern Saudi Arabia, killing at least 12 civilians and injuring more than ten others.<sup>44</sup>

### **Houthis Violate Right of Expression, Protest, and Association:**

Since they seized power, Houthi forces have engaged in repressive practices, violating the right of peaceful assembly, the right of expression, freedom of the press, and freedom of association, as well as targeting journalists, political dissidents, and human rights defenders.

From January 25 to February 11, 2015, Houthi militiamen repeatedly attacked peaceful protestors in the capital of Sanaa with clubs and rifle butts, arresting 46 demonstrators.<sup>45</sup> On March 24, Houthis used excessive force with and opened fire on demonstrators in Taiz, killing 7 people and injuring 83.<sup>46</sup> The interim interior minister ordered Sanaa police on February 8 to prevent all unlicensed demonstrations due to “exceptional circumstances” in the country.<sup>47</sup>

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<sup>42</sup> “al-Umam al-muttahida tu’arrib ‘an al-qalaq iza’ tadahwur al-wad’ al-insani fi Ta’izz,” UN News Center, Nov. 15, 2015,

<http://www.un.org/arabic/news/story.asp?NewsID=25100#.Vv08NnDP87B>.

<sup>43</sup> HRW, “Yemen: Houthis Shell Civilians in Southern City,” Oct. 20, 2015, <https://www.hrw.org/news/2015/10/20/yemen-houthis-shell-civilians-southern-city>.

<sup>44</sup> HRW, “Yemen: Pro-Houthi Forces Launch Rockets on Saudi City,” May 13, 2015, <https://www.hrw.org/news/2015/05/13/yemen-pro-houthi-forces-launch-rockets-saudi-city>.

<sup>45</sup> HRW, “Yemen: Security Forces, Militia Abuse Protestors,” Feb. 22, 2015, <https://www.hrw.org/news/2015/02/22/yemen-security-forces-militia-abuse-protesters>.

<sup>46</sup> HRW, “Yemen: Houthis Use Deadly Force Against Protestors,” Apr. 7, 2015, <https://www.hrw.org/news/2015/04/07/yemen-houthis-use-deadly-force-against-protesters>.

<sup>47</sup> <https://twitter.com/BShtwtr/status/564577859545481216/photo/1>.

Human Rights Watch documented seven incidents from December 31, 2014 to March 7, 2015 in which journalists were attacked by Houthi forces and other militiamen.<sup>48</sup>

In April 2015, Houthi forces arrested Muhammad Qahtan, a political opponent and leader of the Islah Party.<sup>49</sup> On August 5, 2015, Houthi forces kidnapped human rights defender Abd al-Kader al-Guneid in Taiz,<sup>50</sup> while in October 2015, Houthi officials twice banned a prominent defender of women's rights from traveling to take part in regional meetings leading up to the peace talks.<sup>51</sup> Since September 2014, the Houthis have raided 33 non-governmental organizations in Sanaa and shut them down, confiscating their assets and equipment. Most of them were prohibited from reopening, especially those loyal to the Islah Party, according to the Office of the High Commissioner for Human Rights in Yemen. Human Rights Watch documented cases as well in which NGOs were raided and shut down and their assets confiscated.<sup>52</sup>

### **Growing Influence of al-Qaeda and the Islamic State:**

Al-Qaeda and IS are exploiting the political vacuum and the collapse of state institutions to expand, recruit, carry out suicide attacks, and fight the Shia Houthis, the doctrinal enemies of the two extremist Sunni organizations. Utter state collapse in Yemen as well as the growth of extremist groups and organizations threatens to expand the scope of destruction and instability seen in the region in the past few years.

Although al-Qaeda has long had a presence in Yemen, it is now facing stiff competition from IS, which is trying to oust and supplant

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<sup>48</sup> HRW, "Yemen: Attacks on Journalists Escalate," Mar. 23, 2015,

<https://www.hrw.org/news/2015/03/23/yemen-attacks-journalists-escalate>.

<sup>49</sup> HRW, "Yemen: Houthis 'Disappear' Political Opponent," Sep. 15, 2015,

<https://www.hrw.org/news/2015/09/15/yemen-houthis-disappear-political-opponent>.

<sup>50</sup> HRW, "Yemen: Houthis Abduct Rights Activist," Aug. 6, 2015,

<https://www.hrw.org/news/2015/08/06/yemen-houthis-abduct-rights-activist>.

<sup>51</sup> HRW, "Yemen: Travel Ban on Women's Rights Advocate," Nov. 15, 2015,

<https://www.hrw.org/news/2015/11/15/yemen-travel-ban-womens-rights-advocate>.

<sup>52</sup> HRW, "Yemen: Houthis Shut Groups, Detain Activists," Dec. 13, 2015,

<https://www.hrw.org/news/2015/12/13/yemen-houthis-shut-groups-detain-activists>.

al-Qaeda. The upstart organization has managed to attract some former al-Qaeda fighters, who broke their oath of allegiance to al-Qaeda leader Ayman al-Zawahiri and pledged loyalty instead to the leader of IS.<sup>53</sup>

IS inaugurated its operations in Yemen in March with a double suicide bombings in two Shia mosques in the capital, which killed 137 people and injured at least 357.<sup>54</sup> In October, IS carried out four suicide attacks on Yemeni government offices and military positions of the Saudi-led coalition. In November, ISIS fighters carried out a bloody attack in Hadramawt, killing some 50 soldiers,<sup>55</sup> and on December 6, 2015, IS assassinated the governor of Aden.<sup>56</sup> As it carries out its terrorist attacks, al-Qaeda is attempting to avoid targeting the local residents, seeking to win their support. IS, on the other hand, is unconcerned by the population's fate and continues to carry out acts of indiscriminate killing and bombing. "[I]ts brutality in Yemen has reached the same levels as in Syria and Iraq."<sup>57</sup>

### **Saudi Arabia Joins with Brotherhood in Yemen Against the Houthis:**

Recent years have seen clear hostility in major Arab capitals, whether Cairo or in the Gulf, to the Muslim Brotherhood, a hostility which increased after the Muslim Brothers were removed from power in Egypt in mid-2013. A diplomatic crisis erupted in the Gulf region when Saudi Arabia, the UAE, and Bahrain recalled their ambassadors from Qatar because of the latter's close ties and ongoing support for

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<sup>53</sup> "Mawqa' sayit: ansar li-tanzim al-qa'ida fi-l-Yaman yubayi'un al-dawla al-islamiya," *Reuters*, Feb. 11, 2015, <http://ara.reuters.com/article/topNews/idARAKBN0LF0J620150211>.

<sup>54</sup> "Wast fawda al-Yaman: al-munafasa tahtadd bayn al-dawla al-islamiya wa-l-qa'ida," *Reuters*, Jun. 30, 2015, <http://ara.reuters.com/article/topNews/idARAKCN0PA2MJ20150630?sp=true>.

<sup>55</sup> "Tanzim al-dawla al-islamiya yu'lin mas'uliyataha 'an hujum fi Hadrawmawt bi-l-Yaman," *Reuters*, Nov. 20, 2015, [ara.reuters.com/article/topNews/idARAKCN0T91LW20151120](http://ara.reuters.com/article/topNews/idARAKCN0T91LW20151120).

<sup>56</sup> "Maqatal muhafiz 'Adin fi taffir intihari wa tanzim al-dawla al-islamiya yu'lin mas'uliyataha," *Reuters*, Dec. 6, 2015, [ara.reuters.com/article/topNews/idARAKBN0TP04Z20151206?sp=true](http://ara.reuters.com/article/topNews/idARAKBN0TP04Z20151206?sp=true).

<sup>57</sup> Farea al-Muslimi, "Extremism Grows in Yemen's Civil War."



the Brotherhood. Under King Salman, however, Saudi Arabia has pursued a new tack, opening up to the Muslim Brotherhood in Yemen in 2015. It appears that Saudi concern with growing Iranian influence in the region has encouraged it to show some flexibility with the Yemeni branch of the Brotherhood, in the context of King Salman's aspirations to form a Sunni Islamic alliance to confront both Iran and IS.<sup>58</sup>

Saudi policy led the Islah Party, an extension of Muslim Brotherhood thought in Yemen, to support Operation Decisive Storm by the Saudi-led Arab coalition. The party said it hoped that "this operation will return matters to their proper course and bring the country out of the crisis caused by the Houthis and their allies, who bear full responsibility for all the consequences of this operation."<sup>59</sup> Although Islah has not officially declared its participation in the war, its support for the Saudi alliance prompted the Houthis to arrest or disappear more than 100 Islah leaders in one day.<sup>60</sup> Many of the party's leaders fled to Riyadh to escape the Houthis, but there are no indications that Saudi Arabia has radically shifted its position on the Muslim Brotherhood. Thus far, the alliance with the Yemeni Brotherhood is one of necessity, the two parties joined by their hostility to the Houthis.<sup>61</sup>

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<sup>58</sup> "al-‘Ahil al-sa’udi yatatalla’ li-takwin kutla sunniya jadida fi muwajahat Iran wa tanzim al-dawla al-islamiya," *Reuters*, Mar. 6, 2015, <http://ara.reuters.com/article/topNews/idARAKBN0M210W20150306>.

<sup>59</sup> "al-Tajammu’ al-yamani li-l-islah yu’lin ta’yidahu ‘asifat al-jazm," *al-Hayat*, Apr. 3, 2015.

<sup>60</sup> HRW, "Yemen: Houthis Shut Groups, Detain Activists."

<sup>61</sup> Farea al-Muslimi, "Riyadh and the Yemeni Brotherhood: Back to Factory Reset," Carnegie Middle East Center, Aug. 7, 2015, <http://carnegie-mec.org/2015/08/07/riyadh-and-yemen-brotherhood-back-to-factory-reset/ifi6>.



## **Saudi Arabi**

The Kingdom of Saudi Arabia (KSA) sought in 2015 to expand its regional influence and establish military and political alliances that serve regime stability in the kingdom. The KSA formed and led two military coalitions, one to defeat the Houthis in Yemen and the second to ostensibly combat terrorism. Both of these operate free of any oversight or accountability for violations committed by any coalition forces. Riyadh is pumping its financial and military resources into the war machine in a battle for influence with Iran, without consideration for the deaths of thousands of civilians and millions of people displaced by these tragedies.

Though the KSA declared war on the Islamic State (IS) as part of a broader war against all terrorist organizations, the scope of this war has been limited. The KSA must reconsider its policies in this regard. There is no marked difference in the way the KSA and the terrorist organization deal with apostates and human rights defenders, or in the two parties' stance on democracy, political participation, multiparty politics, and the ownership of newspapers and media outlets, as well as the right to express opinions at odds with the vision and decisions of the caliphate/royal family or religious interpretations advanced by their respective religious establishments.

Although women were given the right to run and vote in municipal elections and a new law governing civic associations was issued, human rights continue to be systematically suppressed in the KSA. Human rights defenders, reform advocates, and peaceful dissidents are sentenced to prison, lashing, and death, while discrimination continues against religious minorities and people are arrested for their personal beliefs.

### **Changes by King Salman and Undermining Reform:**

When King Abdullah assumed the throne in 2005, he inaugurated his reign as a reformer with substantial popularity among Saudi citizens. This enabled him to hold local elections in 2005, grant broad powers to the Shura Council, and appoint the first woman to a high-level ministerial position. With a 2010 royal edict, he also took steps to limit the authority of Council of Senior Scholars. During his rule, “the influence of the religious police, especially in the kingdom’s western region, the Hijaz, significantly diminished, and press censorship was eased, especially on controversial social issues such as gender segregation.”<sup>1</sup>

After the eruption of the Arab Spring, which swept away regimes in Tunisia, Egypt, and Libya, some of the liberal elite, reform advocates, and human rights defenders issued a declaration titled “Toward a Nation of Rights and Institutions,”<sup>2</sup> as well as a declaration for national reform. Calls went out for “a day of anger” protest, but the protests in 2011 were so weak that the authorities were able to quell them. King Abdullah also issued a set of edicts initiating economic and social reforms, with the goal of appeasing popular anger at social and economic injustice. At the same time, “[w]hatever small window had been created for tolerance for different views was swiftly closed, and Saudi Arabia in fact embarked on a massive

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<sup>1</sup> Leigh Nolan, “Managing Reform? Saudi Arabia and the King’s Dilemma,” Brookings Doha Center, Policy Briefing, May 2011,

<http://www.brookings.edu/research/papers/2011/05/saudi-arabia-nolan>.

<sup>2</sup> Read the text of the declaration at

<http://www.ahewar.org/debat/show.art.asp?aid=247642>.

campaign to intimidate, arrest, jail, prosecute any Saudi citizen who dared to contradict official government policy.”<sup>3</sup> Some believed that responding to demands for political and social reform “would strip the royal family of most of their financial privileges and socio-political influence. No king would dare to push through such reforms—even assuming he were convinced of the justice they would bring. Doing so would provoke a crisis right at the heart of the royal family.”<sup>4</sup>

King Abdullah died in early 2015, leaving behind a legacy of human rights violations and fragile, incomplete political and social reforms.<sup>5</sup> Saudi Arabia also played a role in suppressing the uprising in Bahrain and removing Muslim Brotherhood rule in Egypt, while in Syria, it offered financial and political support to armed opposition groups. In Bahrain, the KSA supports the Sunni regime against Shia protestors and seeks to deny the Shia-majority country democracy and human rights, fearing the repercussions of a democratic transition in Bahrain on its own Shia population, arguing that this would give Iran an opening in the country.<sup>6</sup> In Syria, Saudi support has been channeled against the regime of Bashar al-Assad, Iran’s major regional ally. While the KSA supports the armed opposition, it also joined the US-led alliance against IS, which has seized territory in Syria and Iraq.

King Salman Bin Abd al-Aziz, aged 79, inaugurated his rule with a series of significant decrees and fundamental changes, seeking to cement his power. His decisions reflected his conservative bent, his desire to appease the religious leadership, and his hostility to liberals and reform advocates. It is in this context that his decision to fire Justice Minister Mohammed al-Eissa and Abd al-Latif Al Sheikh, the

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<sup>3</sup> Adam Coogle on human rights in KSA under King Abdullah, Human Rights Watch, Jan. 23, 2015,

<https://www.youtube.com/watch?v=cK2L7ZAaHww&feature=youtu.be>.

<sup>4</sup> Ibrahim Hatlani, “Unhappy Arabia,” Sada, Carnegie Endowment for International Peace, Jan. 22, 2013, <http://carnegieendowment.org/sada/?fa=50706>.

<sup>5</sup> Human Rights Watch, “World Report 2015: Saudi Arabia,”

<https://www.hrw.org/world-report/2015/country-chapters/saudi-arabia>.

<sup>6</sup> Frederic Wehrey, “Bahrain’s Lost Uprising,” Carnegie Endowment for International Peace, Jun. 12, 2012,

<http://carnegieendowment.org/2012/06/12/bahrain-s-lost-uprising/bkgu>.

head of the religious police, should be read. Both men are prominent opponents of conservatives and militant clerics in the KSA.<sup>7</sup> King Salman also promoted two princes from the so-called third generation of the royal family, Prince Mohammed Bin Nayef, 55, who became the second crown prince and interior minister, and Prince Mohammed Bin Salman, 34, his youngest son, who became defense minister and president of the king's office. Some analysts believe that "Salman's concentration of power in a very few family hands runs the longer-term risk of a backlash among the many members of the third generation who have seemingly been cut out of power by his recent decisions."<sup>8</sup>

In April 2015, King Salman made Mohammed Bin Nayef the crown prince.<sup>9</sup> The prince is known as a conservative and a security figure, who previously led a campaign to crush the political opposition with the beginning of the Arab Spring. In the wake of the Arab Spring, "the Ministry of Interior under his leadership has carried out a sweeping crackdown on peaceful dissent, using its powers to intimidate, detain, and imprison anyone who dares to criticize the government or call for serious reforms."<sup>10</sup> According to Human Rights Watch, the Saudi authorities, working under the supervision of Prince Mohammed Bin Nayef, were able to eradicate nearly all unofficial Saudi rights organizations and punish their activists. He also instituted a new counterterrorism law allowing the authorities to criminalize freedom of expression and association as "terrorist activities." The law gave the authorities broad police powers not subject to judicial

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<sup>7</sup> Iqalat islahiyin wa manh mukafa'at sakhya rubbama tab'ath isharat 'ala tawajjuhat al-'ahil al-sa'udi al-jadid," *Reuters*, Feb. 3, 2015, <http://ara.reuters.com/article/businessNews/idARAKBN0L714L20150203?sp=true>.

<sup>8</sup> F. Gregory Gause III, "Saudi Arabia's Game of Thrones," *Foreign Affairs*, Feb. 2, 2015, <https://www.foreignaffairs.com/articles/saudi-arabia/2015-02-02/saudi-arabias-game-thrones>.

<sup>9</sup> "Amiran yatamatta'an bi-nufudh kabir sayuhaddidan mustaqbal al-sa'udiya," *Reuters*, Sep. 17, 2015, <http://ara.reuters.com/article/topNews/idARAKCN0RH2CT20150917?sp=true>.

<sup>10</sup> Adam Coogler, "Dispatches: Don't Be Fooled by Saudi's Reshuffle," HRW, Apr. 29, 2015, <https://www.hrw.org/news/2015/04/29/dispatches-dont-be-fooled-saudis-reshuffle>.

oversight.<sup>11</sup> Mohammed Bin Nayef is the strongman of the kingdom, enjoying Washington's support for offering various services in the war on terror. He is known as "an arch-reactionary. He aligned himself very closely with the most puritanical elements of the clergy, opposed reform and change, rejected demands for more freedom of expression, continued the treatment of the kingdom's Shiite minority...as second-class citizens..."<sup>12</sup>

King Salman's shifts in the ruling family hierarchy, which will have a long-term impact on the kingdom and its political and social conditions, are thus consistent with what is known about the conservative monarch, who believes that democracy is not appropriate for KSA. In a press interview in 2010, he rejected democracy, arguing that "we cannot have democracy in Saudi Arabia, or every tribe would form a party. It would be like Iraq and lead us to chaos."<sup>13</sup> The promise of reforms for the Saudi people has thus dimmed with the rise of the conservative king.

### **KSA and Open Fronts with Iran:**

As it acts in the Gulf and Arab Levant, Saudi Arabia is always occupied by how to best contain and deter Iran and undercut its foe's influence in the region, in what some analysts have described as a decades-long regional cold war. In the context of this goal, KSA's human rights violations extend beyond its own borders. In fact, the kingdom is a regional prop for Arab dictatorships and uses its extensive diplomatic influence and financial resources to suppress demands for democracy and respect for human rights elsewhere. The exception is dictatorships that are allied with Iran, such as the Assad regime in Syria, which Riyadh sees as Iran's handmaiden in the Arab world, as well as Hezbollah in Lebanon and the Houthis in Yemen.

Riyadh views Arab Shia Muslims, including its own Shia population, as potential Iranian agents. The country's prevailing

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<sup>11</sup> Ibid.

<sup>12</sup> Bruce Riedel, "The Prince of Counter-Terrorism," Brookings, Sep. 29, 2015, <http://www.brookings.edu/research/essays/2015/the-prince-of-counterterrorism>.

<sup>13</sup> "al-Malak Salman: muhafiz abta' masirat al-islahat fi 'ahd salafih," *Deutsche Welle*, Jan. 23, 2015.

hardline *takfiri* religious orientation is also hostile to the Shia confession. The Saudi authorities systematically discriminate against Shia citizens, who constitute 10–15 percent of the Saudi population. Saudi Shias face inequality in job opportunities and government positions, and suffer from discrimination in the judicial system. The government suppresses their freedom of worship as well, and Shia citizens are rarely permitted to build mosques.<sup>14</sup>

In the wake of the Arab Spring, the KSA interfered broadly in the region, seeking to contain the expansion of Iranian influence, restore the political status quo ante, and quash demands for reform, democracy, and human rights, fearing the unrest would migrate to the kingdom. Most important, it created the Peninsula Shield Force and intervened militarily in Bahrain to put down a Shia uprising, whose success Riyadh feared would inspire its own Shia population. Under King Abdullah, Saudi Arabia also played a prominent role in supporting movements in Egypt seeking to bring down the rule of the Muslim Brotherhood, and it supported the July 3 regime. In Syria, it acted against the Assad regime, claiming to be supporting the Syrian people. King Salman began his reign with a declaration of war on the Houthis in Yemen, and Saudi Arabia led a military alliance in support of President Abd Rabbuh Mansour Hadi. The KSA is also allied with the March 14 forces in Lebanon, the primary enemy of the pro-Iranian Hezbollah.

Although the KSA and Iran both play the sectarian card in their fierce conflict, some observers believe the conflict should not be reduced to its Sunni-Shia sectarian dimension: “Riyadh and Tehran are playing a balance of power game. They are using sectarianism in that game...”<sup>15</sup> These analysts think that in the midst of the shift in the

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<sup>14</sup> HRW, “Denied Dignity: Systematic Discrimination and Hostility toward Saudi Shia Citizens,” Sep. 3, 2009, <https://www.hrw.org/report/2009/09/03/denied-dignity/systematic-discrimination-and-hostility-toward-saudi-shia-citizens>.

<sup>15</sup> F. Gregory Gause III, “Beyond Sectarianism: The New Middle East Cold War,” Brookings Doha Center Analysis Paper, Jul. 22, 2014, <http://www.brookings.edu/research/papers/2014/07/22-beyond-sectarianism-cold-war-gause>.



balance of power, “Saudi Arabia is once again asserting itself as the power and security trendsetter in the Middle East.”<sup>16</sup>

The conclusion of the nuclear deal with Iran in July was not good news for the Saudi regime. It was deeply worrying for Riyadh, which feared that it would end Iran’s isolation and free its economy of the shackle of sanctions, thus allowing Tehran to offer additional support to the KSA’s enemies in the Middle East.<sup>17</sup> The agreement gave Tehran access to major frozen financial resources, which alarmed Arab Gulf capitals.<sup>18</sup> If Iran were already able to throw massive support behind the Syrian regime and Hezbollah, as well as its rumored support for Houthis in Yemen, what would it do as billions of additional dollars flowed into its coffers?

Some observers think that the KSA received more Western support in the wake of the agreement, as a way to appease it “after the kingdom failed to dissuade its Western allies from the deal with Iran.”<sup>19</sup> In expressing its fears and concerns about the nuclear deal, Saudi Arabia was able to obtain Washington’s support for its military operation in Yemen, and the international community turned a blind eye to the violation of the laws of war committed by Saudi-led coalition forces in Yemen.<sup>20</sup> Following talks between US President Barack Obama and King Salman about the impact of the nuclear deal,

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<sup>16</sup> Lina Khatib, “Saudi Arabia’s Comeback Via Yemen,” Carnegie Middle East Center, Apr. 1, 2015, <http://carnegie-mec.org/2015/04/01/saudi-arabia-s-comeback-via-yemen/i5az>.

<sup>17</sup> “Tawattur fi-l-sa’udiya ba’d al-ittifaq al-nawawi al-irani,” *Reuters*, Jul. 14, 2014, <http://ara.reuters.com/article/topNews/idARAKCNOPO2EP20150714?sp=true>.

<sup>18</sup> Ibrahim Fraihat, “Iran and Arab World after the Nuclear Deal,” Belfer Center for Science and International Affairs, Aug. 16, 2015, <http://www.brookings.edu/research/articles/2015/08/16-iran-middle-east-nuclear-deals-sharqieh>.

<sup>19</sup> Farea al-Muslimi, “What Will the Nuclear Agreement with Iran Mean for the War in Yemen?” Carnegie Endowment for International Peace, Sep. 21, 2015, <http://carnegieendowment.org/syriaincrisis/?fa=61348>.

<sup>20</sup> See the Yemen chapter.

KSA said it was satisfied with assurances offered by Washington that the deal would not endanger Gulf countries.<sup>21</sup>

Saudi-Iranian relations took a dangerous turn in early 2016 that led the KSA to break diplomatic ties with Iran, when the Saudi authorities carried out the biggest mass executions in the country since the 1980s.<sup>22</sup> On January 2, 2016, the authorities executed 47 men on terrorism-related charges, most of them al-Qaeda members, as well as at least four Shia, one of them prominent Shia cleric Nimr al-Nimr, who, according to Human Rights Watch, was convicted by a Saudi court “on a host of vague charges apparently based largely on his peaceful criticism of Saudi officials.” Al-Nimr was known for his support of peaceful protests and did not engage in violence. He said in 2011, “The roar of words against the authorities instead of weapons...the weapon of words is stronger than bullets, because the authorities will win the battle of weapons.”<sup>23</sup>

Nimr’s execution, following a trial that did not appear to meet international fair trial standards, ignited Shia protests in most Arab countries, as well as in Tehran, where the protestors stormed the Saudi embassy and set fire to it, prompting Riyadh to cut ties with Tehran and inflaming hostilities between the two countries. Remarking on the break, Saudi Foreign Minister Adel al-Jubeir said that the move came in response to long-festering problems, not solely the attack on the embassy. He said that the Saudi decision was a response to “years of hostile Iranian policies, particularly in recent months. The Iranian regime sponsors terrorism and has established terrorist cells in Saudi Arabia and a number of other states.”<sup>24</sup> Bahrain and Sudan also cut ties to Iran, while the UAE scaled down its diplomatic mission and

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<sup>21</sup> “al-Sa’udiya radiya ‘an al-tatminat al-amrikiya bi-sha’n al-ittifaq al-nawawi ma’ Iran,” *BBC Arabic*, Sep. 4, 2015, [http://www.bbc.com/arabic/middleeast/2015/09/150904\\_obama\\_salman\\_meeting\\_ir\\_an\\_deal](http://www.bbc.com/arabic/middleeast/2015/09/150904_obama_salman_meeting_ir_an_deal).

<sup>22</sup> HRW, “Saudi Arabia: Mass Execution Largest since 1980,” Jan. 4, 2016, <https://www.hrw.org/news/2016/01/04/saudi-arabia-mass-execution-largest-1980>.

<sup>23</sup> See the BBC televised report, <https://www.youtube.com/watch?v=Jja27O68ekc>.

<sup>24</sup> “al-Sa’udiya tuwaqqif al-tayran wa taqta’ al-‘alaqat al-tijariya ma’ Iran,” *Reuters*, Jan. 4, 2016, <http://ara.reuters.com/article/topNews/idARAKBN0UI1H920160104>.

Kuwait summoned the Iranian ambassador,<sup>25</sup> in a show of support from KSA's Sunni allies.

In a challenge to Riyadh, Iran's angry president declared that Saudi Arabia cutting ties with Tehran could not cover up the crime of executing a prominent Shia cleric. He warned that the dispute might also impact the war on terror.<sup>26</sup> But Riyadh's mobilization of its Sunni allies just days later in broad Islamic counterterrorism alliance to confront Tehran indicates that the break affected not only the regional war on terror, but efforts to reach a consensual resolution of conflict and civil war in Syria and Yemen. It will also have an impact on the support of both the KSA and Iran in late 2015 for a power-sharing agreement in Lebanon, which led Beirut to hope to fill the presidential vacancy.<sup>27</sup> Moreover, with the regional superpowers focused on fighting one another, this will undoubtedly give terrorist organizations more room to maneuver, especially the Islamic State.

### **KSA Fights Terrorism While Embracing its Intellectual Foundation:**

While Saudi concern for increasing Iranian influence led it to form a military alliance to fight the Houthis in Yemen, the focus on Iran did not deter it from the Islamic State, which poses a growing danger to the region and the West alike. In mid-December 2015, Riyadh announced it was forming an Islamic military coalition of 34 countries, to be led by the KSA, to fight terrorism; Iran was excluded from the coalition.<sup>28</sup> The formation of this coalition prompts questions

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<sup>25</sup> "al-Kuwayt tastad'i safiraha min tahrān 'ala khalfiyat al-hujum 'ala-l-sifara al-sa'udiya," *AFP*, Jan. 5, 2016.

<sup>26</sup> "Iran: al-sa'udiya la yumkinuha al-taghtiya 'ala jarimataha bi-qat' al-'alaqat," *Reuters*, Jan. 5, 2016, <http://ara.reuters.com/article/topNews/idARAKBN0UJ0T120160105>.

<sup>27</sup> "al-Tawatturat tahtadim fi-l-sharq al-awsat ba'd qat' al-sa'udiya 'alaqataha ma' Iran," *Reuters*, Jan. 4, 2016, <http://ara.reuters.com/article/topNews/idARAKBN0UI1GS20160104>.

<sup>28</sup> "al-Sa'udiya tu'lin tashkil tahaluf islami 'askari min 34 dawla li-muharabat al-irhab," *Reuters*, Dec. 15, 2015, <http://ara.reuters.com/article/topNews/idARAKBN0TY02120151215?sp=true>.

regarding its narrow objectives; particularly because there are no concrete indications about its exact role in countering terror.

The coalition would not only stand up to IS, but to any organization the alliance considered a terrorist group, according to statements of the second crown prince and defense minister, Prince Mohammed Bin Salman. But the alliance, which included Turkey, the UAE, Egypt, Qatar, Malaysia, Pakistan, and Gulf and African countries, might also at some point constitute a Sunni alliance to confront Iranian Shia expansion. While the coalition leaders did not announce their intention to confront Iran, the alliance may be currently trying to navigate the political and ideological differences between member states, which some analysts believe may impede a strong regional coalition against Tehran. This “underbalancing” is “the inability or unwillingness of states to form the kind of blocking alliances that balance of power theory would predict.”<sup>29</sup>

Al-Qaeda seems to be losing ground in the region to its competitor, IS, seen in the outcome of their conflict in Syria and Yemen. Saudi territory itself has been struck by IS terrorist attacks,<sup>30</sup> while al-Qaeda threatened to launch attacks in the kingdom if it moved ahead with the execution of imprisoned al-Qaeda leaders.<sup>31</sup> With the KSA having executed al-Qaeda members in early 2016, the coming year may see reprisals from al-Qaeda inside Saudi territory.

In previous years, the KSA, with its puritanical, Wahhabi ideology, has been accused of sponsoring and financing al-Qaeda and subsequently IS, both of which embrace the jihadi, Salafi thought. While observers believe that “ISIS has certainly drawn support from individuals in Saudi Arabia and the Gulf states, both in terms of

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<sup>29</sup> F. Gregory Gause III, “Why Isn’t There an Anti-Iran Alliance?” *Washington Post*, June 3, 2015,

<https://www.washingtonpost.com/blogs/monkey-cage/wp/2015/06/03/why-isnt-there-an-anti-iran-alliance/>.

<sup>30</sup> “al-Dawla al-islamiya tu’lin mas’uliyataha ‘an hujum ‘ala husayniya fi-l-sa’udiya,” *Reuters*, Oct. 16, 2015,

<http://ara.reuters.com/article/topNews/idARAKCN0SA2NL20151016>.

<sup>31</sup> “Tanzim al-qa’ida yuhaddid bi-shann hajamat fi-l-sa’udiya law u’dimat ‘anasiruhu al-masjuna ladayha,” *BBC Arabic*, Dec. 1, 2015,

[http://www.bbc.com/arabic/middleeast/2015/12/151201\\_saudi\\_alqaeda\\_executions\\_warning](http://www.bbc.com/arabic/middleeast/2015/12/151201_saudi_alqaeda_executions_warning).

volunteers and monetary contributions,” there is no evidence that the organization has received direct support from the KSA government.<sup>32</sup> Opinion polls show that support for IS inside Saudi Arabia stands at about 5 percent, or “nearly half a million potential donors.”<sup>33</sup> In addition to the financial support to which the terrorist group has access, Saudi society offers a fertile climate for IS recruitment.

### **Systematic Suppression of Human Rights in KSA:**

Saudi Arabia is a dangerous environment for human rights defenders. The authorities systematically suppress freedom of expression, belief, and association and minority and women’s rights, as well as regularly violate the right to life with death sentences. The Saudi regime maintains an iron curtain on its domestic scene through its financial control of many Arab and international press and media outlets. While researchers with international rights organizations do not enjoy freedom of movement in Saudi territory, news of ongoing violations has been leaked thanks to modern technology and social media, demonstrating that the KSA’s human rights record is one of the worst in the world.

The kingdom does not tolerate liberal opinions opposed to the ruling political and religious authorities and deals harshly with dissident voices critical of human rights violations in the KSA. The Saudi terrorism court in 2014 sentenced prominent human rights defender Waleed Abu al-Khair to 15 years in prison.<sup>34</sup> Abu al-Khair’s wife Samar Badawi, a women’s rights activist, is banned from travel,

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<sup>32</sup> F. Gregory Gause III, “ISIS and the New Middle East Cold War,” Brookings Institute, Aug. 25, 2014, <http://www.brookings.edu/blogs/markaz/posts/2014/08/25-isis-new-middle-east-cold-war>.

<sup>33</sup> “Hal al-sa’udiya mas’ula ‘an zuhur tanzim al-dawla al-islamiya?” *BBC Arabic*, Dec. 19, 2015, [http://www.bbc.com/arabic/middleeast/2015/12/151219\\_saudi\\_isis\\_analysis](http://www.bbc.com/arabic/middleeast/2015/12/151219_saudi_isis_analysis).

<sup>34</sup> HRW, “Saudi Arabia: Prominent Activist Marks Year Behind Bars,” Apr. 15, 2015, <https://www.hrw.org/news/2015/04/15/saudi-arabia-prominent-activist-marks-year-behind-bars>.

while blogger Raif Badawi was sentenced to ten years in prison.<sup>35</sup> Badawi was sentenced to lashes for setting up a website through which he allegedly insulted the religious authorities. In October 2015, a Saudi court sentenced Abd al-Karim al-Khudr and Abd al-Rahman al-Hamid of the banned Saudi Civil and Political Rights Association, as well as Abd al-Aziz al-Sanaidi to between 8–10 years in prison for engaging in peaceful political opposition activities.<sup>36</sup>

Human rights defender Fadhil al-Manasif is serving a 15-year sentence; he is banned from travel for 15 years after the conclusion of his sentence and was levied with a large fine as well by an unfair judgment issued in April 2014.<sup>37</sup> The charges against Manasif included accessing websites and pages hostile to the state, contacting foreign media bodies seeking to exaggerate news and defame the kingdom's government, providing some of these media bodies with his mobile phone number to enable them to contact him, and leading foreign journalists to demonstrations. The charges reveal the extent to which the Saudi authorities fear the news spotlight on abuses in the kingdom. In another demonstration of the KSA's suppression of freedom of expression and belief and its arrest of citizens and others for their personal beliefs, a Saudi court on November 17, 2015 sentenced a Palestinian poet to death on the charge of apostasy.<sup>38</sup>

The plight of Saudi women is not only seen in their unequal right to occupy public positions or in the patriarchal control they face based on the directives of the religious authorities. Even the right of Saudi women to drive is violated, with Saudi rights defenders channeling much of their energies into claiming this right. Two women's rights activists, Maisa al-Amoudi and Lajin al-Hadhloul, spent two months in detention on charges of contravening public order and superseding

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<sup>35</sup> HRW, "Saudi Arabia: Possible New Flogging for Prominent Blogger," Jun. 11, 2015, <https://www.hrw.org/news/2015/06/11/saudi-arabia-possible-new-flogging-prominent-blogger>.

<sup>36</sup> HRW, "Saudi Arabia: Long Prison Terms for Activists," Oct. 27, 2015, <https://www.hrw.org/news/2015/10/27/saudi-arabia-long-prison-terms-activists>.

<sup>37</sup> HRW, "Saudi Arabia: Protest Convictions Flawed, Unfair," Sep. 10, 2014, <https://www.hrw.org/news/2014/09/10/saudi-arabia-protest-convictions-flawed-unfair>.

<sup>38</sup> HRW, "Saudi Arabia: Poet Sentenced to Death for Apostasy," Nov. 23, 2015, <https://www.hrw.org/news/2015/11/23/saudi-arabia-poet-sentenced-death-apostasy>.

their guardian's right for attempting to drive across the border from the UAE to Saudi Arabia.<sup>39</sup> While the end of the year saw a positive, possibly historical development in the struggle of Saudi women, when women were given the right to vote and run in municipal elections, the injustices facing Saudi women persist. The discriminatory guardianship system is still in place, which bars women from traveling abroad, obtaining a passport, marrying, or enrolling in university without the consent of their guardians. Some hospitals even require the guardian's consent before undertaking certain medical procedures with Saudi women.<sup>40</sup>

In November 2015, it was reported that advisors to Mohammed Bin Salman, the second crown prince, had issued a statement in which they alluded to the possibility of the kingdom opening its doors to international human rights organizations,<sup>41</sup> allowing them to review the actual state of human and women's rights in the KSA, which had become the object of a global debate.

Civil society in the KSA is severely constrained, starting with the registration process. It is virtually impossible for independent human rights organizations to function due to security and legal restrictions. But in a surprise move, the Saudi authorities in November 2015 issued a new law regulating civic associations, which establishes a special legislative framework for the establishment, administration, and oversight of such groups.<sup>42</sup> According to Human Rights Watch, based on information from the Ministry of Social Affairs, the ministry will exercise strong oversight of the boards of NGOs and impose strict controls on donations to organizations it approves.

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<sup>39</sup> Front Line Defenders, "al-Ifraj 'an mudafi'atayn 'an huquq al-insan kanata tuhawilan qiyadat al-sayyara ila-l-aradi al-sa'udiya," Feb. 2015.

<sup>40</sup> HRW, "Saudi Arabia: Landmark Elections for Women," Dec. 11, 2015, <https://www.hrw.org/news/2015/12/11/saudi-arabia-landmark-elections-women>.

<sup>41</sup> Richard Spencer, "Revealed: Saudi Arabia's Manifesto for Change in the Face of Rumours of Coup Plots," *Telegraph*, Nov. 11, 2015, <http://www.telegraph.co.uk/news/worldnews/middleeast/saudi-arabia/11989106/Revealed-Saudi-Arabias-manifesto-for-change-in-the-face-of-rumours-of-coup-plots.html>.

<sup>42</sup> Adam Coogle, "Dispatches: Better Late Than Never—Saudi Arabia Approves NGO Law," HRW, Dec. 2, 2015, <https://www.hrw.org/news/2015/12/02/dispatches-better-late-never-saudi-arabia-approves-ngo-law>.

Any positive steps the law might prompt are offset as long as human rights defenders, political dissidents, and advocates of reform and democracy languish in prison and are subject to lashes and executions. We should not expect a country controlled by a ruling family hostile to democratic values and the global human rights order, which systematically suppresses minority rights and freedom of expression and belief, to begin to actively support freedom of association and civil society simply because it issued a new law in an undemocratic context.



## Bahrain

This past year, human rights violations in Bahrain continued with impunity. The government has failed to implement the recommendations of the Bahrain Independent Commission of Inquiry (BICI), which was set up to investigate human rights abuses since the start of peaceful anti-government protests in 2011. The protests called for political and economic reforms, the release of all political prisoners, fair distribution of wealth and an end to the use of torture. To suppress the protests, the government responded with lethal violence and excessive use of force, which led to the deaths of at least 97 individuals and the injury of hundreds of protesters.<sup>1</sup>

In November 2011, the BICI commission issued a 500-page report confirming that Bahraini security forces used excessive and indiscriminate force against protesters, highlighting instances of abuse, torture, and death. In response to the recommendations of the BICI, the government established three bodies, namely the Office of the Ombudsman in the Ministry of Interior, a Special Investigations

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<sup>1</sup> Bahrain Center for Human Rights, "Individuals Killed By Government's Excessive Use of Force Since 14 February 2011," April 4, 2011, <http://bahrainrights.org/en/node/3864>.

Unit (SIU) in the Office of the General Prosecutor, and the Prisoners and Detainees Rights Commission (PDRC) – with a collective mandate to end torture in interrogation and detention facilities.

However, the pro-forma measures taken by Bahraini authorities had limited effect in addressing violations, leading to the continuation of grave human rights abuses. Government critics, including political dissidents and human rights defenders, have continued to face detention and prison sentences for their peaceful exercise of free expression. Amidst a growing culture of impunity, the government has failed to create an environment conducive to national reconciliation. Reports of torture, abuse, sexual assault, the lack of sufficient guarantees of fair trial, and death in detention continued. This years events have raised serious concerns about reprisals against victims reporting human rights abuses and against individuals cooperating with the UN.<sup>2</sup>

### **Freedom of opinion and expression:**

The authorities in Bahrain have placed severe restrictions on freedom of expression by controlling media outlets, the Internet, and targeting journalists and bloggers. Authorities have also increased security measures against opposition figures. Any criticism of Bahrain's main allies in the Gulf, especially Saudi Arabia, are severely repressed.

In February 2015, *al-Arab* television channel was suspended for violating “media neutrality” less than 24-hours after its launch. The suspension of *al-Arab* was reportedly related to its failure to abide by the prevailing norms in the Gulf, including the neutrality of media positions and avoiding anything that would negatively impact “the spirit of Gulf unity”. The suspension followed an interview with

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<sup>2</sup> Joint statement on the human rights situation in Bahrain delivered by Switzerland at the 30th Session of the Human Rights Council (HRC), Sept. 14, 2015, <https://www.article19.org/data/files/medialibrary/38118/UN-Statement-Re-Bahrain-and-Human-Rights.pdf>

Khalil Al-Marzooq, the deputy secretary-general of the Shia Al-Wefaq opposition movement in Bahrain.<sup>3</sup>

On August 3, 2015, the Information Ministry released a statement declaring that it would “not hesitate to take necessary legal measures to stop the publication of false or misleading information.” Three days later, the Information Affairs Authority (IAA) suspended *al-Wasat*, an independent newspaper that reports on human rights related issues. The newspaper received a warning from the authorities related to a critical opinion piece entitled: “And they will never approve of you,” within which opposition members were accused of treason on social media. The reasons for the suspension, according to the IAA, included the dissemination of information that “affects national unity” and the “Kingdom’s relationship with other countries.” The newspaper was forced by the authorities to sign a declaration in order to resume publishing.<sup>4</sup>

The newspaper was previously targeted in 2011 when the authorities briefly suspended its activities and put three of its editors on trial, forcing them to resign.<sup>5</sup>

The Ministry of Interior continued to target independent journalists, specifically those who covered the protests that erupted after the arrest of Shaykh Ali Salman, leader of the most significant opposition group in the country. On November 24, 2015, award-winning photographer Sayed Ahmed Al Mousawi was sentenced to ten years imprisonment and had his nationality revoked after covering pro-democracy demonstrations in early 2014.<sup>6</sup> His sentence was based on accusations that he given SIM cards to “terrorist” demonstrators and took photos of anti-government protests. Mousawi was initially arrested on February 10, 2014 by security forces at his home in the town of Diraz

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<sup>3</sup> “Bahrain-Based Satellite Channel Off-Air a Day after Starting,” *Reuters*, Feb. 4 2015, <http://www.reuters.com/article/bahrain-tv-idUSL6N0VC0U320150202>

<sup>4</sup> GC4HR, “Bahrain: Human Rights Defender Arrested and Bahrain’s Only Independent Newspaper *al-Wasat* Suspended by Authorities,” Aug. 16, 2015, <http://www.gc4hr.org/news/view/1063>

<sup>5</sup> *Ibid*

<sup>6</sup> Reporters Without Borders, “Bahrani Photographer Sentenced to Ten Years in Prison,” Nov. 24, 2015, <http://en.rsf.org/bahrain-bahraini-photographer-sentenced-to-24-11-2015,48569.html>

without a warrant. His camera and other electronic apparatus were confiscated.

The Internet is one of the last remaining spaces for Bahrainis to express their political, social and economic views. However, the crackdown on cyber-activists has escalated and security forces have continued to put social media platforms under strict surveillance. Several Twitter users were coerced by the authorities to delete their tweets or close their accounts. Cyber-activists were prosecuted for various reasons ranging from serious government criticism to satirical jokes. Between June 2014 and May 2015, 11 Bahraini internet users were collectively sentenced to 29 months in prison.<sup>7</sup> Dozens of internet users and activists continue to face harassment, arrest, prosecution, and mistreatment.

On January 27, 2015, the Bahraini authorities arrested nine cyber-activists for alleged criticism of the late King Abdullah of Saudi Arabia on Twitter. The Ministry of Interior stated that these individuals were arrested for “misuse of social media” and that, according to Bahrain’s Penal Code, they could face imprisonment for up to two years and a 200 Bahraini Dinar fine.<sup>8</sup>

On February 10, 2015, Jaleela al-Sayed, a cyber-activist was arrested by security for “misuse of social media,” inciting hatred against the regime, and insulting the king on Twitter. After raiding her house, security forces confiscated her electronic gadgets. Jaleela was reportedly subjected to ill treatment while in detention and required medical attention. During the initial period of her arrest, she was denied legal representation and prevented from contacting her family.<sup>9</sup>

In September 2015, security forces arrested the two social media activists responsible for “BuKhamis” and “HajiAhmed” Twitter handles for “insulting Bahrain’s martyrs in Yemen.” The tweets in

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<sup>7</sup> Freedom House, “Bahrain Freedom On the Net,” 2015, <https://freedomhouse.org/report/freedom-net/2015/bahrain>

<sup>8</sup> BCHR, “Bahrain: Arrest of Nine Internet Users Over Social Media Posts,” Jan 28, 2015, <http://bahrainrights.org/en/node/7244>

<sup>9</sup> BCHR, “Violence Against Journalists in Bahrain,” Nov. 2, 2015, <http://www.bahrainrights.org/en/node/7645>

question allegedly denounced and criticized Bahrain's participation in the ongoing military operation in Yemen.<sup>10</sup>

In October 2015, Ebrahim Karimi, a cyber-activist, was arrested at his house, following a raid by security forces, without presenting an arrest warrant. His house was searched and his electronic devices were confiscated. Ebrahim was interrogated in relation to posts on the Twitter account "FreejKarimi." The public prosecution later charged Ebrahim with inciting hatred against the regime, insulting the king, and "misuse of social media," among other related offenses. During Ebrahim's detention at the Criminal Investigation Directorate, he was subjected to ill treatment including forced standing for prolonged hours and sleep deprivation. He was further threatened that his family would be harmed if he did not confess, and was denied access to legal representation. Ebrahim's citizenship was previously revoked in 2012 by an administrative decision, and a Bahraini court has since ordered his deportation.<sup>11</sup>

### **Escalating Crackdown on Human rights Defenders:**

Human rights defenders continued to operate in a shrinking space as Bahraini authorities continued to target them with imprisonment and prosecution. They have faced charges for practicing their rights to freedom of peaceful expression and/or assembly.

On December 31, 2014, the Lower Criminal Court in Bahrain sentenced Mohammed Al-Maskati, the president of Bahrain Youth Society for Human Rights (BYSHR), to six months in prison for illegal assembly. His trial began on June 19, 2013 after he was charged with "rioting and participating in an illegal gathering" in relation to his participation in a peaceful demonstration in Manama in October 2012.<sup>12</sup>

On March 10, 2015, Naji Fateel, board member of the Bahrain Youth Society for Human Rights (BYSHR) and a blogger, was held incommunicado inside Jau prison. The human rights defender was

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Front Line Defenders, "Human Rights Defender Mohammed Al-Maskati sentenced to 6 months in prison."

denied contact with his family. Naji Fateel was sentenced to 15 years in prison on May 19, 2014 for establishing “a group for the purpose of disabling the constitution” under Article 6 of the controversial Terrorism Act. Fateel’s trial fell short of fair due process guarantees. At the time of his arrest on May 2, 2013, Naji Fateel was held incommunicado for three days and reportedly subjected to torture.<sup>13</sup>

On April 2, 2015, Bahraini security forces arrested Nabeel Rajab, a prominent human rights defender and president of the Bahrain Center for Human Rights (BCHR), on charges of “insulting a statutory body” and “spreading rumors during a time of war.” The charges were based on a series of tweets and an opinion piece published in the *Huffington Post*. The charges relate to Nabeel Rajab’s work in documenting the mistreatment and torture in Bahrain’s Jau Prison, as well as reporting on civilian deaths in Yemen, in contravention of a government prohibition of any public mention that is critical of the conflict.<sup>14</sup>

Nabeel Rajab has previously faced frequent physical intimidation, arrest, detention and travel bans and has been sentenced to prison in violation of rights of assembly and expression.<sup>15</sup>

On November 26, 2015 the Bahrain High Court of Appeal upheld an earlier sentence to one year imprisonment, suspended for three years, issued by the High Criminal Court against Ghada Jamsheer, Head of the Women’s Petition Committee. The human rights defender was sentenced for allegedly “assaulting a policewoman” during her time in detention in September 2014. No sufficient evidence was presented in support of the claim. Jamsheer was initially arrested on the basis of ten complaints filed against her on September 14, 2014. The complaints included posting “insulting” and “defamatory” tweets on alleged corruption in the management of King Hamad Hospital, which is run by the ruling family in Bahrain.<sup>16</sup>

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<sup>13</sup> Front Line Defenders, " Incommunicado detention of imprisoned human rights defender Mr Naji Fateel", Mar. 24, 2015, <https://frontlinedefenders.org/node/28313>>

<sup>14</sup> GC4HR, "End Reprisals Against Leading Human Rights Defender Nabeel Rajab", Apr. 13, 2015, <http://www.gc4hr.org/news/view/984>

<sup>15</sup> Front Line Defenders, "Nabeel Rajab" <https://frontlinedefenders.org/NabeelRajab>

<sup>16</sup> Front Line Defenders, " Bahrain – Prison Sentence Against Ghada Jamsheer Upheld," Nov. 27, 2015 , <https://www.frontlinedefenders.org/node/30178>

On December 15, 2015 Hussain Jawad, Chairman of the European-Bahraini Organization for Human Rights (EBOHR), was sentenced to two years imprisonment and a fine of 500 Bahraini dinars by the Fourth Lower Criminal Court. His sentence was based on charges related to “collecting money from Bahrain and abroad without a permit.” Hussain Jawad was initially arrested on February 16, 2015 and detained at the Criminal Investigations Directorate, while no reasons were provided for the arrest at the time. On May 19, 2015, he was released on bail, pending trial, after spending three months in detention.<sup>17</sup>

Human rights defenders and civil society members who participated in the United Nations events continued to receive threats of reprisals. Individuals were subjected to harassment and intimidation. On March 15, 2015, human rights defenders *Husain Abdulla*, Executive Director of Americans for Democracy & Human Rights in Bahrain (ADHRB), and *Abdulnabi Al-Ekri*, President of Bahrain Transparency Society and member of the Bahrain Human Rights Observatory (BHRO), were reportedly threatened by the Chairman of the Human Rights Committee in the Bahraini Parliament. During a side event organized by ADHRB at the Human Rights Council, a member of the MP’s delegation took pictures of the Bahraini human rights defenders with her mobile phone. Consequently, UN Security had to prevent the MP from attending the event.

During previous Human Rights Council sessions, people accredited by the Government of Bahrain also took pictures of human rights defenders as a means of intimidation. In addition, articles were written in the local Bahrain press defaming organizers of HRC events.<sup>18</sup>

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<sup>17</sup> Front Line Defenders, “Bahrain – Hussain Jawad Sentenced to Two Years’ Imprisonment,” Dec. 20, 2015, <https://www.frontlinedefenders.org/node/30310>

<sup>18</sup> GC4HR, “Bahrain: Human rights Defenders Husain Abdulla and Abdulnabi Al-Ekri Threatened at the Human Rights Council,” Mar. 19, 2015, <http://www.gc4hr.org/news/view/954>

## **Torture and Ill Treatment:**

Detainees in Bahrain continued to be subjected to torture and other forms of ill treatment, in contravention of Bahrain's obligations – as a state party – to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ministry of Interior's Criminal Investigations Directorate (CID) as well as police stations continued to carry out coercive interrogation. Former inmates of Jau prison reported that they were subjected to torture and physical assault. This included electric shock, suspension in painful positions, including by their wrists while handcuffed, forced standing, extreme cold conditions, and sexual abuse.<sup>19</sup>

Concerns about the harsh treatment of detainees at the Jau Prison in Bahrain intensified following a riot there in early March. The riot was put down by security forces using rubber bullets, tear gas, and shotguns, resulting in many injuries. After the riot was quelled, the detainees were allegedly forced to spend 10 days in the open courtyard of the prison before eventually being placed in two large plastic tents. Those accused of instigating the unrest were transferred to another section of the Jau prison, and there are allegations that they were subjected to ill treatment and torture.<sup>20</sup>

Within the same context, on March 21, 2015, Dr. Abduljalil Al-Singace, a prominent academic and blogger, began a hunger strike in protest of the ill treatment of inmates and the poor, unsanitary conditions at Jau Prison. Dr. Al-Singace was initially arrested for participating in peaceful protests during the 2011 uprising.<sup>21</sup> Dr. Al-Singace was subjected to torture and ill treatment, including forced standing, verbal and sexual assault, beatings, and prolonged solitary

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<sup>19</sup> Human Rights Watch, "The Blood of People Who Don't Cooperate," Nov. 22, 2015,

<https://www.hrw.org/node/283352>

<sup>20</sup> OHCHR, "Press briefing notes on justice for rights abuses in Nigeria, Central African Republic and Bahrain," 5 June 2015,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16043&LangID=E#sthash.UtQdWGTc.dpuf>

<sup>21</sup> GC4HR, " Bahrain: Free Dr. Abduljalil Al-Singace", 3 July 2015, <<http://www.gc4hr.org/news/view/1039>>



confinement. He was tried by a military court in June 2011 and sentenced to life in prison for allegedly plotting to overthrow the government. Despite suffering from a serious illness that requires urgent medical attention, Dr. Al-Singace has been denied access to medical treatment. He is further denied access to novels, television, radio, pens and papers. He is also not allowed access to religious books and prayer beads, and was not permitted a condolence visit when his nephew died.

Family members of human rights defenders have also been targeted. On November 5, 2015, Ali Isa Al-Tajer, brother of human rights lawyer *Mohammed Al- Tajer*, was arrested following a raid by security forces on his family house. During his detention, he was beaten, threatened with electric shocks, forced to strip naked, and sexually assaulted. He was further forced to stand and deprived of sleep for most of the time, and was forced to sign confession papers. The charges brought against Ali Isa include, joining a terrorist organization to overthrow the government by force and training individuals to use weapons for terrorist purposes.<sup>22</sup>

### **Revocation of Citizenship:**

Authorities in Bahrain continued to revoke the citizenship of those who express peaceful dissent and thereby intimidate others from exercising their right to freedom of expression. The Ministry of Interior is granted the power to revoke the citizenship of those it deems to have “caused harm to the interests of the Kingdom” pursuant to the amendments made to the Bahraini citizenship law in July 2014.

On January 31, 2015, the Bahrain Ministry of the Interior issued a decree revoking the citizenship of 72 individuals for committing “illegal acts.” The list of names provided by the Ministry included five human rights defenders Sayed Ahmed Alwadaei, Ali Abdulemam, Abbas Busafwan, Hussain Jasem, and Dr Ali Al-Dairi. The decree, which was approved by the Cabinet, was issued in accordance with Article 10(c) of the Bahraini Nationality Act and its amendments

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<sup>22</sup> GC4HR, “Update: Bahrain- Ali Isa Al-Tajer Charged Following Torture in Prison,” Dec. 3, 2015, <http://www.gc4hr.org/news/view/1136>.

(2014). It revoked the citizenship of the individuals for their alleged involvement in a number of acts, including “spying for foreign countries and recruiting people for social media,” “financing groups carrying terrorists operations,” “defaming the image of the regime,” “seeking to form a terrorist group,” “inciting and advocating regime change through illegal means,” “belonging to terrorist groups fighting abroad,” and “defaming brotherly countries”.<sup>23</sup>

### **Discrimination against Shia people:**

The authorities took no serious steps to end the systematic sectarian discrimination against Shia citizens. In order to exhibit some compliance with the BICI recommendations, the authorities adopted training programs to prevent the spread of sectarian and communal hatred and showed limited interest in repairing Shia places of worship, which had been severely damaged during clashes following the popular pro-democracy uprising in February 2011.<sup>24</sup> However, Shias continued to be targeted. In November 2015, a criminal court in Bahrain sentenced twelve Shia opposition members to life in prison and revoked their citizenship on charges of forming a terrorist group and targeting police with explosive devices.<sup>25</sup>

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<sup>23</sup> Front Line Defenders, "Five Human Rights Defenders Among the 72 Bahrainis who have had their Citizenship Revoked," Feb. 6, 2015, <https://frontlinedefenders.org/node/28047>.

<sup>24</sup> CIHRS, "Delivering Democracy, 5<sup>th</sup> CIHRS' Annual Report on the Human Rights Situation in the Arab World," Bahrain, 2013, [http://www.cihrs.org/?page\\_id=7156&lang=en](http://www.cihrs.org/?page_id=7156&lang=en)

<sup>25</sup> "Bahrain Sentences 12 Individuals to Life Imprisonment and Strip Off their Nationality For Carrying Out Bombings," *Reuters*, Nov. 16, 2015, <http://ara.reuters.com/article/topNews/idARAKCN0T50BN20151116>

## Morocco

Despite the lively public debate in Morocco around political reform and human rights, especially women's rights, in 2015 a number of civil society institutions, human rights associations, and independent media continued to face restrictions. Coinciding with the rapid deterioration of the human rights situation around the Arab region, the civil war in Libya, and the swift expansion of the Islamic State in Iraq and Syria, the major preoccupation of the monarchy and the ruling Islamist Justice and Development Party (PJD) was to maintain domestic stability. Conservative forces within the regime took advantage of the new political situation to continue curtailing freedom of expression on security and counterterrorism grounds.

### **Current Political Climate:**

Under the rules of the political game in Morocco, the monarchy and court plays a central role in determining the political balance of power, relying on strategies of gradual cooptation, isolation, and suppression if necessary. The PJD has proved adept at evasion and offering concessions to retain its place on the political landscape and in the Moroccan political equation. Some even credit it for the success

of the experiment, which has come to be seen as a model worth emulating for coexistence between a traditional, conservative, Islamist party and what remains of the Moroccan communist party, other traditional and right parties, and ideologically indeterminate parties created by the central authority. A discussion of the impact the PJD government has had on human rights cannot be had without examining its political incorporation and its relationship with other political forces, especially after it moved from the ranks of the opposition to a position where it holds political decision making power. In fact, it requires understanding the nature of the political system in Morocco, in which the government is an executive agency under the king, assisting him in executing public policies.<sup>1</sup> It should be recognized that the change in the kingdom's legal, constitutional framework has entailed no shift in the balance of power or the political reality, though the tragic end of most Islamist experiments in Egypt, Tunisia, Libya, and Syria has again made Islamists subject to suspicion and doubt. In contrast, Moroccan Islamists, especially the PJD, gained the sympathy of a large section of the electorate in the 2011 elections and the municipal and regional elections of September 4, 2015 with their slogan of fighting corruption, though it actually stood against a popular movement that called for an end to corruption and tyranny.

### **Impact of Legal, Constitutional, and Institutional Reforms:**

In recent years Morocco has seen a marked opening in political life and a desire to move toward greater respect for human rights in response to the Moroccan and international human rights movement, thanks to a bitter struggle waged by various democratic forces and the steadfastness of thousands of political prisoners and victims of enforced disappearance and secret detention and their families, and the families of the disappeared and victims of torture, as well as the efforts of rights groups, democratic national bodies, the media, and civil society institutions. Nevertheless, there has been no actual, full break with past practices of human rights violations.

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<sup>1</sup> Which certainly contravenes the provisions of Articles 87, 89, and 90 of the constitution, which considers the government an executive and regulatory authority.

In July 2011, Morocco adopted a new constitution that enshrines internationally recognized human rights and protects the human rights system, with due regard for their universal, indivisible nature. The new constitution upholds the human rights set forth in the Universal Declaration of Human Rights and establishes that international conventions ratified by Morocco take precedence over national legislation. Morocco undertook reforms announced in 2013 on its policies on migrants, giving temporary legal status to hundreds of refugees and thousands of other foreign nationals, most of them from sub-Saharan Africa.

Despite the strong human rights provisions in the constitution, these constitutional reforms did not lead to better practices, the adoption of practical legislation to enforce them, or a review of repressive laws. Now more than four years since the adoption of the new constitution, the Moroccan government and the political elite have failed to make its provisions a democratic, rights-oriented reality even as the status of rights and liberties is eroded by the absence of a statutory arsenal providing for accountability and preventing impunity.

Proposed amendments to the Moroccan Penal Code released by the Ministry of Justice and Liberties garnered much attention in rights and political circles. Some saw the amendments as supporting rights gains, while others saw them as a conservative proposal containing overly broad provisions that could be used to curtail liberties. The Ministry of Justice and Liberties created a legislative forum on its website on April 3, 2015 in order to solicit observations and proposals on the draft amendments.

According to an official document, the government proposal seeks a comprehensive revision that would reform penal policy and put in place alternate penalties. The reform would reduce statutes carrying the death sentence from 31 to 11 articles, reduce the sentences of 13 of 27 articles from life imprisonment to a defined term of imprisonment, stiffen the penalty for torture, and strengthen protection for women by expanding the concept of sexual harassment, criminalizing forced marriage, and stiffening the penalty for libel and slander if it targets women based on their gender.

Articles 231-1 to 231-8 carry a sentence of five–ten years imprisonment and a fine of 5,000–50,000 dirhams for torture, without prejudice to other harsher criminal provisions. The reforms would increase the penalty to 10–20 years imprisonment and a fine of 20,000–50,000 dirhams if torture is proven in the following conditions: if committed by a group of persons as principal or secondary defendants with premeditation or with the use of arms or threat; if perpetrated against a judge, police personnel, or a public servant in the course of duty; or against a witness, victim, or civilian because of his testimony, a complaint, or a lawsuit filed or to prevent such. The sentence may reach 30 years imprisonment and a fine of 20,000 dirhams under Article 231-4 if the victim of the torture is a minor, has a special status due his/her advanced age, disability, or illness, or is a pregnant woman, provided her pregnancy is manifest and known to the perpetrator or if the torture is preceded or accompanied by sexual assault. This proposal is an important step toward meeting Morocco’s international obligations to prohibit all forms of torture and ensure accountability for it.

The proposed penal amendments criminalize sexual harassment in Article 503-1, which prescribes a penalty of one–three years imprisonment and a fine of 5,000–50,000 dirhams for any person who uses orders, threat, means of coercion, or other means thereby exploiting his authority over another person for sexual purposes. The same penalty is applicable to anyone who harasses a family member or someone over whom he has custody, care, or guardianship, or if the victim is a minor. All of these are cases involving aggravating circumstances. In all other cases, the proposed amendment sets forth a penalty of imprisonment of one–six months and/or a fine of 2,000–10,000 for anyone who intentionally harasses another person in public or other places by deed, word, or gestures of a sexual nature or for sexual purposes and anyone who sends a written, telephonic, electronic, or recorded message or images of a sexual nature or for sexual purposes to another person. The penalty is doubled if the harassment is perpetrated by a work colleague or persons tasked with maintaining order and security in public or other spaces. The proposed change is a victory for women who have tirelessly demanded protection from harassers, whether in the workplace or public places.

The proposed amendment also criminalizes blasphemy, which heightens fears that this provision could be used to curtail freedom of opinion and expression, academic freedom, and freedom of religion and belief. In addition, although some have called for the repeal of the statute punishing public eating in Ramadan, under the proposed changes, the crime would carry a sentence of one–six months in prison and/or a fine of 2,000–10,000, up from the current penalty of a fine of 1,200 dirhams.

### **Apprehensions Around the Counterterrorism Law:**

The Moroccan parliament ratified changes to the counterterrorism law on May 20, 2015, despite fears from rights associations. The amendments place additional restrictions on travel to certain countries plagued by conflict and tension and on acts that advocate, praise, or promote terrorist entities, organizations, gangs, or groups. The provisions are marked by their vague language, leaving ample interpretive room for judges when applying them. This could lead to the same violations seen in the wake of the application of the 2003 law—officially recognized as individual cases of overreach—especially given the absence of any legal accountability for those who violated human rights in applying that law

The government and parliament did not accept the proposals of the National Human Rights Council, most significantly that the bill be modified to clearly define the objective of terrorist entities, organizations, gangs, or groups as spreading fear, intimidating the populace, or compelling the government or an international organization to commit or refrain from committing an act, in order to avoid all non-necessary restrictions on the freedom of movement as guaranteed under the constitution and the International Covenant on Civil and Political Rights. The council also recommended defining training for terrorism as “providing training in the manufacture or use of explosives, firearms or other weapons, toxic or hazardous substances, or special technologies with the goal of committing a terrorist crime or contributing to its commission, knowing that the training provided is likely to be used to achieve this goal.” The council further suggested including a provision that would make recruiting or using children in terrorist groups an aggravating

circumstance, as well as avoiding criminalizing praise for terrorism as a synonym for ‘advocate’ and

‘promote.’ Instead, the council proposed replacing ‘praise’ with more precise terminology, such as public incitement to the commission of a terrorist crime. The National Human Rights Council suggested that the provision should be inspired by Article 5 of the Council of Europe Convention on the Prevention of Terrorism, which defines “public provocation to commit a terrorist offence” as “the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed.” More specifically, the council recommended replacing the terms ‘advocate,’ ‘praise,’ and ‘promote’ in the second paragraph of Article 218-2 with a provision that would criminalize using the means set forth in the paragraph to publicly incite to joining terrorist groups. It also recommended removing the term ‘persuade another person’ while maintaining the terms ‘urge’ and ‘incite’ as a more specific standard, as well as the term ‘entice’ as related to minors.

### **Debate Over Enacting Gender Equality:**

The National Human Rights Council gave major attention to constitutional principles on gender equality, parity, and non-discrimination, working on two principal priorities: submitting proposals for the creation of a commission on parity and anti-discrimination as provided for in Articles 19 and 164 of the constitution and fleshing out the legal framework for countering violence against women and children. In this context, the council submitted a report, the first of its type, on the topic of gender equality and parity. The report included several recommendations to the government, most importantly amending the family law to give women equal rights with men on marriage and divorce, the relationship with children, and inheritance.

The report stated, “unequal legal provisions regulating inheritance increase the fragility and poverty of women and girls, and endowments and rules that govern everyone contribute to stripping



them of their right to land or inheritance.” The report supported its recommendation for equality in inheritance by citing Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Article 19 of the constitution, which states that women and men shall enjoy, on equal footing, civil, political, economic, social, and cultural rights and that the state shall strive to achieve equality between men and women. The report also stressed the need for the strict application of provisions of the family law on marital support and expanding support for specific measures to educate and train all judicial personnel and hold them accountable.

In its recommendations, the National Human Rights Council urged the government to grant women the right to pass citizenship to their foreign husbands pursuant to the same conditions applied to foreign wives of Moroccan men, to pass a law to suppress all forms of violence against women, and to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The council further recommended withdrawing explanatory declarations on the CEDAW and taking action to circulate the convention more broadly, particularly among judges and judicial personnel, while urging them to consider its standards and provisions in the course of duty.

In response, the general-secretariat of the PJD stressed that this recommendation encroaches on the office of the commander of the faithful and the royal speech given to the first session of the 2013 legislative session, in which the king said that as commander of the faithful, he could not sanction that which God had proscribed or proscribe that which God had sanctioned. The PJD noted that the National Human Rights Council’s recommendation would spark a profound debate on matters regulated by unequivocal Quranic proofs, among them the matter of inheritance. Rejecting the council’s recommendation, Mohammed al-Fizazi, one of the most prominent Salafi sheikhs in Morocco, said that the council could not interfere in matters outside its remit and that those who understand God’s book are the ones fit to interpret it. He added that the recommendation was an assault on institutions, insofar as Morocco is an Islamic state, as well as an infringement on the function of Islamic scholars and the Supreme Scholarly Council, headed by the king in his capacity as commander of the faithful. For his part, government spokesman

Mustafa al-Khalfi had not considered the matter since the council had not directly contacted the government.

### **Implementation of the Recommendations of the Equity and Reconciliation Commission:**

The creation of the Equity and Reconciliation Commission (IER) had a strong impact on Moroccan society, demonstrating that the nation had decided to courageously face its painful past, take action to bring justice to victims, and strive to expose the truth of grave human rights violations, manifested as systematic violence against the citizenry and the arbitrary exercise of power that led to enforced disappearance, arbitrary detention, and torture of all kinds. The Moroccan authorities presented the IER as the centerpiece of the process of strengthening democracy and rule of law, but continued human rights violations call this claim into question.

Although nine years have passed since the king ratified the final report of the IER, on January 6, 2006, and although its recommendations have been integrated into the constitution, most and the most significant recommendations have not been implemented.<sup>2</sup> These recommendations include steps that require only political will, such as an official, public state apology and vow of non-repetition, as well as the repeal of the death penalty, combatting impunity, better security governance, and the ratifications of conventions and protocols. Moreover, the truth is still unknown in several significant cases, particularly the case of Mehdi Ben Barka, Omar Benjelloun, Mohamed Karina, and Abdellatif Zeroual; the fate of several still missing persons such as Houcine El Manouzi, Abdelhaq Rouissi, and Abdelhaq al-Wousouli; and incidents seen in the countryside, desert, and elsewhere. In addition, individuals were identified as the parties responsible for grave human rights violations in lieu of assigning

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<sup>2</sup> On August 25, 2015, the Moroccan League for the Defense of Human Rights sent a letter to Prime Minister Abdelilah Benkirane about the disregard shown to the urgent demands of a group of victims of grave human rights violations during the Years of Lead, “who were not comprehensively included in the settlement of the issue or were arbitrarily denied social integration.”

institutional responsibility, and the Moroccan judiciary has not pursued cases against persons involved in these violations.

### **Freedom of Association, Opinion, and Expression:**

Numerous human rights defenders in Morocco have been subjected to violence, prosecution, defamation, and imprisonment, while many persons of conscience and social activists continued to be detained, especially among the field coordinators of unemployed graduates. The offensive against the rights movement and the Moroccan League for Citizenship and Human Rights (LMCDH) has escalated. Several protest events have been banned, most recently a march by the LMCDH to mark Global Solidarity Day and the refusal to turn over the legal file to the Tangier branch.<sup>3</sup> Dozens of activities by the Moroccan Association for Human Rights were prohibited and various branch offices around the country were denied permits.

In late 2015, the authorities referred seven human rights defenders and journalists to trial. Five were charged with receiving foreign funding with the goal of infringing public security, while two were charged with failure to declare receipt of foreign funding. The charges are based on a vague, overly broad provision in the Penal Code.

Advocates of an election boycott were detained around the country, including members of the Democratic Way Party and activists with the National Association of Unemployed Graduates and the February 20 movement. Their publications were also confiscated and they were denied access to public media to present their position to the public. The Moroccan authorities also continued to reject the establishment of several associations by denying them receipts of deposit although they fulfilled all legal procedures. These include the Association for Digital Rights, Freedom Now which defends press freedom, and associations defending the rights of Sahrawis, journalists, Amazigh, sub-Saharan African migrants in Morocco, and unemployed university graduates, as well as charitable, cultural, and educational associations led by members of al Adl wal Ihsane.

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<sup>3</sup> See the statement from the parliament of the LMCDH, Kenitra, Jan. 21, 2015, [https://swadeh-24.blogspot.com.eg/2015/01/blog-post\\_5.html](https://swadeh-24.blogspot.com.eg/2015/01/blog-post_5.html).

The authorities have refused to license a number of organizations with headquarters in the Western Sahara, including the Collective of Sahrawi Human Rights Defenders (CODESA), the Sahrawi League for the Defense of Human Rights and the Protection of Natural Resources, the Samara branch of the Moroccan Association for Human Rights, and the Laayoune branch of the Moroccan Commission for Human Rights. Nevertheless, in a first, a Sahrawi human rights association strongly critical of the government was legally licensed—ten years after the Sahrawi association first submitted its application and nine years after a court ruling stating that the authorities were unlawfully impeding the registration of the association.

Regarding press and media freedom, the Moroccan authorities continued to crack down on journalists, artists, activists, and human rights advocates, some of whom were denied freedom of movement. Freedom of expression and journalists were constrained by laws that criminalize acts considered an affront to the king, Islam, or Moroccan sovereignty over the Western Sahara. Several independent journalists were convicted of publishing false news, libel, and insult and sentenced with heavy fines.

In March 2015, the Rabat First Instance Court sentenced journalist Hicham Mansouri to ten months in prison on charges of adultery following an unfair, politically motivated trial. The Kenitra First Instance Court sentenced cartoonist Khalid Gueddar to three months in prison on charges of public intoxication and insulting a regularly constituted authority.<sup>4</sup> In November 2015, journalist Taoufik Bouachrine, the managing editor of *Akhbar al-Youm*, was sentenced to two months in prison (suspended) and fined 1.6 million dirhams on libel charges, after he published a news story based on leaked diplomatic cables.<sup>5</sup> The year 2015 also saw tension between the Moroccan government and Reporters Without Borders, after the latter published a report in March 2015 criticizing what it called deteriorating press and media freedom in the kingdom, citing several

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<sup>4</sup> See Amnesty International, 2015 annual report, chapter on Morocco and Western Sahara.

<sup>5</sup> Ibid.

incidents. The report also accused the government of pressuring journalists to stay clear of sensitive topics.

### **Dispute over the Western Sahara:**

Although the Kingdom of Morocco criminalized torture in 2006 and enshrined the prohibition in the 2011 constitution, it continues to offer protection for torturers and other human rights violators, who are subject to no accountability or prosecution, especially in the Western Sahara.

A report of the UN secretary-general on the situation in the Western Sahara, released on April 15, 2015, said that the Moroccan authorities had not permitted demonstrations in the region demanding the right of self-determination, adding that Moroccan security forces continue to disperse such gatherings with excessive force, especially against women and children. In some cases, demonstrators and activists have been subjected to arbitrary arrest, torture, ill treatment, and legal action. The UN Working Group on Arbitrary Detention remarked on the imprisonment of 21 Sahrawis from Akdim Izik pursuant to a military court ruling in 2013.

Human rights in the Western Sahara took a new turn following official recognition of the Sahrawi Association of Victims of Grave Violations of Human Rights Committed by the Moroccan State (ASVDH), which was approved for registration under Moroccan law provided a general assembly of Sahrawi human rights defenders is convened before the deposit of receipt is obtained. With this step, Morocco affirms the right of Sahrawis to establish civic organizations, perhaps advancing their right to the establishment of political frameworks and organizations.

A UN Security Council resolution<sup>6</sup> of April 28, 2015 stressed the importance of improving the human rights situation in the Western Sahara and the Tindouf camps and urged the competent parties to work with the international community to develop and implement credible, independent measures to this end. The Fourth Committee of

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<sup>6</sup> The full text of UNSC Resolution 2218 on the Western Sahara can be found at <https://mapnr.blogspot.com/2015/04/2218.html>.

the UN General Assembly on October 15, 2015 approved, without a vote, a resolution to support the UN political track for the resolution of the Western Sahara issue and called on regional states to fully cooperate with the UN secretary-general and his personal envoy. The UN stressed the need for all parties to continue to show the political will to work in a climate conducive to dialogue and to enter with good faith and without preconditions a phase of intensive negotiations, taking into consideration efforts and new developments since 2006, as well as to ensure implementation of UNSC resolutions.

In conclusion, despite increasing human rights violations over the last two years, reform initiatives on the legislative, institutional, and social fronts, particularly seen in the active role played by the National Human Rights Council, constitute an opportunity that must be seized by all active parties, for these will be reflected in policies and decisions that touch every aspect of Moroccan society, including freedom of the press and human rights organizations. The actual, public stance taken on these initiatives by the monarchy will determine the direction and pace of reform in Morocco, or set the stage for a greater setback.

# Palestine

Palestinian-Israeli political negotiations for a permanent solution to the conflict came to a complete standstill as Israel took and continues to take unilateral action, as the occupying force, to change the facts on the ground in the occupied Palestinian territory (OPT), amid modest attempts by the Palestinian leadership to respond to these major shifts. In fact, successive Israeli governments, in the West Bank and particularly in East Jerusalem, have followed the same policy of annexing land and creating demographic changes aimed at moving Israeli civilians into planned residential areas to facilitate the appropriation of more Palestinian land and resources. Land appropriation has been accompanied by the forced removal of Palestinian communities, in the service of this same expansionist policy. The settlement enterprise is secured through various channels for oppressing the Palestinian population, including the use of military law to suppress any organized protest activity through collective arrests, closure orders, checkpoints, and the separation barrier. These policies seriously erode the fundamental rights of Palestinians.<sup>1</sup>

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<sup>1</sup> See the report of the independent international fact-finding mission on Israeli settlement activity, <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/FFM/FFMSettlements.pdf>.

Meanwhile, the Gaza Strip remained under siege for the eighth year in a row, completely cut off from all directions. The siege has catastrophic humanitarian implications and forestalled the possibility of reconstruction after the attack on Gaza in 2014.<sup>2</sup> Some urban centers in the West Bank, especially Ramallah, the de facto capital of the Palestinian Authority (PA), continue to maintain a sort of ersatz economy thanks to funds from international donors, which finance an important part of public services, and the network of civil society organizations. Amid this, the most vulnerable communities in Palestine, especially in Area C<sup>3</sup> and in cities and villages around the separation barrier and settlements, continue to face daily provocations and insults from settlers and occupation soldiers, including restrictions on movement and threats to life and safety, which gravely infringe basic human rights.

Although officially a Palestinian national unity government was formed, internal divisions between the West Bank and Gaza continue to shape the political landscape. Government bodies in the West Bank and Gaza, especially the security apparatus, operate independently in these two regions. Opposition political activists and human rights defenders in Palestine are subject to all manner of restrictions and violations, especially those related to expression of opinion, detention, freedom of assembly and protest, freedom of association, and judicial independence,<sup>4</sup> as well as torture and ill treatment in prisons.<sup>5</sup> Another wave of popular anger erupted in the OPT in October 2015, highlighting three features of the status quo on the OPT: divisions within the PA, increasing violations of Palestinian human rights and humanitarian law by Israel and the PA, and the absence of a vision to resolve the crisis for the foreseeable future. This report will examine each of these features.

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<sup>2</sup> See <http://gaza.ochaopt.org/2015/07/the-gaza-strip-the-humanitarian-impact-of-the-blockade/>.

<sup>3</sup> Area C falls completely under Israeli security and administrative control.

<sup>4</sup> Annual report of the Independent Commission for Human Rights (ICHR).

<sup>5</sup> Report from the Palestinian Center for Human Rights.



## **Internal political divisions and the ramifications for human rights:**

Since October 2015, the OPT has seen a wave of unrest. One proximate cause could be the public shock at extremist settlers setting fire to the home of the Dawabshe family in July 2015.<sup>6</sup> In the wake of the attack, settlers were shot in Nablus in retaliation.<sup>7</sup> Another driver of the unrest could be celebrations of the Jewish new year, which saw wide-scale incursions in the Aqsa Mosque complex, heightening fears of the Judaicization of Jerusalem.<sup>8</sup> A third possible spark for the unrest is the Palestinian President Mahmoud Abbas's speech to the UN General Assembly in September, in which he suggested that the PA was no longer bound by the Oslo Accords.<sup>9</sup>

Regardless of the cause, the fact is that the intifada and wave of anger is largely being driven by the post-Oslo generation. The average age of casualties in this intifada is very low: thus far, adolescents have been both the primary agents and victims, in daily demonstrations, stone throwing, and knife attacks.<sup>10</sup> It is clear that desperation is what is driving Palestinian youth to violence, largely due to their loss of faith that their elders will do anything. Palestinians have been repeatedly disappointed by leaders and institutions that have proven incapable of action—political parties, unions, civic associations, even notable families. Historically, the first intifada that began on December 8, 1987 was largely led by the Palestinian Liberation Organization (PLO), then based in Tunis.<sup>11</sup> In the second intifada, Palestinian society was sharply divided into two primary factions, Fatah and Hamas.<sup>12</sup> Now, the latest poll shows that the Palestinian leader with the most public trust is President Mahmoud Abbas, with

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<sup>6</sup> See, for example, <http://www.aljazeera.com/news/2015/07/palestinian-baby-burned-death-extremist-attack-150731035331224.html>.

<sup>7</sup> See, for example, <https://www.maannnews.com/Content.aspx?id=767914>.

<sup>8</sup> See, for example, <http://www.al-monitor.com/pulse/originals/2015/09/jordan-israel-relations-ties-temple-mount-violence.html>.

<sup>9</sup> For the full text of the speech, see <http://www.timesofisrael.com/full-text-of-abbas-2015-address-to-the-un-general-assembly>.

<sup>10</sup> See, for example, [www.ibtimes.com/rising-death-toll-palestinians-west-bank-call-third-intifada-against-israel-2137292](http://www.ibtimes.com/rising-death-toll-palestinians-west-bank-call-third-intifada-against-israel-2137292).

<sup>11</sup> <http://www.arij.org/atlas40/chapter2.5.html>.

<sup>12</sup> [www.medeabe.be/en/themes/arab-israeli-conflict/second-intifada/](http://www.medeabe.be/en/themes/arab-israeli-conflict/second-intifada/).

just 16.1 percent approval, followed by former Prime Minister and Hamas leader Ismail Haniyeh with 12.5 percent.<sup>13</sup>

Palestinians in the West Bank are exhausted by the lack of a political vision and the steady encroachment of Israeli settlers on their homes. They have no real economy and suffer from high rates of unemployment, especially young people with a higher education. They feel that the current leadership is enfeebled and incapable of realizing their aspirations for a normal, dignified life free of restrictions on movement, land confiscations, and settler violence.

In the Gaza Strip, Palestinians have been sapped by the ongoing siege, the lack of any reconstruction more than a year after the attack, and the failure to meet their fundamental needs like electricity and clean water. In East Jerusalem, which was illegally annexed by Israel, Palestinians feel everyone has abandoned them and left them without political representation while their national institutions have been shut down. Since the Oslo Accords were signed in 1993, Jerusalem has been ignored by Palestinian politicians, the city's population left to fend for itself in the face of multiple Israeli government policies designed to force them out of the city.<sup>14</sup>

All over the OPT, anger is rising at corruption, favoritism, and the lack of transparency in administrative affairs on the part of PA institutions. The continued internal division between Hamas and Fatah is one of the major causes of the general frustration among Palestinians. In fact, despite the official formation of a national unity government led by technocratic Prime Minister Rami Hamdallah in June 2014,<sup>15</sup> any progress toward Palestinian reconciliation is solely on paper. The most contentious sector, the Interior Ministry, is still deeply divided. In addition, the crisis of some 50,000 civil servants hired by Hamas to replace those that went on strike following the coup of 2007 remains unresolved, and they have not been paid for months.

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<sup>13</sup> [www.qudsn.net/article/74173](http://www.qudsn.net/article/74173).

<sup>14</sup> For more information, see <http://www.acri.org.il/en/wp-content/uploads/2015/05/EJ-Facts-and-Figures-2015.pdf>.

<sup>15</sup> See, for example, <https://www.theguardian.com/world/2014/jun/02/palestinian-unity-government-sworn-in-fatah-hamas>.

## PA's violations of human rights:

Palestinian security forces and the executive, in both the West Bank and Gaza Strip, routinely violate human rights.<sup>16</sup> Most of these violations involve restrictions on freedom of expression of opinion, committed through the arrest of activists, journalists, academics, and human rights defenders in the broadest sense,<sup>17</sup> as well as through the suppression of freedom of assembly, protest, and association.<sup>18</sup> This increasingly oppressive climate is supplemented by executive restrictions on judicial independence,<sup>19</sup> as well as torture and ill treatment in prisons.<sup>20</sup>

A major issue in legal and procedural practices in Palestine concerns prolonged pretrial detention, as the public prosecutor has broad latitude to extend terms of detention pending investigation. Prisoners of conscience can be detained by the public prosecutor for 45 days pending investigation, while magistrates who consider requests for extension rarely deny such requests and typically grant the full 15-day extension.

During detention pending investigation, detained persons are often forced to confess or sign documents that can be used against them to extend their detention. In some cases, this may be accompanied by harsh interrogations that amount to torture. Under the legal system, the security apparatus can hold an individual for at least two months without evidence or an effective means of appeal and in extremely harsh conditions.

According to a Human Rights Watch report issued in 2014, Palestinian courts “did not find any West Bank security officers

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<sup>16</sup> See

[http://www.pchrgaza.org/files/2015/annual\\_pchr\\_eng\\_2014.pdf](http://www.pchrgaza.org/files/2015/annual_pchr_eng_2014.pdf).

<sup>17</sup> See

<http://www.ichr.ps/ar/1/6/1359/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-2014-%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-2014.htm>.

<sup>18</sup> See

[http://www.alhaq.org/arabic/index.php?option=com\\_content&view=article&id=773:2016-02-17-10-22-59&catid=91:2012-07-14-11-00-24&Itemid=231](http://www.alhaq.org/arabic/index.php?option=com_content&view=article&id=773:2016-02-17-10-22-59&catid=91:2012-07-14-11-00-24&Itemid=231).

<sup>19</sup> ICHR annual report.

<sup>20</sup> Report of the Palestinian Center for Human Rights, observation 14.

responsible for torture, arbitrary detention, or prior cases of unlawful deaths in custody...[or] prosecute officers for beating demonstrators...” As a result, the security apparatus feels it can violate the right of assembly and protest with impunity.<sup>21</sup> In its 2013 report, the Euro-Mediterranean Human Rights Monitor documented 723 cases of arbitrary detention and 1,137 cases in which individuals were interrogated by Palestinian security actual charges, court orders, or arrest warrants. Of these cases, 56 were in relation to persons detained for publications on Facebook, including 19 journalists and several cartoonists and writers. The report also documented 117 cases of severe torture.<sup>22</sup>

One consequence of domestic divisions is that the Palestinian Legislative Council is not operational. All laws and regulations adopted since the split are thus unconstitutional since they have not passed through the legislative process set forth in the Basic Law.<sup>23</sup> This situation has only deepened internal legal divisions and impeded efforts to create a uniform, consistent legal framework governing both Palestinian regions. Many violations are also linked with the lack of parliamentary oversight.

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<sup>21</sup>Human Rights Watch, World Report 2014: Israel and Palestine, <https://www.hrw.org/world-report/2014/country-chapters/israel/palestine?page=3>; See also, Sabrien Amrov and Alaa Tartir, “After Gaza, What Price Palestine’s Security Sector?” al-Shabaka, Oct. 8, 2014, <https://al-shabaka.org/briefs/after-gaza-what-price-palestines-security-sector/>.

<sup>22</sup><http://www.euromid.org/ar/article/497/%D8%B1%D8%B5%D8%AF-800-%D8%AD%D8%A7%D9%84%D8%A9-%D8%A7%D8%B9%D8%AA%D9%82%D8%A7%D9%84-%D8%AA%D8%B9%D8%B3%D9%81%D9%8A-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D8%B1%D8%A7%D8%B6%D9%8A-%D8%A7%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D8%A9#sthash.qXhF9jQi.dpbs>.

<sup>23</sup> In the West Bank, the president invokes Article 43 of the Basic Law, which allows him to pass decrees with the force of law in the temporary absence of a legislature, in a state of emergency, or in between legislative sessions. In the Gaza Strip, the Legislative Council, without a quorum, meets and votes on bills drafted by the resigned government and issues them as laws without presidential ratifications. These laws are applied only in the Gaza Strip.

One of the best protections for human rights remains an independent judiciary. Reforms of the judiciary must therefore be undertaken to guarantee its independence from political considerations and executive interference. Currently, the judicial system in both the West Bank and Gaza Strip is subordinate to the ruling political authority, the president in the West Bank and the ruling authority in Gaza. The weakness of the judiciary is primarily due to legal regulation and operation of the Supreme Judicial Council and the method by which its president is appointed, namely, by executive decree. The Independent Commission for Human Rights (ICHR) has expressed its concern about “the ambiguous relationship between judicial institutions and bodies, especially in light of various interpretations on the nature and specificities of the relationship between [state] authorities.” It was also concerned by “the increasing case load in the courts, which reinforces the status quo of the judicial system.”<sup>24</sup>

Other violations encountered by youth activists include the confiscation of their travel documents and the denial of work through pressure on employers, either by the executive or security authorities.

### **Escalation of Israeli violations against Palestinians:**

Israel has long employed a system of military detention to target child stone throwers. In cities where settlement activity is particularly intense, especially in the West Bank, Israel begins targeting the local population from a very young age.<sup>25</sup> East Jerusalem and Hebron have the highest rates of child arrests. Under this system of wide-scale detention, children are subjected to all manner of violations, from abductions from their parents’ homes to poor conditions in detention facilities.

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<sup>24</sup> In some cases, judges have been punished for deviating from politically acceptable conduct. See the ICHR report of 2008.

<sup>25</sup> See, for example, <http://www.alhaq.org/publications/Special.Focus.on.children.pdf>, and [http://www.dci-palestine.org/israel\\_targets\\_palestinian\\_children\\_in\\_east\\_jerusalem\\_with\\_harsh\\_policies](http://www.dci-palestine.org/israel_targets_palestinian_children_in_east_jerusalem_with_harsh_policies).

The detention system cannot be separated from the larger enterprise of land appropriation and colonization. The Israeli judicial system has proven to be an extremely effective tool for continued expansionist, apartheid policies. Israel uses both military and civilian courts, with jurisdiction over East Jerusalem residents and Palestinians inside the Green Line, to target children. It also makes liberal use of old laws from the British Mandate period, the same laws that inspire military orders applied to Palestinians in the rest of the OPT.<sup>26</sup> A system that allows the criminalization of any Palestinian political activity has made political detention a routine part of daily life in the OPT throughout the 48 years of military occupation.<sup>27</sup> Israel's detention system entails numerous violations of international humanitarian law and human rights law, which have been condemned and spotlighted in various international forums. Since October, Palestinians have also come under increasing collective punishment by Israel, manifested in restrictions on travel, forced displacement, and ever more frequent cases of extrajudicial killing.

House demolitions are the most common punitive measure used by the occupation authorities against Palestinians. Israeli law has permitted the demolition of Palestinian homes as punishment for "security attacks" since the second intifada. Although the measure became less frequent over the last decade, it has returned in response to the most recent intifada. The Israeli prime minister issued a decree mandating the immediate demolition of the homes of suspected attackers.<sup>28</sup> Homes are demolished even when the offender is killed or convicted, regardless of his age or social status, and demolitions are implemented without a judicial ruling establishing the guilt of the suspected attacker. The measure targets the family of attackers as a means of creating deterrence within the community, although international customary law officially prohibits collective punishment, which can amount to a war crime under the Fourth Geneva Convention and The Hague Regulations.<sup>29</sup> In response to this measure, Palestinian civil society collects funds to rebuild the homes of the targeted families. In any case, it appears that collective

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<sup>26</sup> <http://www.adalah.org/en/content/view/8652>.

<sup>27</sup> [https://www.icrc.org/eng/assets/files/other/irrc\\_866\\_weill.pdf](https://www.icrc.org/eng/assets/files/other/irrc_866_weill.pdf).

<sup>28</sup> <http://www.un.org/apps/news/story.asp?NewsID=52567#.VpaEQvnhDIU>.

<sup>29</sup> [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule103](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule103).

punishment has the opposite of the desired impact and is stoking much popular anger.<sup>30</sup>

Another form of collective punishment involves the cancellation of permanent residency status for Palestinians in East Jerusalem. The legal status of Jerusalemites is exemplary of the administrative labyrinths in which Israel contains Palestinians to conceal its policy of forced displacement and land appropriation, ostensibly carried out pursuant to formal legal frameworks. When East Jerusalem came under military occupation, with the rest of the West Bank and the Gaza Strip, Israel conducted a census and distributed identity cards to the population in the OPT. The population of East Jerusalem received blue identity cards, similar to those given to Israeli citizens, since East Jerusalem was illegally annexed by Israel as “the unified capital of the state of Israel.” When the Oslo Accords were signed, the status of Jerusalem was set aside for final negotiations. As a result, Palestinians elsewhere in the OPT are subject to the PA’s administrative rules, while East Jerusalemites are still subject to the same laws in force since 1967.

A shift took place in 1991, which coincided with the beginning of the Madrid talks: Israel revoked the general permit for all residents of the OPT to move freely to Israel, including East Jerusalem, marking the beginning of restrictions on movement in the city. In 1992, a ruling issued by the Israeli High Court affirmed the applicability of the 1952 law on entry to Israel for East Jerusalem residents, thus giving such residents the status of recent Israeli immigrants. East Jerusalemites were subsequently required to prove that the “center of their lives” was in the city to maintain residency. The requirement ultimately led to the expulsion of thousands of Palestinians from Jerusalem and denied them their right to live in the city of their birth.<sup>31</sup>

The 1952 law also gives the Israeli interior minister broad discretionary power to strip any person of the right of Jerusalem residency. The interior minister used this authority to strip residency from three members of the Palestinian Legislative Council elected in

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<sup>30</sup> <http://www.alternativenews.org/english/index.php/news/1213-palestinians-unite-to-rebuild-houses>.

<sup>31</sup> <http://www.palestine-studies.org/jq/fulltext/78127>.

2006.<sup>32</sup> In response to the latest intifada, the prime minister issued a decree in October allowing the revocation of residency permits for families suspected of involvement in “security acts” against the state.<sup>33</sup> This is yet another form of collective punishment which has led to displacement of more Palestinians from the city. An appeal challenging the decree is still pending before the Israeli High Court.<sup>34</sup>

An additional measure constituting collective punishment is the refusal of the occupation authorities to turn over the bodies of alleged perpetrators of stabbing attacks of Israelis after they have been killed by Israeli soldiers. Thus far, Israel has held 54 bodies in “numbered graves,” refusing to turn the remains over to the families for burial. Several demonstrations have been staged in the West Bank to protest this unjustifiable measure.

In the face of crimes by the Israeli occupation authorities, Palestinian rights organizations continue to be internationally active to bring justice and accountability. Efforts are currently focused on supporting the preliminary investigations being carried out by the Office of the Prosecutor at the International Criminal Court, launched in January 2015 pursuant to Palestine’s declaration that it accepts the court’s retroactive jurisdiction. A number of human rights defenders in Palestine face smear campaigns, death threats, and increasing pressure as a result of their work on this issue and their cooperation with the ICC.<sup>35</sup>

As the military occupation becomes more entrenched and with the presence of a half million Israeli settlers in the OPT, the two-state solution faces growing challenges and is increasingly complicated by Israeli policies of settlement and annexation. The Israeli left, which supports the two-state solution, has been thoroughly enfeebled by successive right-wing governments that include settlers and their defenders, of the likes of Justice Minister Ayelet Shaked and

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<sup>32</sup><http://www.adalah.org/en/content/view/6713>.

<sup>33</sup><http://www.timesofisrael.com/pm-to-forward-bill-allowing-state-to-revoke-residency-of-terrorists>.

<sup>34</sup><http://www.cac.alquds.edu/images/pdf/recommended-studies/punitivereport.pdf>.

<sup>35</sup><http://www.alhaq.org/advocacy/topics/human-rights-defenders/1026-al-haq-under-attack-staff-members-life-threatened>.



Education Minister Naftali Bennett, both of whom publicly advocate the annexation of the West Bank.<sup>36</sup>

The Israeli left and Israeli human rights organizations that call for an end to the occupation are currently targeted by a crackdown and treated as potential traitors by the media, indicating the present public mood in Israel, which is utterly opposed to the rights of the Palestinian people and a withdrawal from the OPT.<sup>37</sup> At a speech given to the Saban Forum in December 2015, US Secretary of State John Kerry sparked reactions when he said, “The status quo is simply not sustainable. And the fact is that current trends including violence, settlement activity, demolitions, are imperiling the viability of a two-state solution. And that trend has to be reversed in order to prevent this untenable one-state reality from taking hold. I can’t stress this enough.”<sup>38</sup>

There is also a clear shift among Palestinian attitudes to a two-state solution. A recent poll found for the first time since negotiations with Israel began that most Palestinians no longer support a two-state solution.<sup>39</sup> It has become clear that the slow but sure cementing of the military occupation is burying the possibility of a negotiated two-state settlement. The future looks extremely dim for Palestinians if the current situation continues and should sound an alarm. Amid the unrest in the region, the right-wing Israeli government could very well succeed in extinguishing Palestinian aspirations for freedom by permanently annexing the West Bank and maintaining the Gaza Strip as a separate, closed entity. If that happens, it will utterly forestall any chance for Palestinians to exercise their right of self-determination.

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<sup>36</sup><http://www.thenational.ae/world/middle-east/new-israeli-justice-minister-expected-to-crack-down-on-palestinians>; <http://www.timesofisrael.com/bennett-urges-israeli-annexation-of-west-bank/>.

<sup>37</sup> <http://www.washingtontimes.com/news/2015/dec/20/dovish-israeli-groups-say-they-face-harsh-crackdown/>.

<sup>38</sup> <http://mondoweiss.net/2015/12/untenable-reality-supporters/>.

<sup>39</sup> <http://www.reuters.com/article/us-palestinians-israel-survey-idUSKCN0RL1DF20150921>



Section Two  
**Pity the People:**  
**Undermining the Role of the UN**  
**in facing the Crisis of Human Rights**



The Responses of the United Nations<sup>1</sup> have not reflected the extent of the human rights crisis in the Middle East and North Africa. The worst human rights violators such as Russia, Saudi Arabia, China, and Egypt have succeeded, through political and diplomatic manoeuvrings, in weakening certain UN mechanisms, and protecting themselves from being held accountable for their crimes. The UN lacks an effective and credible international position through which it can exert its influence, and does not have the alliances that might help strengthen it, and enable its support for victims of human rights abuses.

Sections one and two of this chapter provide a general analysis of the United Nations Human Rights Council (the Council) as it relates to the struggle for human rights in the Arab region. Section two provides a brief overview of specific MENA human rights situations that are scheduled to be considered by the Council. Section two is intended as a call to action to revitalize and strengthen the role of the Council in the ongoing struggle for human rights protection.

### **The UN Human Rights Council as a Toolbox:**

The United Nations Human Rights Council is often represented in three different ways: as an institution controlled by a small group of powerful states that use it to shield themselves from international scrutiny, as a crucial torchbearer of the global struggle for freedom and dignity, or simply as a useless exercise in political posturing with little relevance outside the room in which it takes place. In reality all three of these contrary aspects can be simultaneously observed on any given day the Council is in session. This paradox can be explained if one views the Council as a set of tools. While these tools were formed for the express purpose of promoting and protecting human rights and

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<sup>1</sup> UN Human Rights Council

are particularly suited to this task, they can also be used for other purposes or neglected all together. A carpenter's hammer can be used to drive a nail and build a house, but it can also be brandished as a weapon or left in a box to rust.

Whether or not the tools provided by the Council for the promotion and protection of human rights fulfil this purpose depends on the skill, level of commitment and intention with which they are used. Or, to put it another way, the Council is in large part what we make of it. This observation, banal in appearance, challenges the current approach to the MENA region by many UN member states at the Council. It also contains a hidden warning: absent strong, proactive action to address rights violations and uphold human rights norms, the Council has the potential to become a destructive tool that provides a shield of legitimacy for ongoing human rights violations and undermines universal rights standards.

### **Defeatism and Amnesia at the Human Rights Council:**

The UN Human Rights Council has demonstrated it can play a critical role to advance respect for human rights and humanitarian law throughout the MENA region. In 2011, shortly after mass protests began in several Arab countries, member states of the Council created a number of country specific initiatives for the MENA region.<sup>2</sup> The media attention and political mobilization generated around these initiatives have played a critical role in many important victories - the release of a political prisoner, the halting of a repressive law, preventing the closure of an NGO, etc. More generally, the Council's work on the MENA region has also helped to ensure that human rights issues are integrated into the policies of individual states and multilateral bodies towards regional situations, and provided an important depository of evidence and information for current and

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<sup>2</sup> Cairo Institute for Human Rights Studies, Annual Report: The "Arab Spring" at the United Nations: Between Hope and Despair, 2012, <http://www.cihrs.org/wp-content/uploads/2012/06/the-report-e.pdf>

future efforts to ensure accountability for grave violations of human rights.

However, over the last several years the reaction of the Council to the unprecedented escalation of repression and violence by state and non-state actors throughout the MENA region has been severely inadequate. Too often the desire for “consensus” or a “consensual” approach when it comes to country specific action has been used to justify a failure to act, and the pursuit of thematic resolutions have taken precedence over action required to protect *real* people in *real* situations.

As a result, almost all existing country specific initiatives dealing with the MENA region at the Council have failed to respond to the worsening rights situation with stronger action. Instead, the day-to-day struggle has shifted to ensuring that critical situations remain on or are added to the agenda of the Council. The threat of weaker action by the Council on situations as dire as Syria, Libya and Yemen, where the fates of tens of millions of innocent civilians hang in the balance, is an ever-present reality.

The Council’s response to unparalleled levels of repression that have been unleashed by governments such as Egypt and Saudi Arabia has been a consistent and shameful silence. If the Council is viewed as a map of global political trends concerning human rights then its current approach to the MENA region should be read with great alarm. It should also serve as a call to action to those who believe that lasting stability and prosperity in the MENA region cannot be accomplished when the world averts its eyes from brutal repression or takes half-measures to address atrocities.

In a major speech<sup>3</sup> concerning mass protests in the MENA region delivered in May of 2011 President Barack Obama recognized:

The status quo is not sustainable. Societies held together by fear and repression may offer the illusion of stability for a time, but they

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<sup>3</sup><https://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-barack-obama-prepared-delivery-moment-opportunity>

are built upon fault lines that will eventually tear asunder...we cannot hesitate to stand squarely on the side of those who are reaching for their rights, knowing that their success will bring about a world that is more peaceful, more stable, and more just.

President Obama's recognition of the need to place human rights at the centre of foreign policy towards the MENA region was echoed by prominent politicians and policy makers around the world. Four years later the policies of the US and other countries at the Human Rights Council appear to have forgotten this important realization. The vast majority of governments that have presented themselves as leaders in the global struggle to protect human rights and promote democracy, such as EU member states and the US, have consistently refused to assume leadership at the Council to address country situations in the MENA region.

An increasingly frequent reaction by government representatives to explain this refusal and the Council's weakening response to grave abuses in the region has been to hide behind a fatalistic and defeatist narrative of geopolitics that denies the possibility of effective multilateral action by the international community to protect human rights in the MENA region. At the Council this often takes the form of referring to an "unfavourable" vote count, expressions of a general fear of failure if an action is attempted or simply as a preference for "behind the scenes" action over the exercise of multilateral leadership.

### **A Crisis of Leadership and the Lessons of History:**

Yet, if one examines recent instances when action has been attempted at the Council to address "difficult" country situations in the MENA region, often what is initially deemed as "impossible" due to the general political context quickly becomes a possibility when an individual government or diplomat demonstrates skilful and committed leadership. Moreover, the success or failure of a particular action, if measured by its contribution to the protection of human rights, is often not reliant on "winning a vote count" or ensuring



“consensus,” but on the political pressure and visibility generated by the endeavour.

On March 7, 2014 at the 25<sup>th</sup> regular Session of the Human Rights Council, twenty-three countries united in a joint declaration to condemn the severe crackdown on basic rights committed by the government of Egypt, including recent attacks against human rights organizations.<sup>4</sup> Those that joined included states with influential ties to Egypt. It was a statement that many at the time believed to be an impossibility due to Egypt’s vigorous efforts to ensure it did not occur. It was delivered despite the Egyptian government’s notorious tactics at the UN.<sup>5</sup>

This had not been a resolution. No voting had occurred. The amount of states that joined the declaration was low by UN standards. Nonetheless, its effect was both immediate and strong on the Egyptian government. Fearful of further action at the UN to address its repressive behaviour, the government launched a large scale diplomatic offensive that included summoning the Cairo-based ambassadors of all governments who joined the statement, and engaged in high-level outreach in capitals throughout the world. More importantly from a human rights perspective, the declaration played a key part in larger advocacy efforts to protect Egyptian human rights organizations from threats of imminent closure that had recently been made by the government. These rights organizations seized on the breathing space afforded by the heightened visibility and political pressure generated through the Council statement to regroup and redouble their efforts to survive. As a result, many are still in operation today, albeit still under daily threat of closure, and continue to play a critical role in the ongoing struggle for human rights reform in the country.

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<sup>4</sup> See “Iceland (on behalf of a group of cross-regional group of 23 countries)” at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/25thSession/Pages/OralStatement.aspx?MeetingNumber=13&MeetingDate=Friday,%207%20March%202014>

<sup>5</sup> [https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/25thSession/OralStatements/Egypt\\_RR\\_13\\_ENG.pdf](https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/25thSession/OralStatements/Egypt_RR_13_ENG.pdf)

During government negotiations of the joint statement, country after country had refused to take ownership of the process or demonstrate visible leadership. Threats by the Egyptian government of negative economic and diplomatic consequences for any country that demonstrated such leadership had intimidated many diplomats and policy makers. Just as the statement was about to be abandoned, a single, small country made a decision to ensure its survival. Switzerland decided to preserve the statement, and a single diplomat kept the negotiations in Geneva going until a country willing to deliver the statement could be found. Another small country, Iceland, agreed to read the statement the evening before it was scheduled to be delivered. In response, Egypt attempted to undermine several Swiss initiatives at the Council, but eventually failed to do so. The strong economic and diplomatic repercussions promised by Egypt against Switzerland and other countries that had joined the statement also never emerged.

Egypt's bluff had been called and its bully tactics had failed. But not for long. Despite moments of leadership demonstrated by a small amount of countries and diplomats, a single committed government that was willing to take ownership over the issue of Egypt at the Council had not been found. As a result the joint statement has never been followed up on, and the strong role that the Council had begun to play in protecting human rights in Egypt has greatly diminished. Meanwhile, the human rights situation in the country has witnessed a severe deterioration over the last two years.

In September of 2015, at the Council's 30<sup>th</sup> Session, another "impossible" scenario was ushered into the realm of possibility by a single country. In response to the rapidly escalating number of civilians being killed in the war in Yemen and the critical humanitarian situation being fuelled by violations of international law by all parties of the conflict, the government of the Netherlands submitted a resolution to the Council to establish an international investigation into violations occurring in the country. The most extraordinary part of this act was that Saudi Arabia, usually viewed as "too powerful" to be held accountable by the UN, is the primary

government responsible for alleged war crimes being committed in Yemen.<sup>6</sup>

More surprising to some might be the fact that the resolution put forward by the Dutch had a real chance of being adopted by the forty-seven member states of the Council. According to informal vote mapping conducted by several civil society organizations involved in negotiations on the resolution, there were approximately nineteen affirmative votes, eleven votes against and seventeen votes that could have gone either way depending on advocacy efforts by concerned countries. In other words, “geopolitics” did not automatically rule out the possibility that even an oil-fuelled regional super power like Saudi Arabia could come under international investigations for war crimes by an action of the Council. In negotiations of the Dutch resolution countries as diverse as Brazil and Norway had spoken in favour of such an investigation.

Saudi Arabia, sensing at the time that they could not guarantee a victory in a vote on the Dutch resolution, began to carry out, according to a diplomat at the Council, “unprecedented” lobby efforts at the “highest levels” of key governments, such as the United States, UK and France, in a frantic attempt to have the resolution withdrawn. These governments responded by privately stating they would vote in favour of the Dutch resolution if presented, while simultaneously withholding any commitment to support efforts to ensure the Dutch resolution received the required number of votes to pass. Even this may not have defeated the resolution.

Unfortunately, while the Dutch had shown courage in proposing the resolution their commitment to ensuring its adoption wavered. It soon became clear that the Dutch government had only committed itself to maintaining the resolution if a “consensus” of all voting members of the Council could be reached. An almost impossible threshold considering that Saudi Arabia and other Gulf countries

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<sup>6</sup> See for instance:

<https://www.hrw.org/news/2016/02/14/yemen-cluster-munitions-wounding-civilians>

directly involved in the commission of alleged war crimes in Yemen were voting members at the Council. A lack of sufficient commitment by the Dutch to call a vote on the resolution if it was opposed by any country, and the refusal of governments like the US, UK and France to actively support efforts to ensure the resolutions adoption eventually led the Dutch to withdraw the resolution before it was voted on. But that is not the end of the story.

There can be no doubt that the erosion of political support for the Dutch resolution among countries like the UK and US in response to Saudi lobbying and its eventual withdrawal by the Dutch represents a tragic failure of the Council to take the steps required to deter the killing of innocent civilians and ease the humanitarian situation in Yemen. Nonetheless, even the wavering leadership demonstrated by the Dutch government by submitting the resolution was able to create unprecedented international scrutiny of how Saudi Arabia and other combatants are conducting military operations in Yemen, and the human suffering wrought by the targeting of civilians during the ongoing conflict. Once these issues began to be debated at the Council global media outlets dramatically increased coverage of war crimes being committed in Yemen, as well as efforts to ensure international accountability for these crimes. This coverage has continued to this day. This has helped to revitalize debates in the capitals of countries like the UK and US, both in popular media and in official government proceedings, on how these countries should react to accusations of international crimes being committed in Yemen, when an allied country commits the types of atrocities they condemn in other situations.

Moreover, Saudi Arabia and Yemen, facing the possibility of an international investigation, were forced to agree to strengthening national investigations into violations in Yemen, and to an extension of a UN human rights monitoring presence in Yemen that has the mandate to report on violations in the country and update the Council on the progress of national investigations. While these developments are certainly not sufficient to replace the deterrent power of an official UN investigation they do provide a critical means to pursue further

international accountability measures if the situation in Yemen remains the same or worsens.

The two examples above provide insight into both how the Council can become an effective tool to protect human rights and why it often fails to do so. The Council has proven in the past that it has the potential to play a critical role in providing protection for victims of human rights abuses in the MENA region. Arguments by countries concerning general political factors that make it impossible to ensure that the Council plays this role ring hollow when confronted with the specific details of how the impossible becomes possible when leadership is demonstrated on critical issues. Both initiatives described above suffered from a lack of sustained and determined leadership. Yet even the wavering and momentary leadership that was demonstrated had a strong impact on wider human rights protection efforts. Imagine then what impact sustained and committed leadership may be capable of accomplishing at the Council if motivated by a desire to protect the human rights of real people in real places.

### **Global Implications of Weak Leadership at the Human Rights Council:**

This shortage of ambitious leadership to protect human rights at the United Nations could have long term and large-scale implications for the international human rights system as a whole. Over the past two years, Saudi Arabia, Egypt and other countries that have been given a “free pass” by the international community to carry out unprecedented human rights violations have become emboldened in their efforts to use the Council and other UN bodies to weaken the international human rights system.

These governments do so by (a) attempting to undermine the independence and capacities of the UN Office of the High Commissioner for Human Rights and other UN human rights experts, (b) leading relativist initiatives that challenge the universality of human rights standards, such as equality, women’s rights, and

freedom of expression, and (c) imposing a paradigm of international order in which “sovereignty” and the “fight against terrorism”, as they define these terms, renders almost any effort by the UN system to ensure a particular countries adherence to human rights and humanitarian law as an “illegitimate interference into internal affairs” and a “threat to national security.”

In short, the vacuum created by a lack of leadership to protect the human rights of *real* people in *real* places, is increasingly filled by governments emboldened by their own international impunity and whose primary ambition is to undermine the international normative rights framework and do away with the independence of UN human rights experts. If this pattern continues the strength of the international human rights system will become significantly weaker.

## **Upcoming Opportunities to Demonstrate Leadership at the Human Rights Council:**

### **Libya:**

Pursuant to resolution 28/30 adopted by the Council in March 2015, the Office of the High Commissioner for Human Rights (OHCHR) dispatched a fact-finding mission to investigate violations of international human rights law committed in Libya since 2014 “with a view to ensuring full accountability and avoiding impunity.” This mission submitted its final report to the 31<sup>st</sup> Session of the Council in March 2016.

The International Criminal Court (ICC) currently has an open mandate to investigate alleged international crimes committed in Libya. However, according to the court’s prosecutor, its ability to pursue further investigations is limited by a lack of adequate

resources.<sup>7</sup> Additionally, as highlighted by the OHCHR mission's report, the national justice system in Libya has largely collapsed, creating de facto impunity for those committing grave violations and abuses of human rights and humanitarian law in the country.

As such, it is imperative the Council create a dedicated investigative mechanism as an important tool of deterrence and future accountability. As highlighted in a joint civil society letter to state delegations in Geneva:

It is critical that all parties to the conflict are put on notice that their actions are being monitored and that accountability for serious crimes is a real prospect rather than an empty threat. Failure to do so will likely embolden those committing violations of international human rights and humanitarian law and will reinforce the endless cycle of impunity.<sup>8</sup>

A resolution at the 31<sup>st</sup> Session of the Council failed to establish such an investigation. However, the High Commissioner for Human Rights was asked to update the Council at its 33<sup>rd</sup> Session (September 2016) on the human rights situation in Libya including efforts to ensure accountability. If at this time no progress has been made the nascent government of Libya and other governments, especially those who have or continue to participate in military actions in Libya, should take all required steps to ensure the important deterrent role of UN investigations is revived.

### **Palestine:**

In March 2016, the Council discussed a report by the OHCHR on the implementation of recommendations made by three missions created by the Council over the last 7 years to investigate and ensure accountability for war crimes, crimes against humanity and human

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<sup>7</sup>Tenth report of the Prosecutor of the International Criminal Court to the UN Security Council pursuant to UNSCR 1970 (2011),

<https://www.icc-cpi.int/iccdocs/otp/otp-rep-unsc-05-11-2016-Eng.pdf>.

<sup>8</sup> Available at [www.cihrs.org](http://www.cihrs.org)

rights violations carried out in the Occupied Palestinian Territory. This included a Fact Finding Mission on Gaza in 2009, a Fact Finding Mission on settlements in 2012, and a Commission of Inquiry on Gaza in 2015. The report revealed that almost none of the recommendations of these investigations have been implemented by Israel to ensure accountability for these violations.

A new UN Special Rapporteur on the OPT was also chosen at the beginning of 2016 after the last Rapporteur prematurely resigned out of frustration at the total lack of cooperation by Israel with his mandate.

Israel's long standing refusal to cooperate with UN rights mechanisms, and its hostile rejection of almost all recommendations by the UN human rights system should no longer be tolerated by UN member and observer states. In 2016, UN member states should carry out actions designed to ensure cooperation by Israel and the implementation of UN recommendations in the area of human rights and humanitarian law.

UN member states could pursue these goals in 2016-17 through the following suggested action:

First, the Council should investigate Israel's refusal to abide by and integrate international humanitarian legal standards into the Rules of Engagement of its military forces.

Second, the Council should investigate the failure of the Israeli justice system to hold those responsible for international crimes accountable, and take steps to end this impunity.

Third, the Council should perform a comprehensive review of Israeli's refusal to cooperate with the Council's mechanisms and its lack of implementation of previous recommendations, and seek means to address this failure.<sup>9</sup>

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<sup>9</sup> For further information see CIHRS, "The UN Human Rights Council and the Occupied Palestinian Territory: A Toolkit to Operationalize Recommendations and Ensure Implementation," Mar. 21, 2016, <http://www.cihrs.org/?p=18337&lang=en>



Fourth, states should act on the long standing request put forward by two UN Special Rapporteurs on the OPT for the UN to begin to perform an inquiry into the legal status of Israel's "prolonged occupation." In particular, the UN should determine if Israel's policies towards the Palestinian people and within the OPT should be classified as a form of apartheid and colonialism.

Finally, bold leadership was demonstrated by the Palestinian delegation at the 31<sup>st</sup> Session of the HRC to draft and ensure passage of a resolution which requests a list of businesses, including international corporations, which continue to operate and profit from settlement activities in the Occupied Palestinian Territory in contradiction with international law. The resolution was strongly opposed by the UK, US, and others. Once a list of businesses has been compiled it is critical that states take strong follow up action to deter this illegal practice, both at the national and UN level.

### **Yemen:**

The case of Yemen at the Council has been highlighted earlier in this chapter. The primary challenge faced by the international community to ensuring appropriate action to address grave violations of human rights and humanitarian law in the country is the involvement of Saudi Arabia in alleged war crimes being carried out, and its subsequent attempts to ensure weak action at the Council on this issue.

The OHCHR is scheduled to deliver an update on the human rights situation in Yemen and progress on national investigations at the 33<sup>rd</sup> Session of the Council in September 2016. If at that time national investigations remain incapable, through a lack of capacity or political will, to deliver on accountability for international crimes committed in

the country then, as argued in a joint letter by civil society to the Council at the beginning of 2016.<sup>10</sup>

The Human Rights Council should act to fulfil its mandate to promote accountability and establish an international mechanism to investigate alleged serious violations of international humanitarian law and violations and abuses of international human rights law committed by all parties to the conflict in Yemen.

The inquiry should establish the facts, collect and conserve information related to violations and abuses with a view to ensuring that those responsible are brought to justice in fair trials.

### **Syria:**

The Council continues to play an important role in the documentation and gathering of evidence of war crimes and crimes against humanity in Syria through a Commission of Inquiry (COI) established in 2011<sup>11</sup>, including the gathering of specific names of individuals and establishing a chain of command to determine criminal responsibility for these violations. Activation of the International Criminal Court on this matter remains blocked by Russia and China at the Security Council. As such, this COI on Syria remains the only international body fulfilling this role.

Nevertheless, political negotiations on Syria at the Council have increasingly lacked urgency. There is a strong need for more courageous and creative diplomacy around this issue.

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<sup>10</sup> CIHRS, Joint NGO Letter, “Human Rights Council: Create an International Investigating Mechanism for Yemen,” Feb. 23, 2016, <http://www.cihrs.org/?p=18161&lang=en>

<sup>11</sup> For more information visit: <http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

*Countries can and should do more at the Council to:*

1. Follow up on the COI's recommendations to pursue accountability through the use of universal jurisdiction, and the establishment of an ad hoc international tribunal through specific resolutions that urge action and suggest steps to be taken by relevant parties to pursue accountability through these means;
2. Create initiatives at the Council that seek to place victims at the centre of the debate and give visibility to the human suffering inflicted by violations of international law. Such action could include the creation of a high level panel at the Council that would feature Syrian victims or eyewitnesses to crimes committed in Syria, including the crime of enforced disappearances, indiscriminate attacks on civilians and/or torture.

### **Other MENA Country Situations where Leadership is Needed:**

Over the last year, despite unprecedented crackdowns on basic rights and violations of international human rights and humanitarian standards by Egypt and Saudi Arabia, the Council and UN member states have failed to address these situations in a meaningful manner. This hesitancy has only encouraged these countries to pursue repressive policies and violations of international humanitarian law that have enflamed violence, contributed to destabilization and fuelled violent radicalization and terrorism.

This failure can only be remedied if a country or group of countries decide to demonstrate determined and principled leadership. While the passing of a formal resolution at the Council on these country situations may only be realistic in the long-term, other actions can and should be urgently pursued. The creation and delivery of joint declarations by states before the Council, the consistent inclusion of these country situations in state interventions at the Council, or the

convening of urgent debates on these situations are only a few of the possible actions that states could take that do not require the adoption of a formal resolution before the Council. These and other options should be pursued.

There is a structural problem within the Human Rights Council that institutional reforms have not so far been able to remedy. The council is a theatre of state relations, yet the decisions taken are directed against governments whose role is to promote the interests of their states. Human rights considerations in foreign policy vary amongst states, with zero consideration amongst some Arab states to high-level significance for some Scandinavian countries. Yet those countries with high-level human rights considerations do not play a significant role in international relations, nor have a desire to increase their role in the Human Rights Council. While emerging democratic states in the 'South,' dominated by polarizing North-South policies, only benefit authoritarian regimes, states from the global North that do have ambitions at the Council play a selective role according to their ever-changing interests, which at times may lead them to undermine global human rights values, or conversely play an active part in promoting a particular cause.

Section Three  
**Understanding the Expansion of  
Insurgency and Terrorism  
in the Arab Region**



With the Arab Spring, Arab citizens opened their eyes to a new reality: they finally had the opportunity to change their present – and hence their future. At the same time, various governments and counter-revolutionary forces have directed the events that unfolded since January 2011 in a way that has allowed radical ideologies to spread. While one would have expected fierce beliefs in democracy, political representativeness and social harmony to win over, the Arab world ended up - so far - being ruled by instability, intolerance, radicalism and violence. But this does not mean that everything is necessarily bleak. The black tunnel that the Arab region seemed to be stuck in also gave room for some positive prospects, such as the organization of free and fair elections in Tunisia and the fact that instability did not necessarily extend to the entire region. Nevertheless, the MENA region is facing what is for now: spirals of violence, a widening of the gap between opposing ideologies and/or beliefs as well as the return of old demons such as the “Sunni-Shiite rift”, the “Saudi-Iranian rivalry,” the negative consequences for the interference of foreign powers in the region’s affairs and the prevailing of different forms and degrees of terrorism.

The expansion of violence in the MENA region has little if anything to do with fatality. Some of the evolutions we witnessed over the past five years clearly went beyond the control of politicians and citizens. Nevertheless, the sociology of the region may help us understand some facts. For example, why did sectarianism end up growing significantly in a country like Syria, knowing that the population would have earned more benefits by putting their religious grievances aside? The Syrian regime may well take benefit of playing the sectarian card, but some of these same logics also pertain to the nature of the Syrian society.

Violence is not inherent to the MENA's DNA: the chaos that has prevailed in the region since 2011 has different explanations, some of them structural, the others cyclical. In order for us to be able to sort out the relevance of each of these elements for explaining the region's many headaches, the first part of this chapter will review the different types of challenges that generated so much trouble and uncertainties in the MENA region over the past five years. The report will then analyze the reasons and the implications of such dynamics, be they political, economic, social, or religious. Finally, the report will mention the basic conditions that would allow the MENA region to both benefit from a better start and head towards stability, security and human dignity.

### **A Region Full of Challenges and Uncertainties:**

The Arab Spring proved that the ostensible stability of the MENA region was an illusion. Decades of authoritarian rule and repressive policies were suddenly questioned following the extension of the Tunisian uprisings (2010/2011) to the rest of the region. The loss by some regional leaders and/or regimes of their legitimacy – a direct consequence for decades of abuses – led to the Arab Spring. But the Arab Spring also ended up provoking regional insecurity and/or instability. The scenario that was initially expected – the possibility for citizens to benefit easily from democratic rule – gave room instead to the emergence of a series of threats and challenges that considerably undermined MENA prospects. These included examples of political and/or territorial fragmentation, the rise of militias, the reawakening of the Sunni-Shiite rift, the radicalisation of some groups and/or movements as well as the affirmation of sectarianism and terrorism.

#### ***Political/territorial fragmentation:***

The idea of national belonging is nothing new in the MENA region. While many Arab countries achieved national independence during



the first half of the 20<sup>th</sup> century, many of the provinces that had been part of the Ottoman Empire already had historical and local characteristics that contributed to shaping contemporary national identities.<sup>1</sup> Today, the popular feeling of national belonging remains strong in many if not all the Arab countries. But situations of political polarization combined with the historical persistence of some local particularities also ended up provoking conflicts. From this perspective, four countries have clearly gone through profound changes and evolutions that questioned the future of their national and territorial cohesions: Iraq, Libya, Syria and Yemen.

Despite policies of systematic marginalization, for a decades Syria had earned an exaggerated reputation of a country that enjoys high levels of national belonging and patriotism – the Kurdish case put aside. But obviously, the years of unsolved conflict that have been prevailing since 2011 triggered dynamics of territorial decomposition.<sup>2</sup>

Yemen, a country that was already divided up in the recent past between a Northern and a Southern part, also seems to be in the middle of a regressive dynamic. The Huthi phenomenon, the affirmation of al-Qaida in the Arabian Peninsula (AQAP), the partial (re)affirmation of tribal dynamics as well a clear situation of war that opposes several sets of actors and their respective allies (Saudi Arabia, Qatar, the UAE, probably Iran) question the future of Yemen's territorial cohesion.<sup>3</sup>

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<sup>1</sup> Eugene Rogan, *The Fall of the Ottomans: The Great War in the Middle East* (Basic Books: 2015) pp. 243-274.

<sup>2</sup> For regular updates on the state of play in Syria, see:  
<http://www.understandingwar.org/project/syria-project>

<sup>3</sup> See for example Peter Salisbury, *Federalism, Conflict and fragmentation in Yemen* (Saferworld, October 2015),  
<http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=194318>.

This report, similarly to many others that deal with Yemeni issues, consider timidly the possibility of witnessing a territorial fragmentation of Yemen, but they still consider it as a possibility.

In Libya, a country that was initially made up of three different regions, neither King Idriss nor Muammar Gaddafi have succeeded in overcoming differences and promoting a strong feeling of national belonging.<sup>4</sup> The gap between different tribal actors, that Qaddafi manipulated in a divide and rule strategy, caused chaos after the fall of Qaddafi and jeopardized the cohesion of the territory.<sup>5</sup>

In Iraq, matters of division had preceded the Arab Spring for a long time. Indeed, the Gulf War (1991) and important facts that followed (the imposition of no-fly zones extending respectively from the 36<sup>th</sup> parallel Northwards and the 32<sup>nd</sup> parallel Southwards) allowed Iraq's Kurds to achieve a first grade of political autonomy. Following the US-led invasion of Iraq in 2003, a series of events and decisions - that included the policy of "de-Ba'athification"<sup>6</sup> - combined with spreading violence, growing sectarianism as well as the persistence of nepotism, corruption and bad governance increased popular frustration. The less Iraqis felt represented by their national leaders, the more they became closer to local leaders. Since most of these local leaders are religious or tribal personalities that pretend to a political role, their importance ended up widening the gap between the population and national leaders. Sectarianism grew in parallel, and so did the risk of territorial divisions that would separate Kurds from Sunnis and Shias.<sup>7</sup>

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<sup>4</sup> See Dirk Vandewalle, *A History of Modern Libya* (Cambridge University Press, 2006), pp. 43-76.

<sup>5</sup> International Crisis Group, "Libya: Getting Geneva Right," Middle East and North Africa Report No. 157, Feb. 26, 2015, <http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/North%20Africa/libya/157-libya-getting-geneva-right>

<sup>6</sup> A policy by which the Coalition Provisional Authority – Iraq's interim government that followed the fall of former President Saddam Hussein's regime - decided to remove public sector employees affiliated with the Ba'ath party from their positions.

<sup>7</sup> See Fanar Haddad, *Sectarianism in Iraq: Antagonistic Visions of Unity* (Oxford University Press, 2014), pp. 143-204.

### ***The rise of armed militias:***

The coercive methods used by the military and by security forces in general against populations and the impunity that they were given by authoritarian leaders are among the factors that led to the Arab uprisings. But paradoxically, we have also learnt from Latin American transitions that the conditions for benefitting from a non-chaotic transition may require considering an important role for the military.<sup>8</sup>

In Tunisia as well as in Egypt, the ousting of former presidents Ben Ali and Mubarak followed popular demands and demonstrations, but this outcome was rather made possible thanks to the intervention of the army; the transition process that followed also suggested a strong role and/or presence for the army, as highlighted by the way president Mohammed Morsi was ousted too in 2013.<sup>9</sup>

In Libya, as well as in Iraq before, the absence of a strong army contributed to the weakening of both countries' future prospects. Certainly, there were difficult factors and political objectives, and hence levels of responsibility, that propelled authorities in Libya and Iraq, to weaken their armies. Hence, in both cases, limited or weak state sovereignty as well as the difficulties to guarantee security via the role of an efficient military led in return to the mushrooming of militias.

Militias also emerged in Syria, with some defending the regime while others forming opposition groups. But though the Syrian regime lost considerable parts of its territories, one of the reasons why it has been able to remain in power is it controls the army. While in Yemen too, the army's difficulties to maintain the state's sovereignty on the whole territory gave room for the emergence of several new powerful actors, including militias.

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<sup>8</sup> See Rut Diamint, Barah Mikail, "Militaries, Civilians and Democracy in the Arab World," FRIDE, Policy Brief 112, January 2012,

[http://fride.org/download/PB\\_112\\_Militaries\\_civilians\\_democracy.pdf](http://fride.org/download/PB_112_Militaries_civilians_democracy.pdf)

<sup>9</sup> "Egypt Crisis: Army Ousts President Mohammad Morsi," *BBC*, Jul. 4, 2013 <http://www.bbc.com/news/world-middle-east-23173794>

Taken as a whole, these examples illustrate how much the strength of the army conditions the possibility for militarized non-state actors known as militias to strengthen. The paradox lies in the fact that in several countries of the MENA region, the quest of people for security allowed the military to claim an important role; but at the same time, the strong presence of the military in both the business and the political fields questions the sustainability of such situations in the long term. Indeed, the military may be able to take advantage of popular fears that are generated by the current regional unrest to maintain a dominant role, but the uprisings of 2011 and beyond also created a new reality that makes it hard for populations to accept endless military rule.

### ***The (alleged) Sunni-Shia rift:***

Talking about the existence of a “Sunni-Shia rift” is nothing new. Historical longstanding disagreements put aside<sup>10</sup>, the revival of this inter-Islamic issue came back with the Iranian Islamic Revolution (1979). The Iran-Iraq War (1980-1988) that followed, as well as the aborted attempt by the U.S. to replace Saddam Hussein following the Gulf War (1991), were due in great part to the fears that many Arab and Western countries had of Iranian attempts to export a “Shia revolution” to the rest of the region.<sup>11</sup>

The invasion of Iraq (2003) reinforced these same fears. Three countries known for being the U.S.’s closest Arab allies – Jordan, Egypt, Saudi Arabia - criticized the Bush Administration in 2004 for implementing a regional strategy that would favor the rising of a “Shia

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<sup>10</sup> For a good and balanced explanation of the historical roots of the “Sunni-Shia conflict”, read Hichem Djait, *La Grande Discorde : Religion et Politique dans l’Islam des Origines* (Folio Histoire, 2008).

<sup>11</sup> See , “La question de la *Marja’iya* chiite”, IRIS, 2006, [http://www.iris-france.org/docs/consulting/2006\\_chiite.pdf](http://www.iris-france.org/docs/consulting/2006_chiite.pdf)

crescent.”<sup>12</sup> In 2007, the “Sahwa”<sup>13</sup> strategy was launched. In 2011, it was clear that Iran had gained considerable influence in the MENA region. Gulf accusations about Iran’s involvement in Bahrain and Yemen often lack strong evidence but Tehran has reached a critical and very influential role and physical presence in both Iraq and Syria.<sup>14</sup>

There is a geopolitical reading that prevails in these issues. Iran and many Arab states (starting with Saudi Arabia) are engaged in a race for political leadership in the region, but their priority goes into building alliances that would preserve both their influence and their national and strategic interests. This state of play can generate damaging situations too. The Arab Spring has confirmed a tendency that we had already noticed with the invasion of Iraq: the growing weakness of some of the region’s state institutions, as stressed today in the examples of Libya, Yemen and previously Lebanon and the Palestinian territories.<sup>15</sup> The loss of state sovereignty can easily provoke sectarian reactions in return: people are seeking a strong referent that would guarantee them political existence and security. This shift from strong feelings of national belonging to alternative situations also risks encouraging sectarianism in general and Sunni-Shia tensions in particular.

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<sup>12</sup> Kevin Mazur, “The “Shia Crescent” and Arab State Legitimacy”, *SAIS Review of International Affairs*, Volume 29, Number 2, Summer-Fall 2009, [https://muse.jhu.edu/login?auth=0&type=summary&url=/journals/sais\\_review/v029/29.2.mazur.pdf](https://muse.jhu.edu/login?auth=0&type=summary&url=/journals/sais_review/v029/29.2.mazur.pdf)

<sup>13</sup> “Sahwa” was a strategy developed by the U.S. in 2007 and 2008. It was based on the idea of giving military means to Iraqi Sunni tribes to make sure that they would not join the ranks of al-Qaeda. Such a strategy increased attitudes of mutual defiance between Sunnis and Shiites. The same situation prevails today, since the Obama administration has favoured the idea of developing a similar “Sunni-based” strategy to fight Daesh, bringing in return criticism from the Iraqi (so-called “Shia-led”) government.

<sup>14</sup> Casa Árabe, “Iraq en la encrucijada”, conference organised on Nov. 24. 2015, <http://www.casaarabe.es/eventos-arabes/show/iraq-en-la-encrucijada>

<sup>15</sup> While one could also add the case of Syria to this list, it may also be argued that despite its losing large swaths of territory, the Syrian regime remains strong from an institutional point of view.

Indeed, culture and religion preceded the creation of contemporary political borders in the MENA region. Populations that fear for their security generally seek protection by engaging more with the members of their own religious communities. These automatisms combined with the degree of tension and the regional rivalries that prevail between so-called “Sunni Saudi Arabia” and “Shia Iran” are part of the reason why sectarianism gave the impression that it was on the rise.

However, the idea of the existence of a global and irremediable fight between Sunnis and Shias needs to be approached with many nuances. Obviously, to pretend that sectarian tensions are absent from the region’s dynamics would be denying facts: there are several examples of conflict between Sunnis to Shias – as well as other religious communities – and this tendency seems to have grown considerably over the last decade. Today, this is particularly evident in Syria, where local dynamics (conflict between sectarian groups) combined with the way these same groups reflect regional divergences (some are backed by “Sunni” Gulf states while others are supported by “Shia” Iran and Iraq) end up giving the impression that sectarian prospects are shaping the conflict. But there is still room for believing that Syria will not necessarily end up being split along sectarian lines, and sectarianism will not necessarily extend considerably in the MENA region. Today, sectarian conflicts remain by far the exception rather than the rule, and most of them occur in places where Saudi-Iranian rivalry prevails. From this perspective, the idea of a broad return of the “Sunni Shia divide” to the region is mainly exaggerated, for the time being at least.

### ***Radical ideologies on national grounds:***

There are several degrees and types of radicalisms in the MENA region. The trends that we witnessed since 2011 came mainly through the examples of religion-based national movements and religious associations.

The Arab Spring gave Islamic political organizations the opportunity to seize power. Cases of Islamic rule put aside (such as in the case of the countries of the Gulf Cooperation Council), such a trend had already been demonstrated in the Palestinian territories when Hamas won the January 2006 legislative elections. But the Arab Spring created a new context. In Tunisia (al-Nahda) as well as in Egypt (the Muslim Brotherhood), Islamist movements and organizations gained power after having been banned for decades.

Similarly, Salafi parties and movements also benefitted from the post-2011 context. In Egypt and in Tunisia, they were able to make a showing on the streets and participate to elections.<sup>16</sup> In Tunisia, more than in Egypt, this came as a surprise. Ben Ali's rule was characterized, officially speaking at least, by the absence of Salafi organizations. Besides its social significance, this fact becomes important as Salafis – as opposed ideologically and/or politically to Islamists that represent the Muslim Brotherhood – emerged as possible kingmakers, as was the case in Egypt.<sup>17</sup> But Salafis were not the only actors to prevail in the post-2011 landscape. Indeed, religious associations with no official political aspirations also increased their power over the last years. This tendency also has a lot to do – in part at least – with the funding strategies that are adopted by some countries and/or official regional religious establishments towards such ideologies and movements, such as the ones originating from some Gulf state (Qatar in regards to Syria or Libya) and/or private donors (Kuwait and the alleged connections of some of its businessmen with Daesh).

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<sup>16</sup> The affirmations of this paragraph do not mean that Tunisian and Egyptian Salafis can be put on the same level. There are obvious and strong nuances (history, ideological orientations and beliefs, concrete objectives) that make Egyptian Salafis different from the Tunisian ones.

<sup>17</sup> For more on Salafis in the MENA region and the way they position themselves towards contemporary issues including the rise of Islamic State, see Joas Wagemakers, “Salafi Ideas on State-Building Before and After the Rise of the Islamic State”, in *Islamism in the IS Age*, POMEPS Studies 12, Mar. 17, 2015, [http://pomeps.org/wp-content/uploads/2015/03/POMEPS\\_Studies\\_12\\_ISAge\\_Web.pdf](http://pomeps.org/wp-content/uploads/2015/03/POMEPS_Studies_12_ISAge_Web.pdf)

Nevertheless, none of the cases where Islamist movements have risen to power ended up being promising. In Egypt, the unrest that followed the now deposed Mohammed Mors's rise to power provoked additional rifts within the population; in Tunisia, a similar situation prevailed before new parliamentary elections were organized at the end of 2014. Each of these examples brings its own explanation when it comes to stressing why violence followed. In Egypt, the lack of experience of Morsi and his quest to concentrate power in his hands led to popular riots that made it easy for the army to topple him; in Tunisia, the assassination in 2013 of important "anti-Islamist" figures (Chokri Belaid, Mohammed Brahmi) gave more weight to anti-Nahda demonstrators and their demands for organizing new elections. Even in Morocco, where an Islamist party (the Party of Justice and Development) rose to power in 2011 following regular elections, the political crisis that occurred in 2013 forced the ruling party to consider forming a new coalition with its opponents in October of the same year. The paradox of the MENA region is that while Islamist movements may end up being chosen democratically, they generate so much controversy that they become hardly able to hold on to power. One of the implications of this situation is ongoing in Libya, where divisions between actors that belong to either the "Islamist" or the "non-Islamist" camp are clearly undermining prospects for rapprochement between warring factions and the populations under their control.

### ***Religious/sectarian challenges and terrorism:***

The Arab Spring did not create a terrorist reality per se. While 9/11 proved that groups similar to al-Qaeda were able to carry attacks beyond the MENA region, the origins of such organizations were known before. The support that had been provided, mainly by the US and some of its allies (Saudi Arabia, Pakistan), to the anti-Soviet



Mudjahideen in Afghanistan during the 1980s planted the seeds of what would become al-Qaeda.<sup>18</sup>

The existence of Daesh (Islamic State) cannot be separated from a global context in which some actors decided to deal in their own way with regional issues. Obviously, the attitude of some regimes gave more room for the spread of jihadism. In the early stages of the Arab Spring, the release<sup>19</sup> by both the Egyptian Supreme Council of Armed Forces (SCAF) and the Syrian regime<sup>20</sup> of prisoners that included jihadists allowed them to instrumentalize the issue of religious radicalism in a move that was most probably meant to de-legitimize popular demonstrations and to impede their success.

However, whatever governmental moves ended up helping them, jihadist organizations can also be approached and analyzed as autonomous structures that also have a history of their own. Indeed, Daesh claims political autonomy, but its creation and its rise has been possible thanks to a similar organization that preceded its existence: al-Qaeda in Mesopotamia. The invasion of Iraq in 2003 created a political void that allowed al-Qaeda to grow in the country; its existence has been guaranteed thanks to both a US-led focus on the necessity of tracking al-Qaeda and terrorism in general, and violent attacks that provoked the death of numerous innocent people. While the strategy of counter-insurgency that was developed in Iraq by the US from 2007 onwards succeeded in weakening al-Qaeda considerably, it did not however put an end to the “al-Qaeda spirit” or “ideology.” In other words, while many post-9/11 analyses believed that the act of joining al-Qaeda was first and foremost a religious commitment explained best by the rules and principles of Islam, the Arab Spring proved things to be far more complicated. Many

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<sup>18</sup> See for example Alex Strick Van Linschoten, Felix Kuehn, *An Enemy We Created: The Myth of the Taliban/Al-Qaeda Merger in Afghanistan, 1970-2010* (C. Hurst & Co. Publishers Ltd., 2012).

<sup>19</sup> Hossam Bahgat, “Who Let the Jihadis Out?”, *Mada Masr*, Feb. 16, 2014, <http://www.madamasr.com/sections/politics/who-let-jihadis-out>

<sup>20</sup> “How Syria’s Assad Helped Forge ISIS,” *Newsweek*, Jun. 21, 2014, <http://www.newsweek.com/how-syrias-assad-helped-forge-isis-255631>

members of al-Qaeda, Daesh and/or similar organizations may have their decisions motivated by religious beliefs and an erroneous reading of the Quran and the principles of Islam. However, the possible quest by the members of these same radical organizations of an alternative to the political and social systems they live in may also be a strong driver that we often end up underestimating.

Indeed, the Arab Spring has witnessed the appearance of situations where political voids were created and/or newly emerging regimes had difficulty exerting sovereignty in their national territories. This context gave room for radical organizations' as we can see in Libya, Syria, Iraq as well as the Sinai Peninsula in Egypt. While such groups take advantage of a political and/or military void, their coverage in the media also explains in part why their strategies of recruitment are successful. Whether they come from these same countries or are from Western regions, the people that join these organizations seem to be looking first and foremost for alternatives to the political systems in which they live. This existential quest happens to favor radical groups who claim that they represent popular demands.

Nevertheless, claiming that Daesh, al-Qaeda et al. and similar organizations represent the reality of an intrinsically violent Middle East is erroneous. Even when radical organizations are important in terms of members, they still represent a meaningless percentage of the population of the Arab world. Furthermore, their claims and their actions clearly bring strong Arab and Muslim criticism and popular rejection.

### **Is the MENA Region Intrinsically Violent?**

The violence witnessed in the MENA region will not last forever. But instability and threats – and hence possible further violence - will most likely keep violence present for some time. However, most if not all of elements leading to violence have to be read from a rational perspective: contemporary violence in the MENA region is linked to an accumulation of popular frustrations that is also linked to the

erroneous policies that have been developed by several regional and international governments.

***The political legitimacy of states and governments:***

The degrees of political legitimacy of MENA regimes and governments determine to a large extent how popular frustrations appear, are maintained, and at time become violent. Before the Arab Spring, any attempt to criticize or to challenge Arab regimes and/or leaders was met with governmental repression. Even countries where regimes and/or governments have changed (Lebanon, Iraq), have lacked strong political structures and/or a strong rule of law that would satisfy the populations' needs.

With the Arab Spring, countries where elections were organized (Tunisia, Egypt) did not immediately stabilize: results for elections were often challenged, and in some cases, there were suspicions that state forces had played a major role in engineering the results.<sup>21</sup> These suspicions and criticisms led to new elections, a coups d'état, or both. In the rest of the region, popular demands for change saw regimes entrench their power (Oman, Morocco), and were followed by instability and/or signs of territorial fragmentation (Libya, Syria, Yemen).

In all of these countries, confrontations between public authorities and the population resulted in violence. Protests and their possible violent outcomes are the same in the MENA region compared to the rest of the world. The clashes between populations that want concrete change and regimes that want to hold to power are the origin for the violence we see in the streets. And even then, it is generally the nature of the governmental reaction to such protests that provokes violent outcomes. Whilst some governments (Syria, Egypt) claim that they alone can save populations from terrorist and/or extremist groups, the existence of the latter – or the absence of their total eradication, for the

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<sup>21</sup> Hossam Bahgat, "Anatomy of an Election," *Mada Masr*, Mar. 14, 2016  
<http://www.madamasr.com/sections/politics/anatomy-election>

time being at least – gives most Arab regimes further possibilities to hang on to power.

Indeed, extremism, terrorism, and the successful recruitment strategies that benefit violent and/or radical groups are linked in great part to the absence of viable solutions for populations (see next section) and are also linked to governmental policies of repression against populations and the way they lead to social and/or popular radicalization. Even in Egypt, the political exclusion of the Muslim Brotherhood and the heavy-handed repression against its members can only lead to a dramatic radicalization of the movement's popular basis, while what is required are policies and decisions that encourage compromise. Here too, cynically, many MENA regimes may be willing to provoke such a radicalization so that they feel legitimized in return.

### ***Social and economic causes for radicalism:***

Social and economic causes also condition scenarios of violence in the MENA region, which were clear even before the Arab Spring. In 2008, in Egypt, the long months of strikes by Mahalla's textile workers was motivated by demands for better economic conditions. In 2008, in Tunisia, a similar movement occurred in the mining region of Gafsa, where protesters demonstrated against socio-economic conditions.<sup>22</sup> Mohammed Bouazizi's self-immolation was also had socio-economic roots. Furthermore, the demonstrations during the Arab Spring reached countries and areas where people were suffering economic problems rather than countries where revenues per capita were relatively high.<sup>23</sup>

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<sup>22</sup> For an analysis of these movements, see Joel Beinin, Frédéric Vairel, *Social Movements, Mobilization, and Contestation in the Middle East and North Africa* (Stanford University Press, 2011).

<sup>23</sup> For an overview of the main indicators that stood up to 2011, see the World Bank's MENA report *Investing for Growth and Jobs*, September 2011, [http://siteresources.worldbank.org/INTMENA/Resources/World\\_Bank\\_MENA\\_Economic\\_Developments\\_Prospects\\_Sept2011.pdf](http://siteresources.worldbank.org/INTMENA/Resources/World_Bank_MENA_Economic_Developments_Prospects_Sept2011.pdf)

Socio-economic frustration can therefore be a driver of radicalism. Some protest movements may use religion as a driver, but we must consider that the initial frustration of the demonstrators that end up joining religious movements and organizations is most likely socially and/or economically motivated in its first stages at least. Religious organizations will always benefit from a core group of supporters; nevertheless, the recent examples of Egypt and Tunisia also prove that such parties and movements can depend in large part on swing votes and voters.

Before making their political choices, people in the MENA region are mainly motivated by their quest for alternatives to the regimes and to the laws under which they live. The violence that characterized the Arab Spring is everything but abnormal. Whether we agree on calling these processes “revolutionary” or not, the fact is that popular quests for change rarely – if ever – happen without violence. This tends to be the case in particular when people expressing new perspectives face repression.

### **Thinking Forward: the New MENA Region:**

Throughout history, Arab governments instrumentalized violence to appear as saviors. Whenever people went to the streets asking for better conditions, they were met with repression and, most of the time, accusations that they were being manipulated from the outside. MENA regimes are also good at accusing “jihadists” of being behind such movements, especially when they fear their future. Muammar Gaddafi blamed al-Qaida for the 2011 uprising in Libya<sup>24</sup> while Bashar al-Assad referred several times to foreign conspiracies<sup>25</sup> when referring to violence in Syria.

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<sup>24</sup> BBC, Interview with Muammar Gaddafi, Mar. 1, 2011, <http://www.bbc.com/news/world-middle-east-12607478>

<sup>25</sup> See for example BBC, “Syria’s Bashar al-Assad blames “foreign conspiracy”, Jan. 10, 2012, <http://www.bbc.com/news/world-middle-east-16483548>

Today the MENA region stands at a crossroads. On the one hand, the popular movements that sounded so promising in 2011 did not result in a renewal of the political elites: civil society movements exist to varying degrees; they are mobilized, but they still need to prove they can have a strong impact on society. On the other hand, violence is part of the regional landscape, where acts and attacks carried out by groups motivated by religious purposes (Daesh, Ansar al-Sharia, al-Qaida and its offshoots) are undoubtedly on the rise. This only makes it urgent to determine how it could be possible to overcome violence without giving the authorities the opportunity to abuse anyone they accuse of being an “enemy of the nation.”

Finding solutions to the MENA region’s many dilemmas is far from easy, especially at a moment when some of the violence that we have witnessed in European countries complicates the matter. The Paris attacks on November 13, 2015 were followed by a series of governmental decisions that did not fit either with the idea of favoring citizens, CSMs and democracy. Indeed, in a move that was meant to prove that it was reacting efficiently to these attacks, the French government favored the adoption of tough security measures. France is now hitting hard on Daesh’s positions in Syria, while it proclaimed a state of emergency for a period of three months. It is hard to believe that such measures will prove effective when most of the people responsible for the Paris attacks seem to be individuals that grew up and were radicalized in France. The military and/or security measures that France has adopted as a response to the attacks of November 13 contradict Paris’s push for democracy, political transparency and more respect for human and citizens rights in the MENA region. The same can be said about most of the members of the EU: they happen to be going through a moment where they feel that anything that can help counter “terrorism” is justified. The problem is that while the legal definition of terrorism remains broad, most of these countries seem to be forgetting that fighting radicalization also needs the development of social policies that would help limit social frustrations and their violent outcomes.

While there is no easy or quick solution for the MENA's multiple challenges, the fact is that violence is increasingly characterizing the region, while the roots of the violence are ignored. Daesh may have been rendered possible by both the previous existence of al-Qaida and the failure of the Arab transitions but this does not explain why this organization encountered so much success. Iraqis, Libyans, Syrians, Tunisians and even Yemenis may have reacted to the Arab Spring without having political experience but this does not explain why, the Tunisian case put aside, transitions in all these countries failed.

In fact, everything indicates that, whatever pro-democratic intentions Western countries may have, they are still unable to resist the idea that strong and tough leaderships would be needed to counter radicalism and violence. The paradox of such an approach is that it nurtures more violence in return. Indeed, many examples in the MENA region show us how the links that exist between local actors and their external backers also provoke more conflicts and struggles in return. Likewise, the way states try to fight terrorist organizations favors the use of hard power, at the expense of soft power; the result is more frustration on the ground, and wider audiences for organizations such as Daesh.

Violence in the MENA region cannot be understood independently from one of the reasons that generated it: the failed policies that the most important financial backers and commercial partners of the MENA countries have favored. For decades, Western countries have been calling for more political reforms and transparency, but they never made these a cornerstone for their relations with the MENA region. With the Arab Spring, Westerners claimed that they wanted to work with civil societies but the results of such a commitment still have to be proved. This does not mean that the people and the governments of the MENA region should not take responsibility themselves; change always has to start with oneself, and on this point, there is more scope for considerable improvement.

Therefore, while violence in the MENA region can never be justified, it has to be considered for what it really is: the result of a collective failure that includes Arabs and their governments. The good news is that we understand the absurdity of the theories that consider the MENA region as intrinsically and “genetically” violent; this theory is developed generally by people who read the MENA region through an erroneous reading of Islam - a reading similar to Jihadist organizations. The bad news is that it will remain hard to change the situation as long as contemporary governments and political structures remain focused on both their current priorities – security – and the types of “solutions” they envision for them – these are generally based on policies that dismiss citizenship rights and generate more insecurity and violence.

To put an end to violence in the MENA region, we need a set of conditions including a renewal of the MENA region’s political elites. But such renewed prospects may also be needed for many Western countries if we want policies that could face today’s challenges .