

**Human Rights in the Arab Region
Annual Report 2008**

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Dedicated

To the prisoners of conscience And victims of unfair trials

Syria:

1. **Fedaa Akram Al- Hourani:** Chairperson of the General Council of Damascus Declaration for National Democratic Change.
2. **Dr. Ahmed Toumah khidr:** Secretary of the National Council of Damascus Declaration for National Democratic Change.
3. **Akram Al- Bunny:** (Journalist and Writer) Secretary of the National Council of Damascus Declaration for National Democratic Change.
4. **Riad Saif:** Former parliamentary and Head of General Secretariat of the National Council of Damascus Declaration for National Democratic Change.

5. **Walid Al- Bunni**
6. **Muhammed Haji Darwish**
7. **Fayez Sarah**
8. **Yasser Al- Eiti**
9. **Marwan Alosh**
10. **Ali Al- Abdallah**
11. **Jibr Al- shufi**
12. **Talal Abu- Dan**

5-12 are all members of the National Council of Damascus Declaration for National Democratic Change, and were all sentenced for eighteen months in prison after being found guilty of “weakening national feeling and undermining the prestige of the State.”

13. **Michel Kilo:** Syrian writer and member of Civil Society Revival Committees in Syria. Due to his signature on the Beirut- Damascus Declaration; he has been sentenced to prison for “weakening national sentiment, spreading false news, and inciting sectarian strife.”
14. **Anwar Bunni:** Prominent Human Rights defender, one of the signatories of the Beirut- Damascus Declaration. Sentenced to five years for “weakening the moral of the nation.”
15. **Kamal al-Labwani:** head of the Democratic Liberal Gathering, was sentenced to jail for “inciting foreign states to attack Syria” and spreading news that would result in weakening the moral of the nation.

16. **Ali Faeq Al- Mir:** member of Syrian Democratic Peoples Party, sentenced in jail for spreading false news, offending the ruling regime, and for expressing public hostility towards the states policy.

Palestine:

17. **Marwan al-Barghouthi:** Member of the Legislative Council, one of Fatah Movement's leaders. He was sentenced to life imprisonment.

18. **Abd el- Aziz al- Dweik:** Chairman of the Legislative Council, as well as other Palestinian parliamentarians who were all kidnapped by Israeli Occupation forces in 2006, and is still imprisoned.

Egypt:

19. **Kareem A'mer:** Blogger. Sentenced to four years of imprisonment for Defaming the president of Egypt and incitement to hate "Islam" .

20. **Musa'ad Abu Al- fajr:** Blogger, one of the claimants for equality in rights and treatment for the Bedouins of Sinai. Arrested under Emergency Laws.

21. **Khairat Al- Shatter:** The Deputy Chairman of Muslim Brotherhood. Tried and sentenced to jail before a military court, along with 25 leaders from the same group.

22. **Ayman Nour:** Founding members of El- Gad Party, charged with forging signatures for the "authentication" of the party.

Al Bahrain :

23. **Hassan Abdunabi**

24. **Maytham Al- Sheikh**

25. **Naji Fateel**

26. **Mohammed Abdullah Al Sengais**

All Human Rights activists, sentenced from five to seven years of imprisonment for participating in violent protests after one Human Rights defender was killed.

Saudi Arabia:

27. **Dr.Matrouk al- Faleh:** University professor and a known reformist political figure. Arrested since May 2008 for public criticism of detention conditions in Buraidah general prison.

Tunisia:

28. **Adnan Al- Hajji:** Human Rights and a trade union activist. Arrested in connection with the events of "hud Al- Mangamy".

29. **Bashir Al- A' bidi:** Trade- union activist. Arrested in connection with the events of "hud Al- Mangamy".

30. **Mas'ud Al- Ramadan:** a trade-union activist and Head of the national committee to support the families of "hud Al- Mangamy ", chief of the branch of Tunisian association for Human Rights in Al- Qirwan. Under house arrest in connection with the events "hud Al- Mangamy ".

Morocco:

31. **Ibrahim sabaa' al-Lail:** member of the national board of the Moroccan Institute for Human Rights. Sentenced for 6 months of imprisonment after participating in a press conference where he provided evidence of Human Rights violations committed by security officers in "sidi ifini" city.

Algeria:

32- **Kadir bu qila**

33- **Shahrzad lamo**

34- **Nasser Al-dain qasem**

All three are Journalists of Al-Arabia newspaper. Sentenced to 6 months of imprisonment on the grounds of criticizing a military officer.

Acknowledgement

The Cairo Institute for Human Rights Studies (CIHRS) would like to express its appreciation for and acknowledgement of the many national, regional and international Human Rights organizations that persistently monitor study and analyze important Human Rights developments in the Arab World. Without their work, it would have been impossible to prepare this report. The information that these organizations have published, either through different publications or on their websites, was a crucial source of information for the report. Furthermore, several of these organizations have revised the early drafting of this report and have provided up-to-date information that was used in the final version of the report. CIHRS would like to thank the researchers in several Arab states who worked with CIHRS to prepare this report. CIHRS would also like to express its gratitude for the contributions and consultations from members of the advisory board of CIHRS' International Advocacy Program.

However, the findings and conclusions of the report do not necessarily represent the points of view of any of these individual researchers and organizations. Nor does this report constitute their point of view as a group.

CIHRS would also like to note that the order in which the following list of organizations whose research and consultation aided in the creation of this report does not have any special significance. All of the organizations below have made important contributions, not only to this report, but in efforts to defend Human Rights and disseminate a rights culture in the Arab world.

First: National Organizations

Bahrain

1. Bahrain Human Rights Watch Society. <http://www.bhrws.org>
2. Bahrain Youth Society for Human Rights. <http://www.byshr.org>
3. Bahrain Center for Human Rights. <http://www.bahrainrights.org/>
4. Bahrain Human Rights society. <http://bhhs.org/>

Iraq

5. The NGO Coordination Committee in Iraq. <http://www.ncciraq.org/>

Egypt

6. The Egyptian Association for Community Participation Enhancement. <http://www.mosharka.org>
7. Alnadeem Centre for Rehabilitating Torture Victims. <http://alnadeem.org>
8. New Woman Research Centre. <http://www.nwrcegypt.org>
9. The Centre for Trade Union and Workers' Services. <http://ctuws.blogspot.com>
10. Association for Human Rights Legal Aid. <http://www.ahrsla.org>
11. The Egyptian Organization for Human Rights. <http://www.eohr.org>
12. The Egyptian Initiative for Personal Rights. <http://www.eipr.org/>
13. Hisham Mubarak Law Center. <http://hmlc.katib.org/>
14. Andalus institute for tolerance and anti-violence studies. <http://www.andalusitas.net/>
15. The Egyptian Centre for Women's Rights. <http://ecwronline.org>
16. Centre for Egyptian Woman's Legal Assistance. <http://www.cewla.org/>

Lebanon

17. The Foundation for Human and Humanitarian Rights. <http://fhhrl.org>
18. Palestinian Human Rights Foundation (Monitor). <http://www.pal-monitor.org>
19. The Palestinian Human Rights Organization. <http://www.palhumanrights.org>

Morocco

20. The Moroccan Organization for Human Rights. <http://www.omdh.org>
21. The Moroccan Association for Human Rights. <http://www.amdh.org.ma>
22. L'observatoire Marocain des Libertés Publiques. <http://www.forumalternatives.org/observatoire/>
23. Moroccan Center for Human Rights. <http://anhri.net/morocco/makal/2008/pr0712-2.shtml>
24. The Sahrawi Association of Victims of Grave Human Rights Violations Committed by the Moroccan State. www.asvdh.net/
25. Association ADALA. <http://www.justicemaroc.org/>

Saudi Arabia

26. Saudi Human Rights Centre. <http://www.saudihr.org>
27. Human Rights First Society. www.hrfssaudiarabia.org
28. The Committee for the Defense of Human Rights in the Arabian Peninsula. <http://www.cdhrap.net>

Sudan

29. The Sudan Organization against Torture. <http://www.soatsudan.org>
30. Khartoum Center for Human Rights and Environmental Development. <http://www.sudaneseonline.com/>
31. The Sudan Social Development Organization.(SUDO) <http://www.sudaneseonline.com/>
32. Darfur bar Association. <http://www.sudaneseonline.com/>
33. Amel Centre for Treatment and Rehabilitation of victims of Torture. <http://www.sudaneseonline.com/>

Syria

34. Syrian Human Rights Organization. <http://www.shro-syria.com>
35. Kurdish Organization for the Defence of Human Rights and Public Freedoms in Syria. <http://dadkurd.co.cc>
36. Syrian Human Rights League. <http://www.shrl.org>
37. National Organization for Human Rights in Syria. www.nohr-s.org
38. Syrian Observatory Human Rights <http://www.syriahr.com>
39. The Syrian Human Rights Committee. <http://www.shrc.org>
40. Committees for the Defence of Democracy Freedoms and Human Rights in Syria. <http://www.cdf-sy.org/>
41. The Arab Organization for Human Rights-Syria <http://www.aohrs.org/>
42. The Syrian Center for Media and freedom of expression <http://www.kurdistanabinxete.com/>
43. Damascus Centre for Human Rights Studies. www.dchrs.com

Tunisia

44. Tunisia Watch. <http://tunisiawatch.rsfblog.org>
45. Tunisian Human Rights League. <http://www.ltdh.org>
46. Comité pour le respect des libertés et des droits de l'homme en Tunisie. www.crlidht.org
47. Tunisian Association for Democratic Women. <http://www.Tunisia/tadw/>
48. Conseil National Pour Les Libertés En Tunisie. <http://welcome.to/cnlt>
49. Observatory for the Defence of Press, Publishing and Creation Freedom. <http://www.tunisia/olpec>

50. Tunisian Association for the Struggle against Torture. <http://www.tunisia/altt>
51. The National Committee to support the people of the basin mine.

Yemen

52. Sister's Arab Forum for Human Rights. <http://saf-yemen.org>
53. Yemen Observatory for Human Rights. <http://www.yohr.org/>
54. The National Organization for Defending Rights and Freedoms. (Hood)
<http://www.hoodonline.org>
55. Yemeni Organization for Defending Rights and Democratic Freedoms
<http://www.anhri.net/yemen/yoddrf>

Occupied Palestinian Territory:

56. Al-Haq (Ramallah) <http://www.alhaq.org/>
57. Palestinian Centre for Human Rights.(Gaza) <http://www.pchrgaza.org>
58. Al Mezan Centre for Human Rights. <http://www.mezan.org>
59. The Independent Commission for Human Rights (ICHR). <http://www.ichr.ps/>

Second : Regional Organizations

60. The Arabic Network for Human Rights Information. <http://anhri.net/>
61. Arab organization for Human Rights. <http://www.aohr.net/>
62. Alkarama for Human Rights. <http://www.alkarama.org/>

Third: International Organizations and Institutions

63. The Euro-Mediterranean Human Rights Network. <http://www.euromedrights.net>
64. Human Rights Watch. <http://www.hrw.org>
65. Article 19. <http://www.article19.org/>
66. Amnesty International. <http://www.amnesty.org/>
67. International Crises Group. <http://www.crisisgroup.org>
68. Intentional Federation for Human Rights. <http://www.fidh.org/>
69. Front Line, Protection of Human Rights Defenders.
<http://www.frontlinedefenders.org/>
70. Reporters without Borders. <http://www.rsf.org>
71. International Centre for Journalists. <https://www.ijnet.org>
72. International Committee of the Red Cross. <http://www.icrc.org/>
73. The Carnegie Endowment for International Peace.
<http://www.carnegieendowment.org>
74. Humanitarian news and analysis (IRIN) <http://arabic.irinnews.org/>

This Report

This report is part of the activities of a program, the International Advocacy Program, by the Cairo Institute for Human Rights Studies (CIHRS) intended to strengthen human rights protection and promotion in the Arab region by increasing the ability of local and national actors to utilize international and regional human rights mechanisms to further their organizational goals, while simultaneously mobilizing the international community to take effective action to promote human rights throughout the region.

The primary goal of this report is to monitor and analyze significant human rights developments within the Arab region during the year 2008 (September 2007-October 2008), with a particular focus on several key countries. The main methodology employed involved making contextually informed observations with regard to the regression or progress made toward securing various rights and freedoms in the region. The process toward the realization of these rights and freedoms are taken as indicators of the level of political will among Arab regimes to proceed towards democratic reform and respect for human rights. Given the fact that Arab countries have been exceptionally resistant to various democratic transition processes that have occurred in other regions of the world during the last fifty years, the ability to make a holistic contextual assessment of the progress toward human rights promotion and the willingness of governments in the Arab region to allow for or work toward such reform is critical for ongoing efforts to achieve such reform.

The report largely focuses on significant legislative developments and practices relating to political participation, freedom of opinion and expression, freedom of religion and belief, and peaceful assembly and association. The report also focuses on the approach taken by authorities towards civil society organizations; the impunity enjoyed by perpetrators of human rights violations and crimes; and the denial of the rights of minorities. In addition, the report monitors and documents violations committed against political activists, human rights defenders and advocates of reform in the region.

The report, given its scope and objectives, differs from other traditional reports that comprehensively monitor and investigate violations of particular rights. Instead, it focuses on the most significant indicators of general progress and/or deterioration in the respect for, and promotion of, such rights.

The report reviews the main human rights developments in 12 Arab countries including Egypt, Tunisia, Algeria, Morocco, Sudan, Syria, Lebanon, Palestine, Iraq, Saudi Arabia, Bahrain and Yemen.

The choice of countries was made in relation to their political weight and the role they play in the Arab regional order. Some countries, such as Morocco and Bahrain, were chosen due to the international perception of being most qualified for real democratic transformation. Whereas other countries, like Egypt, Saudi Arabia and Syria, have been the subject of many international reform initiatives, while, at the same time experiencing increasing domestic pressures for reform.

Other countries were chosen because of their specific context, either as a result of occupation, as is the case in the Occupied Palestinian Territories, or because of civil wars or terrorist activities, as in Yemen, Sudan, and Lebanon, or for belonging to both categories as in Iraq. The report dedicates a full chapter to the study of the impact of occupation and armed conflicts on the human rights situations in these countries.

The report is based on background papers prepared by researchers and human rights activists from their respective countries, and well-documented information provided by Arab and international human rights groups and organizations. These have been combined and enhanced by assessments, observations and information provided by members of the Advisory Board of CIHRS' International Advocacy program, individuals who are citizens of and have a long history of monitoring and fighting for human rights reforms in most of the countries covered by this report.

The report also covers the performance of Arab states before international and regional Human Rights Mechanisms, including at the United Nations, in the context of Euro-Mediterranean partnership, and the role played by the League of Arab States .

Enhancing Human Rights in the Arab region does not only depend on the behavior of governments, or on regional and international developments, but also on the extent to which the system and philosophy of human rights and democratic values are rooted in the prevailing culture. Recognizing the importance of culture in this respect, a full chapter is assigned in the report to the valuable study by Dr. Mohamed El Sayyed Said on the impact of the political and religious culture on the situation of Human Rights in the Arab region.

Preface

The Dilemma of Human Rights between a Lack of Political Will and the Emerging Forms of Resistance

Bahey eldin Hassan*

This report seeks to illustrate the extent and nature of human rights challenges in the Arab region in light of the fact that no country in this region is classified by international institutions as free or democratic.

A lack of political will needed for guaranteeing respect for human rights is the key to understand the chronic challenge of promoting human rights and democratic governance in the Arab region.

Arab countries can be classified into five different categories concerning the level of political will for democratic and human rights reform:

1. The **first** category of countries/territories is characterized by leadership that lacks the ability to effectively exert of its political will due to their total or partial political subjugation and/or due to the inability of the country's political forces to reach a sustained and/or stable political balance of power.

Iraq is an ideal example of this category of countries, where decision-making is largely in the hands of the multi-national force while the ruling sectarian coalition and several terrorist groups are competing for power. The result is disastrous and has profound implications on the human rights situation.

*General Director of the Cairo Institute for Human Rights Studies CIHRS.

Palestine is yet another example. It has been under occupation for several decades, throughout which the Palestinian people have been subject to every type of human rights violation that exists, including, most importantly, their right to self-determination. The suffering of the Palestinian people has been increasing over the past two years due in part to the escalation of armed conflict between Hamas and Fatah. This situation reached a climax during the armed *insurrection* which brought Hamas to power in Gaza, and which coincided with the humanitarian crises caused by the total blockade and siege of the Gaza strip by Israel. The exacerbation of the suffering of the Palestinian people caused by increasingly violent and repressive actions by both Hamas and Fatah constitutes a negative indicator of the political intentions of these two political entities if and when they gain the right to self-determination. The actions of the Palestinian delegation at the UN Human Rights Council, including the recent role it plays to restrict the work of NGOs in the Council, regardless of the fact that NGOs are the main supporters for the rights of the Palestinian people is another indicator that the Palestinian Authorities may not be totally committed to ensuring democratic processes and human rights are respected in the OPTs if independence is achieved.

Despite the fact that Lebanon possesses the means to become a key democratic country in the Arab Region, it has been subsumed under the same category as Iraq and Palestine, as decisions relating to internal Lebanese affairs are highly subject to the influence of other states like Syria, Iran and Israel.

2. The **second** category of countries are characterized by the absence of a sufficient political will by ruling elites to break completely free from a heritage of past human rights violations.

This category of states is exemplified by Morocco. Respect for and promotion of human rights in Morocco is relatively better as compared to the rest of the Arab countries. Over the last few years, Morocco took important steps to unveil and acknowledge past violations and to bring perpetrators to justice. Morocco also introduced amendments for legislative reforms and expanded the relative freedom enjoyed by the press and civil society associations. However, Morocco has recently witnessed a setback to reform as the authorities have once again resorted to torture and arbitrary arrests. Furthermore, its quasi-independent judiciary is used to terrorize independent press organizations through harsh, unfounded court rulings. The situation is a cause of concern and it is feared that such practices could again become fixed patterns.

3. The **third** category of countries includes states with governments that have indicated they possess a political will to initiate a reform process, but which have failed to translate this will into any concrete improvement in human rights, and in which the human rights situation, despite reformist rhetoric, has often deteriorated.

The Kingdom of Saudi Arabia could have been included in the second category especially after king Abdullah Bin Abdul Aziz came to power; as some political analysts and human rights advocates had speculated that Saudi Arabia would witness qualitative human rights progress under his reign given the reformist nature of his earlier discourse as Crown Prince. These hopes were fueled when he announced royal amnesty for three Saudi reformists who had been earlier arrested upon coming into power in 2005. However, prospects of reform seem bleak now as security bodies have rearrested two of the three figures pardoned by the King, and persecuted and arrested a number of other reformists and bloggers. State censorship and control of the media has only been tightened as websites are banned, on-air broadcasting of Saudi TV programs is prohibited, and the establishment of independent Human Rights NGOs is forbidden.

Jordan could also have fallen into the second category had it not been for the setback it has been witnessing after taking limited steps towards reform. Torture has again become a regular policy of the state over the last year. One of the Arab Region's worst laws of associations has been adopted. Further, the last parliamentary election- that was once again manipulated- is considered by observers as the worst in the history of Jordan

Bahrain followed the Jordanian example on reform initiatives followed by human rights setbacks. However, its reform setbacks started earlier and have proceeded faster. More reversal is recorded by each year each year brings a further deterioration in the human rights situation in Bahrain in contrast to what was hoped for from the reformist project adopted by King Hamad bin Issa Al Khalifa. The country is gradually reverting to the highly repressive ruling pattern of the Kings late father, a time when Bahrain lagging behind other Gulf countries in terms of respect for human rights.

Failure of Sheikh Hamad Bin Issa's reformist project can be attributed to a refusal among the monarchy to recognize the religious and sectarian plurality within the Bahraini society. Shiites in Bahrain represent the majority of the population, yet are treated as second class citizens by the government. Thus, there has been a resort to the use of security bodies in order to centralize and protect the monopoly of power and wealth enjoyed by the Sunni minority. In the years 2007 and 2008, censorship on electronic and print media was tightened as several websites were closed and a large

number of journalists were arrested and brought to court. Peaceful demonstrations were severely curbed, resulting in the death of a human rights defender. Political activists and human rights advocates were arbitrarily arrested. Some were tortured and maltreated. A number of Human Rights organizations were denied registration and the ones that were closed were forbidden from applying for re-registration.

4. The countries that fall under the **fourth category** are countries in which the leadership is completely unwilling to take a path of reform, and instead actively fight against reformists. Syria and Tunisia are typical examples of these countries, whereas Egypt is a unique example. The Egyptian government not only fights reform and reformists at the national level, but also at the regional and international arenas. At the national level, several tools have been used to confront and repress active movements calling for democracy and human rights. Such movements reached a climax in 2004 and 2005 but have recently been ebbing as a result of the wide-scale systematic counterattack orchestrated by the ruling regimes as of late 2005. The Constitution, legislation, media and character assassinations in state propaganda, security forces, emergency laws, military and other forms of exceptional justice were all employed to suspend political activities and suppress activists. Repressive policies also extended to the independent press, electronic media, bloggers, workers' movements, Human Rights NGOs, the Judges Club as well as independent judges.

In the case of Egypt, repression of reformists has even been exported to the regional and international levels. At the regional level, the Egyptian government used the League of Arab States (LAS) as an umbrella to enact legislation that restricts the media, especially in relation to satellite channels and electronic media. Internationally, the Egyptian government sought to use its joint presidency of the Union for the Mediterranean to undermine the role played by civil society organizations in the Euro-Mediterranean Partnership. Through its presidency of the African Group and the leading role it plays within the Arab Group and the Organization of Islamic Conference, the Egyptian government strived to weaken the UN Human Rights Council and to limit active participation by NGOs in UN Human Rights mechanisms. This falls in line with the unprecedented measure to- for the first time since NGOs were first established quarter a century ago- close two Egyptians Human Rights NGOs and to reject requests by international human rights organizations, including the Office of the UN High Commissioner for Human Rights, to set up branch offices in Egypt. .

5. The **last** category of governments not only resists reform and harass reformists, but also wage armed war against their own people. This applies to the cases of Sa'ada in Yemen, Darfur and other regions in Sudan.

Meanwhile, the governments of both Yemen and Sudan are waging another war to curb or terrorize any independent national voice that criticizes their brutal policies or that attempts to unveil the heinous acts by bringing them to the attention of concerned international bodies.

The lack of political will for reform within the Arab League itself accounts for its inability to play a positive role in the promotion of Human Rights in the region, be it at time of peace or armed conflict, such as the Sudanese conflict (in Darfur and Southern Sudan), the Hamas-Fatah conflict in the Occupied Palestinian Territories OPT, or in Yemen. The Arab Human Rights Charter is in itself a reflection of the lack of this political will. Despite being the most recent Human Rights instrument worldwide (coming a quarter of a century after the African charter), it lags behind all its counterparts concerning content. The Arab governments have resisted all attempts to reform this instrument to ensure it conforms with pledges made on acceding to and ratifying various UN and African Union Human Rights instruments.

The issue goes beyond an absence of political will however, when it comes to the Arab League. Member states of this organization actively work in the United Nations Human Rights Council to undermine Human Rights protection mechanisms, with the aim of shielding their governments and their allies from criticism.

The governments of this region, which have consistently fought to resist all democratization projects, whether from inside or outside, are now in a phase of counter-attack phase. This aggressive attack on rights and rights activities is not only directed inwards this time, but also outwards under the leadership of Egypt, which was once naively nominated by US President George W. Bush to lead democratic transformation of other Arab countries.

Instead of the alleged exportation of terrorism, the Arab region is now exporting repression.¹ The Arab League is playing the role of the "cabinet kitchen" where the exporting process is being "cooked" i.e. where draft resolutions and working papers submitted to the United Nations in the name of the Arab group, and in coordination with the Organization of Islamic Conference, are being prepared. In addition, National Councils for Human Rights, which are now found in most Arab Countries, contribute to this process by participating in the delegations of the Arab governments to the United Nations.

¹ See in this report "Exporting repression: The role of Arab governments in the United Nations Human Rights Council

Resisting Authoritarianism:

The fact that authoritarianism is wide-spread in the Arab Region should not be allowed to conceal an extremely important and hopeful phenomenon: Authoritarianism in the Arab region is currently facing unprecedented forms and levels of resistance. Never before, at least throughout the past half century, has resistance been as highly diversified and at the same synchronized. The exception of this may be Morocco, Bahrain and Sudan where consecutive waves of strong resistance and reform movements were witnessed during the last 50 years. Unfortunately, however, the current resistance is not sufficient and is unlikely to lead to sustained progress towards democracy anytime in the near future unless national and/or international pressures for reform not yet utilized or invented are harnessed and factored into reform initiatives.

Current reform movements and resistance to authoritarianism is characterized by the following elements:

1- Widespread social protests, initiated by both labor and civil society organizations.-: This is particularly occurring in Egypt, Tunisia, Morocco and Yemen.

2- The wide-spread and enhanced impact of independent electronic media. For example, a group of young persons managed to organize a partially successful strike in a country like Egypt (with a population of 80 million people) on 6 April 2008 by using the the internet alone.² A correlation becomes more and more obvious between the involvement of new and young generations in the demand for change and the emergence of independent electronic media. Most Arab regimes regard electronic media – particularly blogs – as a source of serious danger (particularly in Syria, Saudi Arabia, Bahrain, Yemen, Tunisia and Egypt). It has thus become a priority for security and legislative bodies in these countries to adopt legal amendments and policies to suppress electronic media. It has even become high on the agenda of the Arab League itself³. Parallel to this, the virtual world has become a battlefield for "guerrilla warfare" between Arab security bodies and bloggers. The recent widespread imprisonment of bloggers heralds a new phenomenon of repression in the Arab Region.

² A study published by Carnegie Endowment for International Peace cites from Egyptian government officials that the number of Egyptian blogs on the internet reached 160000 blogs. See: Mohammad Abdel- Baqi, "Supporting democracy, a historical opportunity for the coming American President", Carnegie Endowment for Peace, November 2008.

<http://www.carnegieendowment.org/arb/?fa=show&article=22402&lang=ar>

³ See the chapter on Arab League in this report.

3- The impact and strength of journalists is increasingly important. While Morocco is an important example for the wide circulation and enhanced impact of an independent press, Egypt's example is even more significant. The margin made available for journalism has broadened in Egypt over the past five years to an unprecedented degree in any Arab country. Independent journalism and an increasing number of journalists have continued to struggle bravely and relentlessly. They courageously crossed red lines and were willing to pay the price throughout the last several years. Consequently, the President of the State was harshly criticized in a way that had not been witnessed in Egypt since the July 1952 revolution. Yet, on the other hand, authorities have resorted to ready-made laws and employed the judiciary to curb such behavior in on an unprecedented level as well.

4- Previously taboo and forbidden topics of national debate have been increasingly dealt with in the public sphere. Numerous countries have witnessed a discussion on minorities (religious/racial/regional) move from closed salons to the center of public debate. Public discussions of these kinds of topics were previously considered taboo or even, in some cases, as national treason. Many Arab countries banned such discussions under the pretext that they were of no use but for the "enemy".

In April 1999, "The Casablanca Declaration of the Arab Human Rights Movement"⁴ demanded the right of self determination to the Kurdish people and to the people of South Sudan. Those who called for these rights at the time were subjected to harsh accusations. Nowadays, however, the right of self determination is guaranteed – by virtue of the Naivasha Agreement- for South Sudan. Today, no one is questioning its eligibility or challenging the patriotism of its advocates.

In 1992, the Egyptian Organization for Human Rights (EOHR) – of which I was the Secretary General at that time – convened a conference to discuss freedom of belief and status of minorities. As a result, it was subjected to harsh criticism. This started inside the conference hall and culminated a month later in the assassination of one of the most significant speakers of the conference, Dr. *Farag Foda* who had presented groundbreaking research on minorities in Egypt.

⁴ A declaration issued by the First International Conference on the Arab Human Rights Movement, organized the Cairo Institute for Human Rights Studies in Morocco. See: www.cihrs.org

Two years later, Ibn Khaldoun Center attempted to hold a conference on minorities, but had to postpone and transfer it to Cyprus for the same reasons. Not a single day now passes in Egypt without tackling minority issues in symposia, conferences and the press. Some human rights NGOs have been established with agendas focusing solely on these issues. Besides, discrimination against different minorities, such as Shiites, Baha'is, "Quranite" Sunnis – who oppose the State's Sunni doctrine - Nubians and Sinai Bedouins, has become distinct issues of public opinion. It is noteworthy that the approach to tackling and proposing solutions to minority repression has primarily been rights-based.

The same can be said of Bahrain, and of Syria in relation to the case of Kurds. However, the development in Syria is not as visible because of the firm authoritarian grip of the government. The same also applies in a lesser degree to Saudi Arabia, where forums *Al montadayat* en discussing the situation of Shiites.

Yemen and Sudan stand out. There have been wide-range brutal acts of suppression against Shiite "Zaidans" in Sa'adah, Yemen and against Africana tribes in Darfur. In such a context, terrorizing the population under the pretext of "national security considerations" becomes more frequent. In spite of all this, civil society in Yemen and Sudan has bravely withstood intimidation, even while witnessing journalists and rights advocates tortured, imprisoned and killed during their struggle.

5- There are two types of associations that distinguish the emergence of new platforms for resisting authoritarianism: the first type consists of groups with roots in public and political organizations. These groups usually come into existence in response to a certain event. Accordingly, their role ends with redressing the limited reasons that justified their formation. These are spontaneous entities, i.e. they are not formed as a result of an intensive and expanded political dialogue, but rather as a response to field requirements. This was obvious during 2008 in Morocco (Sidi Ifni incidents), Tunisia (The Mining Basin in Gafs)⁵, Egypt "Agriom Company" and "Qursaya Island"⁶ and other countries.

⁵ See the chapters on Morocco and Tunisia in this report.

⁶ In Damietta City on the North Coast of Egypt, a wide and organized public coalition was formed to prevent establishing a factory that would have resulted in dangerous pollution of the environment. Another coalition was formed, comprising a number of associations, artists and celebrities to support the people of Qursaya Island in the River Nile in Cairo, in order to prevent the government from evacuating it by force for the interest of investment companies.

The other type of platforms is the new political groups formed as coalitions of political, academic and Human Rights figures, and which may also include political parties. The most significant examples of these groups are "Kefaya" in Egypt, "18 October movement" in Tunisia and the "Damascus Declaration" in Syria⁷.

6- New alliances and movements have strengthened new left wing political movements. Current indicators point to a decline of most of the established parties in the Arab Region, particularly in Egypt, Tunisia and Syria and to a lesser extent in Sudan and Algeria. The latest Moroccan elections made it clear that parties which had a historical role and weight are on the decline. The flipside of this is that liberal and leftist political currents⁸ in the Arab Region seem to appear with similar agendas that prioritize democracy and respect for Human Rights. This is clearly illustrated in the "Damascus Declaration" group program, and the "October 18 Group" in Tunisia. "*Al Badeel*" newspaper in Egypt, which is considered a newly established leftist forum, also exhibits this trend and exposes a crystallization of a newly established leftist pattern. This is not surprising given that transformation in this direction has been taking place in the Arab Region over the past few years. What is surprising is the formation of platforms to express such a tendency. These have faced various degrees of repression as a result of various social forces, as is the case in Tunisia and Syria⁹.

On the other hand, there is a decline in the status and influence of the conservative wing of the Pan Arabism political current that opposes democracy and human rights principles. These values have come to have an increasing impact on other political movements. Furthermore, the moral status and popularity of the Political Islamic movement seems to be on the decline after the "freedom-fighters" of the *Ham*as Movement began to appear as "executioners" in Gaza, Hezbollah directed its weapons at Lebanese citizens¹⁰ and the Muslim Brotherhood in Egypt announced the party's draft platform which lays the blueprint for establishing a totalitarian

⁷ Sameh Fawzi (editor), Democratic transformation movements between reality and ambitions – experiences from Eastern Europe and the Arab World, 25/10/2007, Publisher: Cairo Institute for Human Rights Studies.

http://www.cihrs.org/publication_details_ar.aspx?rel_id=62

See also: Bahey eldin Hassan, "A civil political war on Egypt's land", Cairo Institute for Human Rights Studies

http://www.cihrs.org/opinion_details_ar.aspx?op_id=153

⁸ See in this report: Dr. Mohammad Al Sayed Saeed, "Transformations of the Arab Culture, A Human Rights Perspective".

⁹ See the chapters on Tunisia and Syria in this report.

¹⁰ See the chapter on Lebanon in this report

theocratic state¹¹. Although this program was criticized by the Muslim Brotherhood in other countries, it will be difficult to limit the negative impact of the Egypt Brotherhood's program simply to Egypt. This is due to the regional importance of the Egyptian branch of the Brotherhood, , as well as the leading internal role it plays within the international organization of the Muslim Brotherhood.

Meanwhile, another coalition is emerging between ruling regimes in some Arab countries and the "cultural *Salafi* trend"¹² (Fundamentalists), with a concurrent marginalization of the *Jihadi Salafi* trend and unarmed political Islamist groups. Arab regimes hope to use this alliance to expand their base of support and restore their political legitimacy, which has been almost completely undermined in all Arab countries. As a result governments are facing a new combination of opposition groups that include political Islam, and political and civil alliances that reject employing religion in politics and instead rely on a liberal, leftist or rights discourse, or a combination of the three.

The other goal of this new alliance between the state and cultural Islamic fundamentalists is to use this alliance to direct the cultural sway of Islam away from internal reform issues and toward the "other"; i.e. opposition forces, minorities or the West¹³. Hence, religious extremism serves security based strategies designed to keep civilians fearful and preoccupied with "the other," be it inside or outside the country. Thus, citizens are forced to accept a regime that "protects them" – at any price – against these imaginary or fabricated dangers that are highlighted and exaggerated in order to sustain this sense of fear combined with religious faith.

Such an alliance between the state and extremism may result in the re-production of terrorism in the future in a way similar the fate experienced by the late Egyptian President Anwar Al-Sadat. Sadat had created an alliance with Islamists to face the non-religious opposition and was then assassinated by Islamists in 1981.

This trend can be observed in Saudi Arabia, Sudan, Yemen, Algeria and Egypt, and also seems to be used more and more by states that are traditionally perceived as secular such as Syria and Tunisia.

¹¹¹ See Bahey eldin Hassan "Muslim Brotherhood party program in Egypt from the Human Rights perspective".

http://www.cihrs.org/opinion_details_ar.aspx?op_id=366

¹² See Mohammad Al Sayed Al Saeed, a previous reference

¹³ *ibid.*

The Role of Human Rights NGOs:

In the mid 1990s, one of the most significant academic analysts described Human Rights NGOs in the Arab Region as a locomotive engine ¹⁴ with the ability to pull the civil and political community toward rights based discourse. At that time, some considered this description as more of a "prediction" than a scientific analysis of the role that human rights NGOs played. It is difficult to refute this description.

Analysts of the programs and tendencies of resistance movements cannot but note the supremacy of multi-sourced rights discourse over any other political or ideological discourse. The accumulative impact of the human rights discourse is made clear in the media – including electronic media - and in the political discourse of ruling and opposition parties, including even Islamists. In addition, some Human Rights figures and advocates have played themselves, later, a leading role in forming and developing new political groups

The accumulative impact is a result of the exceptional role assumed by human rights NGOs¹⁵ for many years. These NGOs have often been the most vocal and the most explicit critics, even in relation to issues of special sensitivity in the Arab context, such as religion, sex, minorities, protection of civilians at times of armed conflicts and criticizing institutions of reverence like religious, military, security or police institutions. Through making use of the UN mechanisms, and with the help of international Human Rights organizations, NGOs were keen to report this criticism to the international community whether advocating for the rights of Palestinian people before the UN, addressing the international media, or communicating with foreign diplomats.

Due to the ineffectiveness and divisions within political parties some human rights NGOs became, against their will, the main political actor in some countries. In non-governmental organizations throughout the Arab region was born non-partisan political coalitions that were able to engage in , lobbying activities and reach agreements on political programs , and where legislative and/or constitutional alternatives were proposed. In all these cases, human rights NGOs have become a platform of the most marginalized

¹⁴ In this context, see Mohammad Al Sayed Saeed "Internal problems of the Human Rights Movement" in Bahey eldin Hassan, "Challenges of the Arab Movement for Human Rights", 1997, p.p. 11-29.

¹⁵ Evaluating the role of other local and international actors is beyond the scope of this introduction

groups and unheard voices in Arab society, starting from the non-politicized lay person, to religious and racial minorities.

Throughout this period, human rights NGOs have increased in number and witnessed qualitative improvement in their work. . They have become more specialized and have explored new horizons beyond monitoring and documenting violations, while undertaking both field and academic research. New NGOs have been established for the rights of women, children, environmental protection, legal assistance, rehabilitation of victims, education, Human Rights education, and the defense of economic, social and minority rights.

Nevertheless, other negative developments, albeit limited in scope, made their way to societies over the past few years in a number of countries. They are represented in the following:

1) The use of Human Rights NGOs by political and security forces of a government. This includes establishing Governmental NGOs (also known as GONGOs), penetrating existing NGOs and modifying their objectives and/or recruiting security or politically influential elements of the activist community. Political recruitment is not limited to governments; the Islamic movement has also established its own NGOs.

2) An increasing phenomenon as been the establishment of profit oriented NGOs that lack any clear moral, ethical or legal mission, and are established by their creators or taken over in order to use them as a means of attaining money from grant making organizations, including most prominently US and EU funding agencies. Such NGOs create programs that appeal to these funding institutions but never properly implement the programs in order to substantially or effectively deal with human rights challenges in the region.¹⁶

Sometimes boundaries seem to disappear between the two types of NGOs described above. In some countries, there are organizations that combine both characteristics; i.e. they are politically organized in close association with the authorities , have no moral message and focus on gaining financial profits from international sources of funding by claiming to be of influence on the governments' agendas..

3) Decline in the performance of some important Human Rights NGOs as a result of immense security pressure, weak institutional structure,

¹⁶ See: Bahey eldin Hassan, "Tasks of defending Human Rights in the Arab world against counterattack: a programmatic document", Cairo Institute for Human Rights Studies.

http://www.cihrs.org/opinion_details_ar.aspx?op_id=164

centralized personalized management or a combination of two or more of these above.

4) Insufficient networking and joint action between NGOs. This constitutes one of the most difficult challenges to NGOs, and it also constitutes a larger societal challenge as well. . This challenge applies to political parties, syndicates, trade unions, new and old political movements; i.e. it is not only limited to Human Rights NGOs, whose experience in joint action is often better than other societal actors. It is a problem that is closely linked to the lack of a culture of negotiation. Such networking and joint action is important to form a comprehensive vision for the regional or national community of organizations, to create and expand collective goals, and to form various alliances to achieve common goals in the short and long terms. Such unity becomes even more important in a region that is particularly full of dangers and challenges.

Finally, the lack of a sufficient political will on the part of the non-ruling elite to push for reform and challenge the status quo also hinders the struggle for Human Rights in the Arab Region. Nonetheless, the last four years have witnessed a progressive development in this respect. This accounts for the increased aggressiveness on the part of some Arab regimes towards public freedoms and Human Rights, as well as the increasing numbers of victims targeted by these regimes.

To understand which constituencies are or are perceived as the largest “threat” to autocratic regimes it is important to monitor and create a demographic and political “map” of victims of governmental repression and abuse in the Arab region. . In this respect, it can be generally observed that the percentage of Islamists targeted by state repression has been gradually declining compared to the increasing level of state repression and abuse directed at liberals, leftists and secularists from the intelligentsia, civil society associations, trade unions, bloggers, journalists, and minority groups, including Christians and Shiites.

Autocratic regimes from the Arab region often attempt to justify their oppressive policies to the international community by claiming that there are only two viable political options to choose from: political Islam or secular autocracy. By so doing these regimes attempt to scare powerful state actors into supporting their government despite their highly repressive and anti-democratic policies. Such a discourse is patently false. Sunni Islamists are no longer the only alternative for the formation of new governments in the Arab region. A pluralistic and more complex political reality has emerged that needs to be supported and strengthened on a national, regional and international level.

Report Summary

Deterioration of Human Rights: Reform Faces a Dead End

The Cairo Institute for Human Rights Studies confirms that the status of Human Rights in the Arab world during 2008 has generally deteriorated with an intensification of attacks and repression directed at existing public and political liberties in Arab countries.

The most prominent manifestations of this deterioration includes

I. Attacks on reformists and Human Rights Activists

Violations against reformists, Human Rights defenders, and human rights organizations have increased. In Syria, prominent members of the Damascus Declaration for Democratic and National Change were harassed and subjected to unfair trials. Exceptional courts, including State Security Courts and military tribunals, and legal provisions that restrict the freedom of expression and peaceful assembly, were commonly used to harass and prosecute many human rights and democratic advocates and activists throughout the Arab region, including in Syria. Syrian authorities continued their long-standing policy of denying legal standing to human rights organizations and instituting travel bans for the most prominent activists and figures from human rights organizations. Many defenders of democracy and human rights still languish in prison, serving sentences issued years before. Abuses in Syria culminated with the death of a human rights activist who was killed by security forces in an incident that, at the very least, shows a highly reckless use of gunfire by security forces, and may constitute outright murder.

In **Bahrain**, the excessive use of force against peaceful protests led to the death of a rights activist. Several Human Rights and civil society activists faced arbitrary arrest, torture, and trial amid officially sanctioned propaganda campaigns designed to slander activism and labor such activism a “Western conspiracy.”

In **Saudi Arabia**, arbitrary detention without charge or trial, and unfair trials leading to lengthy prison sentences continued to be used as tools to harass and repress reformists. The few rights organizations established in recent years are still denied legal recognition.

In **Tunisia**, authorities tightened the siege on the Tunisian League for the Defense of Human Rights while refusing to recognize many other similar associations. Travel bans affect many activists in Tunisia, and some faced various forms of harassment, assault, and pressure, including actual sieges on some activists’ homes. Activist *Zakia Dhifaoui* was sexually harassed and threatened with rape before she was prosecuted and imprisoned with others for expressing solidarity with the victims of the crack down on social protests in the Gafsa mining basin.

In **Egypt**, for the first time since they were established 25 years ago in the country, Human Rights groups were faced with administrative and security counter-measures leading to the closure and disbanding of two prominent groups for nearly a year before the Administrative Court issued a ruling overturning the arbitrary measure. As a result of the closures, the funding and property of one of the associations—the Association for Human Rights Legal Aid—was confiscated. This confiscation occurred even before the Court had ruled on the legality of the decree. The director of the Nadim Center for the Psychological Rehabilitation of Victims of Violence was physically attacked after taking part in a solidarity gathering for victims of police torture. Rights organizations also came under security pressure aimed at preventing them from carrying out some of their activities. International activities of Egyptian rights groups were restricted. Mean while, authorities continued to refuse requests by international groups like the UN High Commissioner of Human Rights to open offices in Egypt.

In **Yemen**, many Human Rights activists were detained or forcefully disappeared for weeks or months on end. Several journalists and activists received threats, including death threats, if they continued to expose war crimes committed in the Sa’adah province.

In **Sudan**, journalists and activists received threats similar to their colleges in Yemen, both because of their criticisms of regime policies and for publishing information about the situation in Darfur.

In **Algeria**, Human Rights activists faced trials and prison terms, especially when involved in examining the grave Human Rights violations perpetrated in the 1990s which included extrajudicial killings, torture, and the disappearance of thousands of people. Those responsible for these crimes have still not been held accountable or punished.

In **Morocco**, those involved with rights organizations were put on trial on the grounds that they “undermined sacrosanct principles.” Arbitrary measures also affected many activists in the Western Sahara region, whose activities are already heavily restricted on the grounds that they threaten the territorial integrity of the kingdom.

II. Repression of social movements

This report documents a growing tendency in some countries to use excessive force to confront various forms of social action and collective protest. The repression of advocates of the general strike in Egypt and accompanying protests in Mahalla al-Kubra on April 6, 2008, led to at least two deaths and the arrest of hundreds, some of whom were referred to exceptional emergency courts.

As part of its repression of social unrest and protests during six months of 2008 in the mining basin in Tunisia, the Tunisian authorities arrested many trade unionists, raided neighborhoods and homes, and used live ammunition to quell demonstrators, leading to one death. Another person died of electrocution. Show trials were organized for 107 trade unionists, local residents, and their sympathizers, and there were reports that detainees were tortured.

In Morocco, authorities responded with force to sit-ins and other forms of protest in the *Sidi Ifni* Port, and serious abuses took place during raids. Some detainees, both men and women, were stripped and women were sexually assaulted.

The Sudanese authorities met protests, from residents of the northern part of the country who were organized against the construction of two dams on the Nile, with arrest campaigns and also opened fired on one demonstration in the Kajbar region, killing four people.

On several occasions, citizens taking part in social protests in Yemen were arrested, particularly in the south, and many of them have been detained for more than a year. The presidential amnesty declared in August 2008 was not implemented.

III. Attacks on means of expression and media

Imprisonment for journalism and publication crimes continued to be a grave and immediate danger for many journalists, writers, artists, media figures, and internet activists in most countries covered by this report. Blocking websites has become a widely used policy, particularly in Tunisia, Syria, Bahrain, and Saudi Arabia, and people who publish on the internet have become a target for arbitrary arrest under the emergency law in Egypt.

Many books and foreign publications were confiscated in Egypt, Algeria, and Bahrain, while artists and cartoonists were harassed and prosecuted in Yemen and Algeria.

Repression and censorship on the free flow of information, opinions, and ideas increased, both through specific publication bans, as in Egypt, and through the suspension of newspapers or the revocation of their licenses, as in Yemen and Sudan. Government control over newspaper licenses in Algeria and Tunisia, and the government monopoly on licenses for advertising agencies and publishing houses, continued to foster self-censorship within the press. In Sudan, advanced censorship of the press continues to exert enormous pressure, leading some newspapers to abstain from publishing or to publish issues with large white spaces to indicate the segments banned by the security censor. Egypt, Tunisia, Yemen, and Sudan saw even more assaults on journalists and reporters. Additional pressure was brought to bear on satellite media, particularly in Egypt, Tunisia, and Morocco even as the aural and visual media is still subject to State control in most countries.

In light of the foreign occupation and armed internal conflict in Iraq, the report documents ongoing abductions and assassinations of journalists in that country. This has left 56 journalists dead, among them the head of the Iraqi Journalists' Syndicate. Seventeen media organizations have been closed for more than a year in the West Bank and Gaza Strip as a result of mutual attacks by Fatah and Hamas militias aimed at containing their opponents in their own controlled territories, particularly after Hamas assumed control of Gaza.

During the brief war in Lebanon launched by Hezbollah and allied militias, military operations targeted media organizations allied with the Future movement. The attacks affected an large number of journalists, photographers, and reporters, and the homes of some were set on fire.

In light of all of the above, the report also notes the rising pressure on freedom of expression in the name of religion and the tendency of some

governments to use religion in governance and politics to keep up with political religious groups and religious institutions.

IV. New legislative restrictions

Despite pressure for reform from both internal and external forces, Arab regimes continue to repress political and social action and to insulate Human Rights violators from accountability. This is illustrated by their ability to use an arsenal of laws that are inimical to Human Rights and basic liberties against political opponents and/or reformists.

Exceptional courts and emergency laws are still in force in many countries. Syria has lived under emergency law since 1963, in Algeria it has been in force since 1992, and emergency law is still in effect in Sudan in some federal states after it was first declared in 1989. Despite promises from the Egyptian regime to lift the emergency law, which has been in place since 1981, it was renewed in 2008 for two more years, on the grounds that the anti-terrorism law is still not ready. The government has announced its intention to replace the emergency law with a new anti-terrorism law, but the latter preserves the same exceptional prerogatives. This includes preventative detention; the authority to raid and search homes and wiretap telephones and other communications without a warrant; and the authority to refer suspects to exceptional courts that do not meet international standards of justice.

Although the new legislation documented by the report is limited, it tends to impose greater restrictions on public liberties and further insulate security establishments from accountability for abuses.

In Egypt, legislative changes put additional restrictions on the freedom to peaceful assembly and demonstrate. Other governments imposed further restrictions on civil society institutions while reorganizing aural, visual, and electronic media to increase the government's control over these forms of broadcasting.

In late September 2008, Syria issued a legislative decree that give greater immunity to members of the security establishment. This comes in a bid to further prevent the Syrian security and intelligence establishment from facing prosecution, The decree prevents accountability for crimes committed while on duty unless by order of the Army's General Command in spite of the fact that the security establishment falls under the authority of the Interior Ministry.

The report notes that the authorities in Sudan have failed to implement its obligations set forth in the Comprehensive Peace Agreement of 2005. This is seen in the government's reluctance to review a broad range of legislation that would foster democratization or train and equip the judiciary to pursue grave Human Rights violators.

V. Impunity Provided for Security Forces who Commit Torture and Abuses

Torture and mistreatment of prisoners and detainees remain widespread. The reports, particularly on Syria and Egypt, document the death and murder of dozens of people as a result of torture or due to poor prison conditions.

The most serious incident took place in the Seidnaya Prison in Syria, where the excessive use of force by the authorities to contain complaints in the prison led to the death of 25 people.

In Egypt, despite some relatively harsh sentences for several torturers in non-political cases (which were exposed in the media largely thanks to bloggers), torture remained widespread and affected a great many citizens. State Security agents that tortured political activists remained completely immune to any prosecution or punishment.

Many reports indicate that torture continues to occur in Yemen. This is indicated by arbitrary arrests, disappearances, and the fact that detainees' relatives are denied knowledge of their whereabouts. Human Rights organizations are also prohibited from assessing conditions inside most prisons.

Other media reports documented the tendency of courts in Sudan and Tunisia to rely on confessions obtained by torture. In one case, security forces attacked defendants during their trial after they announced to the court that they had been tortured and mistreated.

One of the most brutal incidents was seen in Saudi Arabia, where security forces set fire to 25 Yemeni immigrants who lacked identification documents, leaving 18 of them with severe burns. There were also reports of torture or mistreatment and humiliation in Bahrain, Algeria, and Morocco.

It remains clear that in all Arab countries, torture continues to go unpunished, despite grave abuses by police.

VI. Disregard for minority rights and religious freedom

Syrian Kurds, the largest ethnic minority in Syria, remain a target of systematic discrimination. They are denied citizenship, which entails a repression of their right to express their identity as well as the denial of many basic civil, political, economic, and social rights. The efforts by Kurdish activists to preserve their identity continue to make them targets for arrest, torture, and unfair trials. Peaceful demonstrations are violently suppressed, leading to the deaths of many.

Shiites in Bahrain are also subject to various forms of systematic discrimination, including being denied prestigious jobs and marginalized in the economy, education, and politics. Although foreigners and naturalized foreigners constitute a large percentage of the Bahraini army, Shiites are largely locked out of the army, even though they constitute some 70% of the population. The discrimination against Shiites is so deep-seated that during the Bahraini elections, foreign nationals were brought into the country and naturalized in an effort to change the demographic balance in the Kingdom.

Although the Saudi king appears to have adopted a discourse of religious tolerance, officials within the religious police continue to enjoy broad authority to reprimand and punish people for behavior that contradicts with their notion of religiously acceptable behavior. Excessive force is used in dealing with such conduct, up to and including murder. Shiites in Saudi Arabia also face systematic discrimination in work, the civil service, education, and the right to build mosques, practicing their religious rites, engaging in religious celebrations, and publishing their writing. All this occurs in an atmosphere of intimidation and accusations implying that Shiites are not Muslims.

In Egypt, the report notes that pressure on religious freedom also extends to some sects or schools of thought within Islam and even within Sunni Islam. The report also documents the problems faced by Muslims who convert to Christianity, Copts who convert to Islam and want to return to Christianity, and Bahá'is. In particular, Baha'is face problems due to the authorities' refusal to document their true religious affiliation on official identity documents. Although some courts have issued rulings that ameliorate their situation, the rulings have not yet been implemented on the ground. The report also documents increased sectarian tensions in Egypt, resulting from the state's failure to address discrimination against Copts. The discrimination is particularly striking in the construction or repair of churches and representation in public positions. The state fails to reassess educational curricula and media programs that foster discrimination and

religious bigotry and indirectly incite society to religious hatred and sectarianism.

In Algeria, the most prominent manifestations of discrimination and violation of religious freedom came in the harassment and prosecution of dozens of people on charges of engaging in missionary activity, in non-Islamic religious practices without a permit or of converting to Christianity.

VII. Restrictions on political participation and the peaceful rotation of power

Real opportunities for the peaceful rotation of power in Arab countries are facing a dead end, both in the period under review and for the future. There are serious doubts that free elections can be held in countries that face chronic political crises, such as Lebanon or Sudan, given the continuing repercussions of old armed conflicts and controversies over the findings of national censuses that lack proper methods of oversight. The same is true of Iraq given the ongoing bloody conflict and the inability of conflicting parties to reach an agreement on a law for the coming local elections.

The Algerian authorities pushed through a constitutional amendment that allows the Algerian president to run for a third term. In Egypt, total contempt was shown for political participation after the authorities used all means, legal and illegal, to disqualify most candidates from the Muslim Brotherhood and other opposition parties from running in local elections and to prevent them from submitting their candidacy forms. In addition, the elections themselves took place amid a broad arrest campaign targeting the Muslim Brotherhood and its candidates; as dozens of Muslim Brotherhood leaders were tried before exceptional military tribunals. As a result, candidates for the ruling party won by default in the vast majority of districts.

In Tunisia, the presidential elections, yet to be held in 2009, in which President Ben Ali will compete, have as usual been accompanied by advanced manipulation of the constitution to ensure that certain figures will be disqualified from candidacy. As such, the Tunisian presidential elections will be closer to a referendum, similar to the elections in Algeria and Egypt.

Parliamentary elections in Morocco remain an exception in the Arab world, both for their commitment to the democratic process in the formation of governments and for the low level of controversies surrounding them. Nevertheless, they also witnessed the lowest voter turnout in Morocco's history, which seems to reflect a lack of confidence in the ability of political

parties and the parliament to address the declining living standard of the population as long as the real power remains in the hands of the monarchy.

VIII. Catastrophes under foreign occupation and internal armed conflicts

Iraq remains the site of the most serious Human Rights abuses in the Arab world, which have left thousands of civilians dead, either killed by American occupation forces, the Iraqi authorities, or terrorist groups, or as part of the ongoing ethnic and sectarian violence.

This is notwithstanding the fact that Iraq has seen a relative decline in the rates of violence, terrorism, and murder after the US administration and Iraqi authorities adopted policies to bring anti-occupation Sunni forces into the political process, instituted firmer measures to disarm the Mahdi Army Shiite militias, and scrapped the de-Ba'athification law. While the Iraqi authorities released 20,000 prisoners with the objective of achieving a national reconciliation, American occupation forces continue to detain more than 20,000 people. Torture continues to be rampant as well, perpetrated by both American forces and Iraqi security forces with no real accountability. Although policies adopted by occupation forces and the Iraqi authorities managed to halt a slide toward a bloody civil war and slightly improve the security situation, Iraq is still liable to see further deterioration. The limited improvement that took place came as a result of political deals between parties to the conflict, while rules for equitable power and resource sharing are yet to be decided. Resolving the conflict over the oil-rich city of *Kirkuk* is a minefield that might broaden the fighting, precipitate a civil war, or lead to the partition of Iraq. All of this would undermine the limited and temporary improvements seen in some fields of Human Rights.

In the Occupied Palestinian Territories, Israel continued its criminal abuses aimed at depriving the Palestinian population of the most basic necessities, particularly in the Gaza Strip, which Israel declared a hostile entity and put under a full siege. Occupation forces continued to carry out politically motivated assassinations and extrajudicial killings, which had taken the lives of 84 Palestinians as of mid-2008. They also continued to shell residential areas and destroy homes and property, while expanding the settlements and constructing the apartheid wall. Palestinians also paid a high price for serious violations by domestic security forces, Fatah and Hamas militias, especially after Hamas assumed control of the Gaza Strip. The report notes that more Palestinians were killed as a result of Fatah-Hamas fighting than by Israeli attacks. Just as Israeli war criminals have remained immune from accountability and punishment, so do extrajudicial killings, arbitrary detentions, torture, and attacks on property and institutions carried

out by Fatah and Hamas largely go uninvestigated and the perpetrators are not subject to prosecution. The Fatah-Hamas clashes led the Palestinian Authority to dissolve more than 100 NGOs in the West Bank while Hamas closed 179 NGOs and Civil Society Organizations in the Gaza Strip.

In Yemen, the armed conflict in the Sa'adah province continued to bring widespread Human Rights violations. Hundreds have been killed, while more than 100,000 have been displaced or been left homeless. This has been accompanied by mass arrests and arbitrary pressure on members of the Zaydi Shiite community, which constitutes a majority in Sa'adah. Although the Yemeni president declared an end to the war in July 2008, fighting is likely to break out again. The fighting has been suspended four times since the war first broke out in 2004, and each time, violence has been resurfaced amid mutual recriminations and accusations that both parties had violated the ceasefire. In addition, the recent decision to end the war was accompanied by the release of only a few of those detained or disappeared during the conflict.

Civilians in Sudan remained open targets for various parties, in the context of growing armed conflicts and lethal tribal disputes. These conflicts have killed hundreds and left tens of thousands homeless, their property and homes plundered, burned, or destroyed. In addition, the authorities' lenient application of the Abyei Protocol led to fierce clashes with the Sudanese People's Liberation Army.

The Sudanese government also manifests a flagrant disregard for international and regional resolutions on the conflict in Darfur as it refuses to cooperate with the International Criminal Court in turning over suspects; it obstructs the deployment of peacekeeping troops in the region; and it abstains from taking effective measures to stop the attacks by Janjawid militias (joined by government forces) on the population of Darfur. In this context, it is no wonder that the Sudanese president is wanted for arrest by the prosecutor of the International Criminal Court on charges of war crimes, crimes against humanity, and genocide. The report also notes that the authorities continued their brutal assaults on villages and internally displaced camps in Darfur in 2008 and took no tangible measures to bring those responsible for crimes in Darfur to account.

In Lebanon, the four-year political deadlock has destroyed constitutional institutions, leaving the Lebanese Parliament paralyzed for 18 months. The country experienced a presidential vacuum for many months, capped by the brief war waged by Hezbollah and its allied militias in Beirut. The ongoing bombings, assassinations, and armed clashes between opposition and loyalist forces left 130 people dead. The media institutions of the Future movement were also broadly targeted.

Palestinian refugees in Lebanon remained in grave danger in light of clashes in the *Ein al-Halwa* refugee camp and before it in *Nahr al-Barid*, which left hundreds dead.

Although, Lebanese parties agreed under the Doha Agreement to not use arms or violence to make political gains, the agreement did not forestall more sectarian clashes. While the Doha Agreement cleared the way to end the presidential crisis and form a national unity government, the situation is liable to explode at any moment. This is evident with the current balance of power in which there are grave doubts about the government's ability to address the widespread abuses that has accompanied the outbreak of the political crisis. The crisis also showed Hezbollah's willingness to disregard the sovereignty of the Lebanese State, even if the price is a civil war. At the same time, the loyalist trend seems even more convinced of the need to disarm Hezbollah. This has left the entire political system hostage to Hezbollah. More voices are also being heard in the Sunni community, advocating re-armament to create a balance of power with Hezbollah. Thus, the Doha Agreement did not defuse the ticking bomb of sectarian militarization, resolve the issue of an International Tribunal for the assassination of Rafiq al-Hariri, or create a means to prevent a miscarriage of justice for the string of assassinations and bombings seen since then.

IX. The Arab League No Better than Member Governments

The Human Rights record of the Arab League cannot be compared to that of similar regional organizations, whether European, American, or African. The performance by the Arab League has embodied the repressive tendencies of regimes in the region, which pay no attention to the will of their peoples, show contempt for Human Rights standards and the means to protect them, foster policies of unaccountability, and wage a fierce war on freedom of expression.

While the UN, the EU, and the African Union registered their unequivocal condemnation of the military coup that crushed democratic life in Mauritania, and the AU and EU threatening sanctions if the constitutional system and elected president were not restored, the Arab League gave implicit support to the coup, which denied the Mauritanian people the right to choose their leaders. The Arab League also failed to play an effective role in ending war crimes in Darfur, and it only became active when the International Criminal Court threatened the president of Sudan with prosecution. Even then, the political and legal actions of the Arab League seemed designed not to save Darfurians from their tribulations as much as to block any possible measures by the court, which the international community, including the Arab League, should support.

Although a fearsome battery of legal restrictions surrounds freedom of expression and the media in most Arab countries, the Arab Ministers of Information Council of the Arab League were not satisfied. In 2008, the council drafted a document on “the principles organizing radio and satellite television broadcast in the Arab region,” which aspires to lend a nationalist, moral sheen to the further erosion of freedoms enjoyed by some media in a few Arab countries. The document also seeks to make Arab regimes and their figures, policies, and practices immune from criticism.

One positive, though symbolic, development did take place when the Arab Human Rights Charter went into effect. Nevertheless, the charter does not meet international standards, largely because it places national law above several of its most important articles and allows no real role for Non-Governmental Organizations.

XI. Arab States at the United Nations Human Rights Council: Exporting Repression

The transition from the Commission on Human Rights to the Human Rights Council was supposed to have been a reform process to strengthen and increase the legitimacy of the main Human Rights body of the UN. However, “spoiler” states, most actively lead by members of the Arab Group and OIC, have succeeded in introducing several potential mechanism and processes which could be used or built upon in the future to detract from the independence and credibility of the Council and its ability to carry out its primary functions. Furthermore, highly active states with a “negative agenda” from the Arab Group and OIC have been able to manipulate the outcomes of processes at the HRC to ensure that their governments and allied governments are largely shielded from genuine review, criticism and/or sanction.

Disturbingly, states that have attempted to weaken the ability of the HRC to investigate and pressure governments to improve their Human Rights policies, are currently attempting to use the HRC as a tool to (1) assert control over and weaken the competencies of other UN Human Rights mechanisms (ex: OHCHR), and (2) to weaken long established Human Rights standards through the reformulation of international law. The scope and aim of these efforts could well increase in the future if successful. As such, these two issues constitute long term threats to the international Human Rights system which are currently being formulated and refined within the processes of the HRC. In light of this, those who place a high level of value on current universal Human Rights standards and mechanisms to promote and protect these standards, cannot afford to ignore or dismiss what is currently occurring at the HRC as temporary or insignificant.

Part I

Human Rights Situation in the Arab World

Chapter I Occupied States or States in Civil wars

Iraq

... An Uncertain Future

The gravest violations of human rights in the Arab world continue to take place in Iraq, claiming thousands of civilian lives at the hands of US occupation forces, the Iraqi government and terrorist groups, or as a result of the continued fighting and sectarian violence that almost drove Iraq into a fierce civil war two years ago.

However, during the last few months of 2007 and early 2008 a relative decrease in the levels of violence, terrorism and killings was witnessed in Iraq. This decrease was largely due to the changes in political and security tactics adopted by the US military and the Iraqi authorities. These new tactics included increasing the involvement of anti-occupation Sunni groups in the political process, taking firmer measures to disarm the militias of the Shiite Mahdy Army, granting amnesty to some prisoners and resending the de-ba'athification law issued by the US occupation authorities.¹⁷

Unfortunately, improvements in the security situation and the associated decline in killings, was not accompanied by political and constitutional procedures to guarantee their sustainability. Rather, these improvements depended on ad hoc, temporary political agreements with some parties to the conflict. Rules relating to the distribution of power and oil wealth are yet to be concluded on a fair and consensual basis.

¹⁷ The BBC, report on the US Strategy in Iraq:
<http://news.bbc.co.uk/2/hi/americas/6294694.stm>

Other political time bombs include lingering disagreements on the status and control of the oil-abundant Kirkuk region, an issue that may lead to renewed fighting between Arab and Turkmen communities on the one hand, and the Kurds and Shiites on the other hand. Therefore, the door is still open to various possibilities, including a civil war that may lead to the division of the country, which would inevitably lead to an almost complete erasure of the limited human rights gains that have occurred.

The US-Iraqi security Bilateral Pact¹⁸ and the Strategic Framework Agreement are also among the most important parameters to define the situation of human rights in the country for the near future. Both agreements, however, do not include any concrete and binding items relating to the safeguarding of human rights and the democratic process. These agreements also lack provisions that hold US soldiers accountable before Iraqi courts. These facts, in addition to the continued military operations by US forces inside Iraqi territories carried out without the consent and coordination of the Iraqi government, give rise to doubts as to the potential improvement of the human rights situation and democratic process in the country.

Violence, Random Killings and the Targeting of Civilians:

High rates of violence in Iraq are still one of the key challenges with respect to the improvement of the human rights situation in the country. Widespread violence continues mainly due to confrontations between governmental troops and resistance groups, as well as between Sunni and Shiite militias. Organized crime, including widespread abductions, is also a significant factor.

The period from September 2007 to July 2008 witnessed the use of suicide bombers, explosive vehicles, indiscriminate killings, and abduction and terrorizing of civilians. Such violence increased after the US-supported *Maliki* government began, in late March 2008, a series of military operations targeting the so-called “outlaws.” This term was used to refer to the members of the Shiite *Mahdy* army militias led by *Moqtada El-Sadr* in Baghdad, Basra, El-Emara and Samawa, as well as groups of the Sunni Qaeda in Musel, Diyala, Salahaddin and Al-Anbar. In the meantime, the Shiite and Sunni groups alike continued targeting civilians through the use of

¹⁸ *Note by Editor:* The agreement came into force on December, 2008 following its approval by the Presidency Council of Iraq. However CIHRS annual report for the year 2008, was printed and published before that the agreement came into force. Some of the findings concerning the Bilateral Pact were based on an early draft of the latter, amendments to the dispositions of the draft were made during this period. The paragraphs regarding the Pact, in this section, should only be read according to the first draft of the Pact .

booby-trapped vehicles and attacks by suicide bombers in markets, mosques and during religious ceremonies, in addition to the Mortar missiles randomly aimed at civilian neighborhoods or government buildings.

The geographical scope of acts of violence in Iraq decreased. Also, the number of killings fell by around 70% throughout December 2007 and January 2008. The number of victims equaled 899 killings in December and 741 in January, a decline compared to the same months the previous year.¹⁹ However, acts of violence soon accelerated with the onset of military operations against the *Mahdy* army and Al-Qaeda. 1,534 killings occurred in March 2008 and 1,653 killings in July 2008.²⁰ None-the-less, these figures represented a 38 percent decrease during March and July of 2007.

Militant groups resumed suicide bombings after briefly refraining from using this tactic during the first quarter of 2008. On June 17, 2008, a booby-trapped truck exploded in the densely Shiite populated Horreya neighborhood, killing 63 Iraqis.²¹ Around six weeks later, another suicide bombing killed around 57 people in Kirkuk and Baghdad, and injured 287 individuals, the victims were mostly Shiite pilgrims on their way to celebrate a religious occasion.²²

Between September 2007 and July 2008, nine incidences of excessive and unjustified use of force by foreign security contractors targeting Iraqi civilians were documented. The incident of *Sahet al-Nosour* (al-Nosour Square) in Baghdad was the bloodiest, where security agents affiliated to the Blackwater USA security company opened fire on a group of Iraqi civilians on September 16, 2007, killing 17 Iraqis, mostly women and children.²³

The killing of civilians continued during air raids or in pursuit and inspection operations undertaken by Iraqi and US forces. The United Nations Assistance Mission for Iraq (UNAMI) recorded the death of no less than 101 Iraqi civilians as a result of US and Iraqi military actions between September and December 2007.²⁴ The *Sadr* militia accused the Iraqi and US forces of committing grave violations of humanitarian law leading to the death of hundreds of civilians during military operations undertaken in the Sadr neighborhood in Baghdad.²⁵ UN reports indicate that US soldiers are rarely

¹⁹ According to statistics by Reuters, total Iraqi victims amounted in December 2006 to 2,656 victims, and 2,795 victims in January 2007.

²⁰ Ibid.

²¹ AFP, June 17, 2008.

²² *Al Hayat* newspaper, July 28, 2008.

²³ *Asharq Al-Awsat* newspaper, September 17, 2007.

²⁴ UNAMI, Human Rights Report, July 1 – December 31 2007.

<http://www.uniraq.org/FileLib/misc/HR%20Report%20Jul%20Dec%202007%20EN.pdf>

²⁵ See declaration by the Sadr leader, Mohanad El-Gharrawi, to AFP, May 23, 2008.

referred to military trials for committing war crimes, including willful killings. From 2005 to 2007, only five cases were referred to US military courts. The latter changed the charges against US soldiers from semi-premeditated murder to non-premeditated.²⁶

Situation of Prisons and Detention Facilities:

The situation of prisons and places of detention of the Iraqi government or US forces saw limited improvement, primarily due to the decrease in the number of detainees and the improvement of detention conditions. The US army announced in August 2008 the release of more than 10,000 detainees since the beginning of the year, an increase of 12% compared to the total number released in 2007.²⁷ However, the US army estimates that its forces are currently detaining no less than 21,000 detainees in Iraq.

It is believed that the US-Iraq Security Pact will still allow US forces to detain Iraqi prisoners even after the withdrawal of the former from Iraqi cities starting from late December 2008.

During the first half of 2008, Iraqi courts released around 20,000 prisoners according to a comprehensive amnesty law aimed at achieving national reconciliation in Iraq.²⁸

Iraqi authorities continued to encounter difficulties managing the growing numbers of arrests made under the law-enforcement plan, and also in light of the lack of sufficient amount of cells for the newly detained. Also, the judicial authorities at times lack the ability to ensure timely review of the cases of detainees.

Positive developments hailed by international human rights community included the issuance of a government ordinance by the Prime Minister's Office on September 2007 by virtue of which all procedures of arrest and release would be subject to judicial oversight. Suspects are to be appointed lawyers representing them upon giving their statements, without the presence of investigation officers. Public prosecutors are to monitor arrest procedures and the conditions of prisons through regular visits to prisons.²⁹ However, detainees still suffer major delays in finalizing their cases,

²⁶ See the UNAMI report, *ibid*.

²⁷ Reuters, August 2, 2008.

²⁸ The UN estimated the number of detainees in Iraqi and US prisons in Iraq by 51,133 detainees by the end of December 2007. No accurate data are available on the number of detainees by the end of July 2008.

²⁹ See the UNAMI report, *ibid*.

particularly under the lack of a legal provision to regulate the extension of detention.³⁰

Torture continued on a large scale. International human rights reports state that detainees in the prisons of the Ministries of Interior and Defense were subjected to battery, burning and/or sexual abuse, particularly upon arrest or during investigations to obtain confessions. Punishment of perpetrators of torture is limited to insufficient disciplinary procedures³¹ namely: fines, resending of one's rank, denials of annual leave, reduction of salaries and referral to other jobs. However, In highly grave cases; committing torture can result in the dismissal of that person.

The approval of the Iraqi Presidency Council on August 17, 2008 to accede to the Convention Against Torture would aid in putting an end to crimes of torture. Unfortunately, current Iraqi laws do not include any criminalization of torture and provide only for punishment in case of "unjustified battery".³²

Independence of the Judiciary and the Right to Fair Trials:

Iraqi judicial procedures do not meet the minimum standards of fair trials. Defendants are routinely denied basic legal safeguards, including having access to lawyer, access to evidence held against them, as well as the rights to contact and investigate witnesses and present evidence refuting charges during judicial procedures.³³ Moreover, the UN monitored a number of trials where capital punishment or life imprisonment sentences were passed in less than one hour in sessions described as show trials lacking sufficient defense. In 2007, Iraqi courts issued 395 death sentences, 16 of which were pronounced by Kurdish courts.³⁴

On September 5, 2007, the Appeal body affiliated to the Iraqi High Criminal Court, which has often, endorsed three death sentences issued in June of the same year against the former Secretary General of the Ba'ath Northern Office, *Ali Hassan El-Majeed*; the former Minister of Defense and Chief of Staff of the Iraqi Armed Forces, *Sultan Ahmed Hashem*; and the Deputy Chief of staff of the Armed Forces, *Hussein Rashid El-Tekreety*. International observers condemned the trial, due to the procedures followed by the Iraqi High Criminal Court, including the inclusion of questionable or

³⁰ Ibid.

³¹ Ibid.

³² The MENA news agency website, August 17, 2008.

³³ See the UNAMI report, *ibid*.

³⁴ Ibid.

tainted evidence, denial of the defendants' right to self-defense, the use of evidence by the court not announced earlier by the prosecution and the restriction of the defense lawyers' ability to raise question with the plaintiffs and defendants.³⁵

Freedom of Expression and Targeting of Journalists:

Journalists and media professionals in Iraq remained targets of violence, including killings, harassment and abduction. They were primarily targeted by militant groups and to a lesser extent by the Iraqi and US forces. The Iraqi police are still unable to refer perpetrators of crimes against journalists to justice.

Iraq remains the country with the highest rate of murdered journalists despite the fact that the period from January to July 2008 witnessed a major decline in the rates of killing and/or abductions. During this period nine Iraqi journalists were killed, including *Shehab El-Tamimi*, Head of the Journalists Syndicate, compared to 2007 during which 47 journalists, all Iraqis except for one Russian. The latter was killed while accompanying the US forces in the Dyali governorate.³⁶

In October 2007 Police forces in the Kurdish Sulaymaneya governorate detained *Tarek Fateh*, editor of the *Hawlati* newspaper, for the second time in less than a month on charges of publishing a compliant by one of the citizens against a company owned by a brother of one of the Kurdistan government officials. On October 28, Kurdish forces detained journalist *Mohamed Saro Kehya*, working for the Turkmen newspaper *Al-Ikhaa* in Kirkuk. His location and condition are still unknown.³⁷

International reports indicated the involvement of Kurdish officials in the murder of journalist *Soran Mamah Hamma* outside his house in Kirkuk on July 21, 2008, for publishing reports in the Kurdish fortnightly *Levin* magazine on the involvement of government officials in running prostitution networks.³⁸

The first half of 2008 witnessed some relatively positive developments regarding the decrease in the abduction of journalists working in Iraq, compared to 2007 during which 25 abductions took place. Between January

³⁵ See the UNAMI report, *ibid*.

³⁶ Reporters without Borders, 2007 Middle East Annual Report.

³⁷ See the UNAMI report, *ibid*.

³⁸ Press release by the Committee for Journalist Protection, July 22, 2008, http://www.rsfo.org/article.php3?id_article=27900

and July 2008, four journalists were abducted, with one of these abducted journalists, *Haydar Majout Hamdan*, killed in Baghdad.³⁹

Moreover, arrests of journalists by US and Iraqi forces decreased from the following years. Five such cases were reported from January to July 2008. The most significant of these cases was the detention and interrogation, for four days, of the Head of Journalist Syndicate in Tekreet, *Hassan Ahmed El-Maajoun* on June 28, 2008 in the US Spacer base.⁴⁰

The Right to Peaceful Assembly and Political Parties and NGOs' Right of Association:

Iraqi authorities showed relative tolerance towards peaceful protests and demonstrations, notwithstanding the continued curfew usually imposed by the government in times of crises or before election times.

The decision by the governor of the Shiite city of Karbala in September 2007 to make it conditional upon protesters to secure prior permission from the governorate council before organizing any demonstrations is a unique exception that has probably been taken in response to violent confrontations that took place in the city the month before; between Iraqi police and proponents of *Sadr* which lead to the death of 75 persons.⁴¹ No victims were killed by Iraqi or US forces during this clash. Protesters were instead targeted by militant groups either by booby-trapped vehicles or suicide bombers.

The Iraqi legislative branch lacks laws identifying the working procedures and regulating the work of political parties in Iraq, despite the actual existence of more than 200 political parties that were mostly organized after the collapse of the *Saddam Hussein* regime in 2003. The Iraqi presidency is expected to present a draft law regulating the activities of political parties for voting in the Parliament during the coming period. Official statements to this effect also refer to the “establishment by the state of an authority to be responsible for licensing political parties to make sure they undertake their activities according to certain criteria. The latter include the number of members, sources of funding and review of annual balance sheets.”

³⁹ Press release by Reporters without Borders, July 2008.

⁴⁰ The Arab Organization for Human Rights indicates in its 2007 annual report, the detention of 31 journalists by the Iraqi and US forces in 2007. P.122.

⁴¹ US Department of State Annual Report on Human Rights Conditions in Iraq for 2007.

⁴² The draft law allows the withdrawal of party license in case the number of members did not reach 6000 during the first year of establishment.

Furthermore, the law regulating the work of NGOs presented by the Iraqi presidency to the Parliament for approval in January 2008 is still inactive, though it includes positive items rarely approved in similar laws in other Arab countries. For instance, it gives each Iraqi citizen the right to establish an NGO and to legally register it within 45 days only. NGOs may not be blocked or denied licenses unless by a judicial ruling and are allowed to receive local and international funding without government intervention or supervision. They are also allowed to increase their economic resources through bank loans or small enterprises.⁴³

The deteriorating security situation is among the gravest challenges facing the work of NGOs, particularly in the fields of relief and human rights. In 2007, five relief organizations were closed in Musel city alone due to security threats.⁴⁴ The head of the Baghdad-based Organization for Women's Freedom in Iraq received a death threat in December 2007, almost seven months after the assassination of its former head, Ms. *Sinar Mohamed*.⁴⁵

Situation of Women and Minorities :

Acts of violence, amounting to gender-based and religion- based assassinations, and the rise of religious and tribal discourse based on sectarian conflict, continue to pose grave threats to Iraqi women and religious minorities.

Iraqi, Arab and international organizations reported the deterioration of the situation of Iraqi women due to actions by fundamentalist Sunni and Shiite militias, particularly in the second half of 2007. Women are often forced to wear veils, to abstain from wearing trousers, or what are deemed as men outfits, and are segregated in universities on grounds of gender. Honor crimes are still among the most significant challenges facing Iraqi women.

In 2007, reports documented 44 women being killed in "honor crimes", most of whom were tortured and abused. Pieces of papers were found close to their bodies indicating that they were killed for not abiding by genuine Islamic behavior.⁴⁶ Honor crimes in Kurdish cities led to the death of 29

⁴² Statements by *Khaled El-Asady*, member of the Civil Society Institutions Committee in the Iraqi Parliament, to the *newsmatic* Iraqi news website, May 19, 2008.

⁴³ See the draft law on the website of the NGO Coordination committee in Iraq: <http://www.ncciraq.org/>.

⁴⁴ Gameel Ouda, *Civil Society and NGOs in Iraq*, Nibur newspaper, October 3, 2007.

⁴⁵ The 2007 report by the Arab Organization for Human Rights, P. 262.

⁴⁶ *Ibid*.

women in Erbil, Suleymaneya and Dahuk governorates between October and December 2007.⁴⁷

Though accurate data on the situation of women in the first half of 2008 is limited, the increased crackdown on militant Shiite and Sunni groups has contributed to mitigating violence against women and limited the ability of their members to openly threaten women for not adhering to conservative Islamic codes.

On the other hand, religious and ethnic minorities in Iraq, particularly in conflict areas in Northern Iraq are still prone to attacks by Shiite and Sunni Muslim groups. One month after the blast of three explosive trucks in Ozor village with the Yazidi majority in Niyouni governorate killing around 350 persons, UNAMI issued reports on the continued harassment of the Yazidi minority in the governorates of Niyouni and Sallaheddin by the Sunni majority during the last quarter of 2007. Moreover, the Shabak sect in Iraq complained about attempts by Kurdish groups to evacuate 771 families of their sect from their houses in Musel city, in addition to reports of 185 cases in which individuals were threatened with murder.⁴⁸

Attacks against Christian families continued in the Al-Dawra district in Baghdad, mostly inhabited by Sunnis. Militant Sunni groups compelled Christians to pay \$100 as a security fine, leading to the increase of Christian displacement.⁴⁹ Reports by Iraqi Christians indicated that at least 44 Christians were killed during the second half of 2007 due to the continued targeting of Christians in Baghdad and Musel.

Political Participation and Prospects of Rotation of Authority :

The political sphere witnessed a limited improvement as a result of increased participation of representatives of various Iraqi political forces in decision making processes. However, huge challenges remain. Such challenges include the failure of Iraqi political parties to gain approval on the Provincial Elections Law despite earlier hopes that it would be enacted in August, before the summer vacation of the Iraqi Parliament.

The approval of the Iraqi presidency of a law to establish a Supreme National Commission for Accountability and Justice on February 3, is one of

⁴⁷ UNAMI report refers to police reports in Erbil, the largest Kurdistan city in Iraq in terms of the number of population, of 42 honor crimes between 1992 and 2007.

⁴⁸ UNAMI report in Iraq.

³³ The 2007 report by the Arab Organization for Human Rights, P. 281.

the key political developments in 2008. It is meant to replace the De-Ba'athification Commission, which had hindered thousands of Ba'athists from holding positions in the government due to their former party positions. In spite of the positive aspects of the new law, it also contains some negative points which maintain the practice of collective punishment/discrimination against former Ba'athists.

Mechanisms to challenge the rulings of the newly-established Commission are put in place by the new law. However, it denies dismissed or de-ranked officials the right to know and challenge the evidence submitted against them. Moreover, no provisions in the new law provide sufficient guarantees that the new committee will be composed of independent persons to be selected on the basis of efficiency and integrity.⁵⁰

The rejoining of the Sunni *Tawafiq* (Accord) Front's ministers to the *Maliki* government in July 11, 2008, is perhaps another important recent political development. The party, holding 44 seats in the 275-seat Iraqi parliament, announced in August 2007 its withdrawal from the Iraqi government after criticizing the government's performance regarding amnesty granted to prisoners, as well as complaints of not involving the party sufficiently in the security decision-making process, particularly the Sunni areas.⁵¹

The *Tawafiq* (Accord) Front party justified their return to the government by the security and military steps that have been taken by the Iraqi forces since March 2008 to minimize the influence of the Shiite *Mahdy* militias – an indicator of non-sectarian policies by the government with its Shiite and Kurdish majority.

Based on the above developments, a close reading of the broader context and nature of political interactions in Iraq indicate negative trends for the future. The decision by the Sunni *Tawafiq* party cannot be understood without reference to the Iraqi local elections was to be held in October 2008. It is probable that *Tawafiq* rejoined the government only in order to run against the Sunni *Sahwa* (Awakening) councils formed in 2007 within the framework of the rule of law.

According to some press reports, the most significant conditions laid down by the *Tawafiq* party to return to the government during negotiations that started in February 2008, included a demand that the *Sahwa* council-affiliated ministers not be appointed as representatives of Sunnis in the formation of the government. The decision was condemned by leaders of the

⁵⁰ Press release by Human Rights Watch, February 21, 2008.

⁵¹ *Seif Nasrawy*, *Al-Ahram Weekly*, July 31, 2008.

Sahwa councils, especially since they have contributed to the decline in violence in the *Sunni* populated areas due to operations undertaken by their fighters against the al Qaeda group.

It is feared that the exclusion of the *Sahwa* council, consisting of around 110,000 fighters, might have catastrophic consequences on the political process in Iraq. The councils are supported by strong tribal, social, economic and military networks. The latter are not available to the *Tawafoq* party, primarily led by some Iraqi repatriates. Sunni tensions started to surface with the failed assassination attempts that targeted some officials of the Iraqi Islamic Party, the key party in the *Tawafoq* front, in the cities of Fallujah and Musel during July and August 2008.⁵²

Concerning Shiite political parties, the decision by the Prime Minister *Al-Maliki* to exclude political parties with armed militias from elections in the Iraqi governorates will likely create conflict between proponents of the *Sadr*, who boycotted the latest local elections held in December 2005, and proponents of the High Islamic Council led by *Al-Hakim*. There are indications that the Islamic Council could lose most of the seats of the governorates in mid and southern Iraq to Sadrists.

Conflict over the oil-abundant city of Kirkuk is one of the major challenges facing the political process in Iraq. The Kurdish leaders rejected the first draft of the Iraqi elections law, passed by the Parliament on July 22, 2008. Objections are basically related to the distribution of the seats of the Kirkuk city council that stipulated ethnic quotas, with 32 percent of members Kurdish, 32 percent Turkomen, 32 percent Arab and 4 percent Christian.

The decree by the Iraqi President, *Galal Talbani*, a Kurdish leader, to veto the decision of the parliament, reflects the concerns of the key Kurdish parties regarding denial of access to the city by the Kurdistan region. The vetoed decision was made in accordance with Article 140 of the Iraqi interim Constitution that was put to referendum. Meanwhile, the Arab and Turkmen parties in Kirkuk accused the Kurdish Regional Government (KRG) of “Kurdish-izing” the city by expelling Arab and Turkmen inhabitants and bringing in around a quarter million Kurds to the city to upset the ethnic balance, thus preparing for Kirkuk’s future incorporation into Kurdistan.⁵³

⁵² *Al-Hayat* newspaper in July and August.

⁵³ *Seif Nasrawy*, *Al-Ahram Weekly*, August 7, 2008.

The Occupied Palestinian Territories

Between the Sickle of Occupation and Hammer of Internal Conflict

The issuance of this report coincides with the 41st anniversary of Israeli occupation of Palestinian territories which began after the June 1967 war. Despite the fact that the international community has declared the right of Palestinians to self-determination through dozens of relevant resolutions issued by the Security Council, the United Nations General Assembly, as well as through an Advisory Opinion of the International Court of Justice, the international community has failed to take real steps towards ending the occupation and enabling the Palestinian people to practice their right to self-determination. This failure is largely a result of the US government's long maintained policy of unconditional support for Israel. In accordance with this policy, the US has consistently blocked attempts to hold Israel accountable for continuous war crimes committed against the Palestinian people, and other grave violations of International Humanitarian Law (IHL). For political progress to be reached in the Occupied Territories, these crimes will have to end, and their perpetrators brought to justice, including before international tribunals if necessary.

The right to self-determination and other fundamental human rights have been subject to successive setbacks at the hands of Palestinians factions themselves, particularly during and after the armed insurrection led by Hamas to assume power in Gaza in June 2007. This precipitated retaliatory actions by Fatah which quickly moved to exert forceful control over the West Bank.

During 2007–2008, the Palestinian people became the targets of additional war crimes by Israeli military forces, including collective punishment policies aimed at depriving Palestinians of their basic needs. Palestinians in the West Bank and Gaza Strip also suffered serious human rights violations committed by the internal security forces of both Fatah and Hamas.

For the first time since the beginning of the Israeli occupation, reports recorded that the number of Palestinians killed as a result of internal conflict exceeded the number of those killed by Israeli attacks.⁵⁴ According to these reports, 2007 has witnessed 396 Palestinian deaths as a result of Israeli attacks, while 490 Palestinians were killed as a result of internal conflict, including 188 who died during six days of violent clashes between Fatah and Hamas militias in June 2007.

Israeli war criminals remained immune against accountability and punishment for their crimes, including unlawful killing, arbitrary arrest, torture and destruction of civilian property. Similarly, most Palestinian security personnel guilty of killings and other human rights abuses within Fatah and Hamas were also not properly investigated or brought to trial.

The press and civil society organizations in the West Bank and Gaza have been subject to repressive measures by Israeli forces. Furthermore, Israel has tightened its grip on the OPTs, particularly in Gaza. An unprecedented escalation of siege and collective punishment procedures (i.e. an almost total blockade) has been imposed on Gaza residents since the beginning of 2008. The siege expanded to include cutting fuel and electricity supplies as well as medicine and food supplies—measures which have led to the severe deterioration of health institutions and other important services in Gaza. As such, Palestinians have been forced to cross the Rafah border into Egypt to receive health care or gather basic necessities.

Though many expected Israel to promote the authority of Fatah as opposed to the Hamas authority, in fact Israel resumed its military incursions into the West Bank, targeting military and civil targets alike and further resumed its settlement expansion and segregation policies.⁵⁵

⁵⁴Human Rights Watch, "Internal killing: Palestinian Violations in Gaza and the West Bank", a report issued in July 2008.

⁵⁵Essam Mohammad Hassan, "41 years of Occupation and International Collusion to Crush the Palestinian People", Sawasiah, issue no. 80, February 2008, Cairo Institute for Human Rights Studies

I. Human Rights Violations by Israeli Occupation Authorities

House Demolition Policy:

Israeli authorities continued to use house demolition as a regular policy, with the aim of collectively punishing Palestinian families for allegedly housing militants who have launched attacks against Israel, or committed other security violations.

According to the Palestinian human rights NGO- Al-Haq, between mid 2007 and mid 2008, Israeli occupation forces demolished 30 houses in the West Bank, resulting in the displacement of 110 persons. It further demolished 31 houses, claiming that these houses did not have construction licenses, which led to the displacement of 80 persons. According to documentation of Al-Mizan Center for Human Rights, Israeli occupation forces have totally demolished 42 houses and partially demolished about 300 houses in the Gaza Strip. The Israeli Supreme Court regularly grants legal immunity to the military for its policy of house demolition.

Targeting and Killing of Civilians:

Under the pretense of combating terrorism, Israeli occupation forces continue to target civilians in the OPT on a daily basis, using different types of artillery, including heavy machine guns, tank cannons, helicopter and fighter aircrafts, as well as various types of bombs and missiles. According to Al-Haq, between mid 2007 and mid 2008, Israeli occupation forces killed 18 Palestinian children and two women in the West Bank. According to statistics of Al-Mizan Center for Human Rights, the number of persons killed by Israeli occupation forces in the Gaza Strip reached approximately 571 persons, including 78 children and 28 women.

Acts of Unlawful and Extrajudicial Killing:

Israeli occupation forces continued to commit acts of unlawful and extrajudicial assassinations, considered war crimes under the provisions of IHL. According to Al-Haq, Israeli occupation forces have unlawfully executed 29 Palestinians, in addition to extrajudicial assassination of 15 Palestinians in the West Bank between mid 2007 and mid 2008. According to statistics of the Al-Mizan center, around the same period, some 40 persons have been extrajudicially assassinated in the Gaza Strip by Israeli occupation forces.

Blockade of Gaza Strip:

On September 19 2007, the Israeli cabinet unanimously decided that the Gaza Strip is enemy territory which allowed for a subsequent increase in the imposition of collective punishment against civilians. During the previous period, the Israeli occupation authorities reduced fuel amounts permitted for purchase by Gaza residents, which led to the depletion of fuel reserves. Furthermore, Israel does not allow Gaza residents to receive fuel except through the fuel store in Nahel Ouz on the border crossing between Israel and Gaza. In January 2008, the Supreme Court of Israel issued a decision permitting the restrictions on fuel supplies to Gaza. The decision has been widely perceived as a license to commit collective punishment.

By preventing its residents from receiving the fuel they need to generate electricity, provide hospitals with electrical power, drive automobiles, and pump water, including sanitary drainage, Israeli occupation forces have carried out an engineered dismantling of the Gaza Strip's economic and social infrastructure. This policy has resulted in a long term humanitarian crises, and the undoing of years of economic development in Gaza.

During the second half of April 2008, as a result of the gas shortages caused by the Israeli blockade, the United Nation Relief Works Agency (UNRWA) had to halt delivering food to 650,000 Palestinians. The shortage of fuel at the Water Authority in the Gaza Strip led to disruption in water supplies and forced the Authority to pump approximately 10-20 million liters of non-treated sanitary drainage water to the sea on a daily basis. Schools and universities closed as a result of students' increased absence rates.

Confiscation of Lands and Destruction of Properties with the Aim of Constructing the Separation Wall:

Israel is resuming construction of the West Bank separation wall in disregard of the Advisory opinion of the International Court of Justice issued on July 9, 2004, which stated that Israel violated international law in the routing of the security fence, and called on Israel to dismantle sections built in the West Bank and East Jerusalem. The Advisory opinion also concluded that Israel is under a legal obligation to make reparations for the damage arising from the construction of the Wall. It further reiterated that all States are under an obligation not to recognize the illegal territorial acquisition resulting from the construction of the wall, and all State parties to the Fourth Geneva Convention have the obligation to ensure compliance by Israel with international humanitarian law as embodied in the Convention. Finally, the

Court was of the view that the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring an end to the illegal situation resulting from the construction of the Wall.

Israeli occupation forces, supported by the Supreme Court of Israel, refused to submit to the Advisory opinion of the International Court of Justice. The resumed construction of the separation wall exacerbated the daily suffering of Palestinians. It further resulted in the total separation of Jerusalem from the remaining part of the OPTs. Many Palestinians dwelling at its eastern side are thus prevented from having access to the city, including access to their places of worship and work. Accordingly, many people were forced to immigrate. Tens of thousands of families were separated from one another and deprived from accessing health services, schools and universities. Thus, the wall further added to the increase in the percentage of unemployment and poverty.

Barriers, Ill-treatment and Restrictions on the Freedom of Movement and Transportation:

Since the outset of the *Intifada* in 2000, Israeli occupation forces have imposed strict restrictions on the freedom of movement and transportation of Palestinian citizens and material goods inside the OPTs. Restrictions on freedom of movement has had sever negative impacts on Palestinian lives and economic development. Widespread use of permanent and temporary barriers, the inclusion and expansion of the separation wall, the prevention of Palestinians and Palestinian vehicles from using many roads which have become exclusively used by Israeli settlers, were some of the frequent methods utilized to restrict the freedom of movement of Palestinians. Moreover, Israeli occupational forces have divided the West Bank into six entities independent from one another and isolated occupied Jerusalem from the remaining part of the OPTs. The Gaza Strip was almost completely cut off from the outside world and a full blockade imposed. Palestinians' movement between the West Bank and Gaza Strip, in addition to their entering Israel or travelling abroad has been highly restricted.

Facts indicate that the number of permanent barriers in the West Bank have increased to more than a hundred during 2007-2008, in addition to about 20 barriers established inside the city of Hebron. Also, Israeli occupation forces place dozens of mobile barriers in different places every day, contributing to the restriction of movement and transport. There are also

more than 500 permanent dust barriers placed on branch roads linking Palestinian villages and cities in all parts of the West Bank with the aim of exacerbating Palestinian residential suffering.

Designating some roads for Israeli settler use and preventing Palestinians from using and benefiting from them is an obvious means of collective punishment and also clearly demonstrates a system of discrimination and segregation.

Closing Palestinian NGOs and Associations:

During 2007/2008, Israeli occupation forces invaded cities that were under the Palestinian authority – particularly in Nablus, Jenin, Hebron and Qalqilia, and attacked and closed Palestinian organizations after inspection and confiscation of their contents.

According to Al Haq, closure of these associations and confiscation of their contents was carried out under special military instructions issued by the West Bank region military Chief of Staff under the pretext of security requirements.

The Palestinian organizations which were closed and whose property was confiscated were mostly non-governmental institutions of a charitable nature. On July 6, 2008, the West Bank military chief of staff issued an order closing the Islamic Charitable Solidarity Association as well as all affiliated offices, clubs and headquarters and confiscating all their fixed and movable assets.

On the same day, the military Chief of Staff issued an order closing the Limited General Joint Stock Arab Palestinian Funds House Company, known also as the Credit Company for Investment and Development, and confiscated all of its real estate and property, including the commercial complex "Nablus Mall" for two years. The military chief of staff commanded the closure of all commercial shops and others located inside the building. He announced confiscation of all contents of the commercial shops and offices located inside the building, claiming that their owners are working for Hamas.

Restrictions Imposed on Civil Society Associations:

In light of the blockade imposed by Israeli occupation authorities on the Gaza Strip, human rights activists are prohibited from leaving the Gaza Strip and travelling abroad. In the West Bank, occupation forces impose

restrictions on the movement of human rights activists and ban them from travelling. *Shawan Gabareen*, General Director of Al-Haq, has been prevented from traveling under the pretext that he represents a security risk. *Raji Sorani*, Director of the Palestinian Center for Human Rights in Gaza, has also been restricted from leaving the OPTs.

II. Palestinian Violations of Human Rights in the OPTs

Hamas' take over of the Gaza Strip resulted in the deterioration and retrogression of respect for and enforcement of rights and freedoms as a result of conflict and human rights violations committed by both Palestinian political movements – Fatah and Hamas. Numerous rights and freedoms have been subject to restrictions and violations by both parties, under the pretext of "abnormal conditions faced by the country", "security requisites" or "keeping the general system" in regions controlled by both parties. Violations of human rights have been committed against the right to life, freedom of opinion and expression, freedom of the press, non-discrimination, the right to association and peaceful assembly, right to personal security, protection against arbitrary detention, , as well as the right to privacy and personal choice and protection from unjustified search and seizure. Torture, inhuman, cruel and degrading treatment has also been carried out by Fatah and Hamas.

These violations were further exacerbated by the disarray of the criminal justice system in Gaza and the West Bank. In Gaza, after the Palestinian National Authority head instructed judges to boycott judicial authorities in Gaza following Hamas' coup, Hamas responded by nominating and putting in place new judges and general prosecutors who lack the necessary experience and expertise. This appointment process was done based on no legal grounds. Political manipulation of the judicial system was clearly observed when Hamas appointed judges who were loyal to the Hamas movement. In the West Bank, the judicial system was discarded and security bodies repeatedly refused to respond to orders of courts regarding the release of detainees. In Gaza and the West Bank, official authorities failed to safeguard legal guarantees of detained persons which required their appearance before the general prosecutor within 24 hours of detention. Lawyers faced difficulties in accessing their clients, and authorities did not inform detainees of the reasons for their detention. Parties to the conflict lacked the political will needed to end the impunity enjoyed by perpetrators of serious human rights violations.⁵⁶

⁵⁶Human Rights Watch, *ibid*.

Torture:

In the West Bank and Gaza, many persons were subject to torture, beating and humiliating treatment during and after arrest by both Fatah and Hamas, with the aim of attaining confessions, acquiring information or as a retaliatory measure against the rival faction. Reports received by Al Haq indicate that security bodies in the West Bank used 13 different methods of torture against detainees. These methods included severe beatings, fastening of hands and suspension for long periods, forcing prisoners to stand for long periods of time, confinement in dark and narrow cells, unhygienic conditions, sleep deprivation and sense deprivation. Prisoners were also prevented from calling or talking to their lawyers, and were not allowed family visits.

Torture alleged to have been perpetrated by forces affiliated to the Palestinian National Authority resulted in the death of at least two detainees.⁵⁷ International reports have concluded that three detainees held by Hamas have died as a result of torture.⁵⁸

Extra-judicial and Unlawful Killings:

One of the most serious violations recorded is the extrajudicial killing of *Antar Al-Bayoumi* by a mixed group comprising *Ezzedeen Al-Qassam* brigades and law enforcement officers. According to an eye-witness, *Antar* had been detained on June 14, 2007 by dozens of masked persons affiliated to the Hamas movement, one of whom open fired from a distance of about two meters, wounding *Antar* in his legs. A witness said: "I saw *Antar* moving backwards and crying, while the masked man rushed towards him and shot him several times in the chest. *Antar* then fell to the ground. Afterwards, I saw the same masked man firing his gun into *Antar's* body intensively while he was lying on the ground. After about 5 minutes, three masked men came out of the street and I heard one of them telling his colleague who fired at *Antar*: "Did you kill him?" He said "yes". Then I saw the masked man who asked his colleague if he was dead directing his gun towards *Antar's* corpse and intensively firing into his body that was lying on the ground. I also saw a third masked man getting his gun out and firing two bullets into *Antar's* head. Then they left the place."⁵⁹

⁵⁷ Human Rights Watch, *ibid.*, p.3.

⁵⁸ *ibid.*.

⁵⁹ Documented report kept at Al Haq association archives, no.: 3679/2007.

Closing down NGOs in the West Bank and Gaza Strip:

Amidst the ongoing conflict between Fatah and Hamas, the Palestinian Prime Minister announced, during his meeting with representatives of Palestinian local newspapers on August 27, 2007, that the Interior Minister had signed a resolution to dissolve 103 charitable associations and non-governmental organizations in the West Bank, under the pretext of violating financial and administrative procedures. All associations for which resolutions have been issued had licenses issued by the Hamas government. Furthermore, most of these associations' are charitable, educational or religious in nature and are registered by persons affiliated to or advocates of the Hamas Movement.

The military wing of the Hamas Movement had launched a comprehensive attack on security headquarters affiliated to the Palestinian National Authority and institutions known to belong to or associated with the Fatah Movement.

Within this context of internal conflict, NGOs, headquarters of trade unions and syndicates, and women associations working in the Gaza Strip have all been attacked. Damages ranged from plundering all the institution's property, including all types of papers and documents, to burning or taking over the office and/or attempting to change the focus of its work. Facts available to Al-Haq indicate that the number of institutions, clubs, members of parliament's offices, and party headquarters affiliated to Fatah that were closed down in Gaza Strip by elements affiliated to the Hamas Movement, have amounted to 179 institutions and associations, of which 34 are party headquarters, leadership offices or sports clubs, and 140 are associations and NGOs. The Independent Commission for Human Rights estimates the total number of civil society associations that were closed down by Hamas in Gaza to be approximately 200 associations and organizations.

Sudan

When Civil War Becomes a Tool for State Control

Between mid-2007 and mid-2008, Sudan has witnessed a serious deterioration in human rights, due, in most part, to ongoing armed conflict and/or violent tribal disputes in various regions throughout the country. Civilians remain victims of widespread human rights violations by various parties. Hundreds have been killed and millions have been displaced; their possessions plundered and their homes usurped, burnt or demolished. Over the last year, armed conflict has expanded in the country to the extent that it reached the outskirts of the Sudanese capital, Khartoum.

The Sudanese government's unwillingness to commit to its obligations under the 2005 Comprehensive Peace Agreement with South Sudan, also known under the Naivasha Agreement, has jeopardized peace between the South and North of Sudan, and has greatly undermined attempts to improve human rights in the country. The Agreement requires that the Sudanese government review its legislation with a view to promoting the democratization process and human rights, a process the Sudanese government has failed to implement.

The Sudanese regime has demonstrated a hostile disdain for UN Security Council, Human Rights Council, and African Union resolutions dealing with the conflict in the Darfur region. Moreover, the ruling regime has ignored or undermined various peace initiatives and agreements, including the N'djamena Agreement and the Abuja Agreement. The government also

ensured that a report issued by the Arab League's Fact-Finding Commission on Darfur was never officially released by the League of Arab States.

The government has also refused to cooperate with the International Criminal Court (ICC) or recognize its jurisdiction in any way, threatening the court and international community with violence if any attempt was made to enforce any of the courts decisions, including the indictment of two Sudanese nationals for war crimes committed in Darfur.

The ruling regime has also stalled the deployment of a hybrid UN-AU peacekeeping force in the Darfur region. At the same time the government has continued to pursue a policy of obstructing the delivery of humanitarian supplies and the work of humanitarian workers throughout Darfur, including continued support for *Janjaweed* militias that regularly mount attacks on humanitarian convoys and have been guilty of widespread rape, pillage and murder of civilians throughout Darfur.

Government forces, together with the *Janjaweed*, have carried out widespread and systematic crimes against humanity against the people of Darfur. As such, the ICC Prosecutor presented an indictment against the Sudanese President for perpetrating war crimes, crimes against humanity and acts of genocide. Instead of taking practical steps to put an end to impunity for crimes perpetrated in Darfur and further the peace process, acts which may have convinced the UN Security Council to halt the ICC investigation, intense violence continued to be perpetrated against villages and camps of internally displaced Darfurians by militias supported by the government of Sudan. Meanwhile, dozens of insurgents captured by the government were sentenced to death after show trials.

Laws designed to provide impunity to government forces and security agencies against human rights violations they have committed, including arbitrary detainment, torture and forced disappearance, remain in place. Journalists and rights activists were regularly subjected to repressive measures, including the issuance of threats, the suspension of newspapers, imprisonment and torture. Many news stories were cut from newspapers by government censors.

Undermining Peace and Strengthening the Foundations of the Totalitarian Regime:

The government failed to enact legal and institutional reforms to promote human rights and democracy as required by the Comprehensive Peace

Agreement between the government and the Sudan People's Liberation Movement (SPLM).

Perhaps the only positive development during 2008 was the issuance of the Elections Law which the 2009 Parliamentary elections should be subject to. Under the Comprehensive Peace Agreement, this law should have been enacted two and a half years ago. The law states that 60% of parliamentary members shall be directly elected by the electorates in local constituencies and the remaining 40% shall be elected from amongst party-list proportional representation. For the first time in Sudan, the law has allocated an unprecedented 25% of parliamentary seats to women.⁶⁰ The law was met by serious objections from political parties and the SPLM. Eventually, the SPLM decided to allow the law to be passed in order to avoid the possibility of postponing the elections.⁶¹

The strongest reservations held by opposing parties related to the demand for holding a mixed electoral system based on equality between geographical constituencies and proportional representation systems. For the parties, the passing of the law was conditional upon the necessity to amend freedom-inhibiting laws and to conduct a census in order to guarantee the holding of sound and transparent elections. Moreover, political parties expressed reservations to the process of separating men from women in the election rosters.⁶²

Many reservations have been made against the voting system in the southern regions. Some observers have considered it to be a dangerously complicated voting system. Each voter will have 12 voting cards to fill out.⁶³ Moreover, there appears to be greater difficulties in holding the 2009 elections under the ongoing conflict in Darfur and the troubled peace negotiations between armed movements and the Sudanese government. Leaders of the SPLM as well as other regional parties have announced their reservations towards the awaited results of the census; a matter that, in turn, might put into question the distribution of the geographical constituencies and the fairness and integrity of the potential elections.

The referendum law, which is regarded as an imperative for the Comprehensive Peace Agreement (CPA), has long been ignored. The law prescribes the holding of a referendum to achieve self-determination in Southern Sudan. This has been delayed for more than one year from the date set in the CPA.

⁶⁰ See: <http://news.bbc.co.uk/1/hi/arabic/middle-east-news/newsid-7494000/7494511.stm>

⁶¹ See: <http://ifhamdarfur.net/node/607>

⁶² See: www.sudaneseonline.com/ar/article_16810.shtml

⁶³ Refer to: www.sudantribune.com

What's more, over 60 laws that contradict with the interim Constitution of 2005 have remained in place without any legal rectification. Most of these laws maintain immunities for state officials and forces.

Last year, the parliament approved a law which the political opposition expressed reservations about because it gives the Constitutional Court the authority to inflict penalties on political parties in ways that some consider to be aimed at protecting the ruling party and asserting control over opposition parties.⁶⁴

Attacks on Civilians: The Innocent Pay the Price:

Civilians have remained victims of violence committed by all parties to the conflict. In the Darfur region, international reports confirm that authorities continue to use excessive force, by land and air, resulting in widespread and grave violations of human rights and humanitarian law. For instance, in October, 2007, Al-Muhajiriyya village came under attack by the government and allied militias during which a mosque was besieged and 48 civilians killed.⁶⁵

In May, 2008, the Justice and Equality Movement (JEM) carried out an armed attack on the city of Omdurman. During the attack the JEM reached the outskirts of the capital city and killed over 200 people.⁶⁶

Although the Sudanese regime – upon issuance of a warrant of arrest by the ICC Prosecutor against President *Omar Bashir* in July, 2008 – asked for a chance to further the peace process in Darfur, as in the past, the government instead chose to continue to aid and/or carry out violent operations and reprisals in Darfur. From October 5 – 17, 2008 government forces and its supporting militias raided more than 12 villages in Southern Darfur. Over 40 civilians were killed and thousands were forced to flee their villages when their houses were burnt down and their livestock poached.⁶⁷

In addition, the "Kalama" camp for Internally Displaced Persons in Southern Darfur, witnessed a brutal attack on August 25, 2008 that resulted

⁶⁴ *Al-Sudan* newspaper, issue #434, 23 January, 2007.

⁶⁵ Report issued by Sima Samar, Special Rapporteur of the United Nations on Human Rights in Sudan, to the Security Council in March, 2008 (A/HRC/V/22).

⁶⁶ Oral Statement of the Cairo Institute for Human Rights Studies (CIHRS) before the United Nations Human Rights Council in September, 2008. www.cihrs.org

⁶⁷ Human Rights Watch, 24 October, 2008.

in the death of 39 persons and the injuring of 51, most of whom were women and children.⁶⁸

Women in Darfur, especially internally displaced women, remain targets of rape and other forms of sexual violence. In the majority of cases an investigation is not undertaken or the assailants are not brought before a court due to the complicated and discriminatory procedures relating to reporting such crimes which fail to provide adequate protection to victims, and/or out of fear of the social stigma associated with being a sex abuse victim.⁶⁹

On the other hand, in May, 2008, the town of Abyei witnessed bitter hostilities between government forces and allied militias on one hand and the Sudan People's Liberation Army (SPLA) on the other. The conflict led to the death of 18 civilians and the total destruction of half the town. As a result, some 60 thousand individuals were forced to flee their homes. Some of those who fled reported that government forces detained and arbitrarily killed dozens of those fleeing.⁷⁰

Prevalence of Arbitrary Detentions and Acts of Torture:

During the last year thousands of arbitrary detentions and acts of torture have been carried out by government authorities throughout Sudan. Article 31 of the National Security Forces Law, which allows government forces to detain suspects for up to nine months without any legal review, has been used to propagate these practices.⁷¹

Reports have confirmed the high prevalence of illegal detention, and acts of torture within IDP camps and urban centers. Such violations have been perpetrated by members of security agencies and armed groups, none of which have been held accountable for their actions.

Human rights reports have confirmed the occurrence of over 70 cases of torture in 2006 and 2007 in Khartoum alone. Reports indicate that officials well as unofficial organizations and individuals, including student groups affiliated with the ruling party, are implicated in the incidents. Acts of torture

⁶⁸ Press release by the Cairo Institute for Human Rights Studies (CIHRS) 28/9/2008.

⁶⁹ Report issued by Sima Samar, a previous reference, Human Rights Watch, 20 October, 2008.

⁷⁰ Human Rights Watch, 22 July, 2008.

⁷¹ Amnesty International (AI), 23 May, 2008.

included lashing with electric cables, canes, hoses and rifle ends, as well as kicking, manacling, performing mock executions, raping and verbal abuse.⁷²

In August 2008, reports indicated that, as of the onset of the group detention phenomenon carried out upon the armed attack on Khartoum and Omdurman in May, hundreds of people remain in detention without a specified charge. Furthermore, the fate of many of them is not clear. In most cases, their families have failed to locate their whereabouts.⁷³

The Sudanese President issued a pardon in December, 2007, under which 31 detainees accused of planning a military coup d'état in July of the same year were released after spending nearly five months in jail. Most of the detainees claimed they were tortured during incommunicado confinement to extract confessions. From amongst the detainees were prominent military personnel and politicians, including *Mubarak Al-Fadil*, Leader of the *Umma* Renewal and Reform Party and *Ali Mahmoud Hassanein*, Vice President of the Democratic Unionist Party (DUP).⁷⁴

As of August, 2007, both the Northern State and Khartoum witnessed sporadic acts of detention with the aim of repressing demonstrations against the government's plan to build two dams on the River Nile. The people argued that the dams would do harm to their lands. Leaders of civil committees, the Secretary General of the Sudanese Writers' Union (SWU) and a number of journalists covering the events were also arrested and detained. Security agencies opened fire on some demonstrations staged in the Kagbar area on July 13, 2007, killing four people and wounding 13 others. Authorities have concealed the results of an investigation into the event, allowing its perpetrators to enjoy full impunity.⁷⁵

Incompetent Judiciary and Unfair Trials:

The Sudanese judicial system continued to lack basic requirements to ensure its independence, a condition that has prevailed since the 1989 coup d'état. During this coup many qualified judges were purged for political reasons, and political allegiance and ideological consistency with the ruling regime was established as a fundamental criteria for the nomination and appointment of judges.

⁷² SOAT, Alternative Report to Sudan Periodical Report before the 43rd Session of the African on Human and People's Rights, Switzerland, March 2008. p.5.

⁷³ Human Rights Watch, 6 August, 2008.

⁷⁴ Report issued by Sima Samar

⁷⁵ Report issued by Sima Samar

Under the pretense of combating terrorism and crimes of armed violence, the Sudanese regime introduced new courts which fail to apply procedures that are not consistent with basic international fair trial standards. In the majority of cases, these courts admitted torture-extracted confessions as evidence. Despite the harshness of the sentences issued by these courts, including capital punishment, those convicted have only one week from the date these courts issue a decision to file an appeal, after which they are no longer entitled to do so.

Dozens of people accused of carrying out the armed attacks on Omdurman in May, 2008, were tried before such special courts, which, up to mid August, have issued 38 capital punishment sentences.

The Sudanese Constitutional Court refused a motion submitted by the lawyers of convicted persons to suspend the procedures of a trial pending a decision on an appeals case made against the constitutionality of the Counter--Terrorism Law and the courts established to try such cases. Several lawyers representing the dependents in this case were subjected to threats from the National Intelligence and Security Service to drop the case, others were forced to withdrawal after being prevented from meeting with their clients. Moreover, the accused were in many cases denied access to evidence held against them.⁷⁶

Violations of the Freedom of Expression:

The media, especially the Sudanese press, were subjected to repressive governmental practices often enacted by the Supreme Press Council. The Council controls the granting of licenses and has authority to suspend the publication of newspapers, and to decide on punitive actions against journalists. Such powers are provided by the Emergency Law in some states, as well as the National Security Law which allows the National Intelligence and Security Service to censor papers and detain journalists.⁷⁷

In December 2007, during the Khartoum book fair, authorities detained two Egyptians working for the prominent Egyptian publisher, *Madbouly*. The employees were charged with presenting a book that offends *Aisha* (Wife of

⁷⁶ Human Rights Watch, August 6, 2008, Statement by the Cairo Institute for Human Rights Studies (CIHRS), *Ibid*.

⁷⁷ Faisal Mohamed Salih, *Laws of the Sudanese Press and the Post Peace and Democratic Transition Phase*, an unpublished paper, August, 2006.

Prophet *Mohammad*) and were eventually sentenced to prison. They were later released by virtue of a pardon granted by Sudanese authorities.⁷⁸

Soon after the armed attacks on Omdurman, the National Intelligence and Security Service suspended the *Alwan* newspaper for an indefinite period of time, accusing its Editor-in-Chief of undermining the State's security. Although the Sudanese authorities lifted an embargo on the funds of the company financing the publication of the paper, the paper continues to be banned from distribution in Sudan. During the Omdurman attack authorities also detained Al-Ghali Yehia, President of the Association of Darfur Journalists.

On 13 October, 2008, government authorities also arrested Niall Paul, Editor-in-Chief of "*Al-Mowatna*" (Citizenship) English newspaper. Paul was charged with defamation and publication of untrue news. The charge was based on an article he had published on corruption in the South of Sudan. Furthermore, in August 2008, Paul was detained for similar reasons. During the same month, the "Sudan Tribune" newspaper was banned for five days.⁷⁹

As a result of the increased censorship exercised over newspapers prior to their publication, *Ajrass Al-Hurriya* paper was forced to discontinue its publication on October 23, 2008, after security agents decided to remove seven topics all at once from the issue being prepared for print at the time.⁸⁰

On July 2, 2008, *Ajrass Al-Hurriya* paper received orders from security agencies to delete a full page out of the issue in preparation for print. On May 26, 2008, *Al-Maydan* newspaper was subjected to similar measures when some of its material had to be deleted, including an interview the paper had held with the Sudanese Minister of Foreign Affairs, Deng Alor..⁸¹

In December, 2008, journalists and human rights activists – namely: *Al-haj Warraq, Faisal El-Bagir, Al-Tahir Satti, Rabbah Al-Sadiq* and *Abdel Moneim Suleiman* – revealed having received threats, including death threats by suspected government agents. *Suleiman* informed *Alrae*'y newspaper that his death threat was received over a long-distance phone call and made for his public criticism of the government.

Websites have been regularly banned. In July, 2008, authorities banned "YouTube" for containing video clips revealing the beating and torture

⁷⁸ The Arabic Network for Human Rights Information:

<http://www.anhri.net/ifex/alerts/sudan/2007/pr1215.shtml>

⁷⁹ The Arabic Network for Human Rights Information, press release, 13 October, 2008.

⁸⁰ The Arabic Network for Human Rights Information, press release, 26 October, 2008.

⁸¹ Reporters Without Borders, June, 2008.

inflicted upon children under the framework of detentions made after the attack on Omdurman.⁸²

Pressures on Human Rights NGOs and Humanitarian Relief Organizations:

The continued deterioration in security conditions, including ongoing armed conflict, and increasing restrictions on civil and political freedom, created an environment almost impossible for human rights NGOs and relief organizations to function within.

The Voluntary Work Law of 2006 gives vast powers to the government to interfere in the activities of NGOs, including their managerial hierarchy and means of obtaining funding.

In November, 2007, workers in the "Khartoum Center for Human Rights" were questioned about their sources of funding. In May, 2008, workers in *Al-Khatim Adlan* Centre for Enlightenment & Human Development were also investigated by the authorities because of a workshop they held on the issue of Darfur. Furthermore, an organization in Port Sudan had been previously shut down upon receiving funding from the European Union (EU).

NGOs operating in Darfur face strict restrictions. Organizations most affected by such restrictions are the Sudan Organization Against Torture (SOAT) and Al-Amal Center for Treatment and Rehabilitation of Victims of Violence. Some the restrictions and repressive measures imposed include: closure of NGO, detention of staff, and closure of branch offices. Some SOAT members and lawyers have faced various forms of intimidation for defending victims of violations before special courts in Darfur.⁸³ As expected, peacekeeping forces were, in turn, a target of recurrent attacks that led to the death of some of their members.

Relief organizations in Darfur face obstructions and dangers on a daily basis, including: traveling and access restrictions, violent assaults on employees, and pillage of property and humanitarian supplies. Activists suspected of providing information to the International Criminal Court were arrested after the ICC Prosecutor indicted the Sudanese President.

⁸²The Arabic Network for Human Rights Information
<http://www.anhri.net/ifex/alerts/sudan/2008/pr0729.shtml>

⁸³ SOAT.op.cit.

International Justice: The Only Hope:

Armed conflict, the increasing number of victims, and, the impunity enjoyed by perpetrators of International Humanitarian Law and human rights violations are all inextricably linked to one another in the Darfur conflict.

The Sudanese government has, over the span of many years, demonstrated a clear lack of political will needed to reform its legal system to ensure those guilty of committing violations are held accountable. The government attempted to convince the international community that it would enforce the rule of law and hold those responsible for war crimes in Darfur accountable by establishing courts for this purpose. However, these courts only tried 6 cases over a period of more than two years. Furthermore, the Chief Justice of the Special Court on Darfur, in contradiction with large amounts of credible evidence, informed the office of the ICC Prosecutor that no violations of International Humanitarian Law have occurred in Darfur.⁸⁴

Sudanese Criminal Law does not include international humanitarian legal standards. Moreover, the Criminal Procedures Law of Sudan does not recognize the principle of Command Responsibility for crimes perpetrated by subordinates; as such high-ranking military officials are commonly immune for accountability of acts punishable by law committed by subordinates.⁸⁵

Indifference to international legal standards has increasingly turned into hostility toward these standards. President *Bashir* issued a decree on January 8, 2008 appointing one of the most prominent leaders of the *Janjaweed* militias, accused of war crimes and crimes against humanity in Darfur, as an advisor to the Sudanese government.

In April 2007, authorities refused to respond to the requests by the ICC to hand over two individuals accused of carrying out war crimes in Darfur: Ahmad *Harun*, Minister of State for Humanitarian Affairs and *Ali Kushayb*, former *Janjaweed* Leader. Instead authorities appointed *Harun* leader of a governmental committee tasked with investigating violations of human rights in the southern and northern regions of Sudan. In response to an indictment of the Sudanese President issued by the ICC on July 25, 2008, Sudanese authorities and the Arab League made strong efforts to shield the President from any accountability.⁸⁶

⁸⁴ Seventh report submitted by the Chief Prosecutor of the International Criminal Court (ICC) to the UN Security Council (SC), in conformity with the SC resolution #1593 of 2005.

⁸⁵ Human Rights Watch, 20 October, 2008.

⁸⁶ Statement by the Cairo Institute for Human Rights Studies (CIHRS), *ibid*.

In response, the Minister of Justice appointed a special prosecutor for Darfur crimes. The prosecutor finished investigating the accusations made against *Ali Kushayb*, yet authorities have not announced the findings. Some international organizations⁸⁷ as well as a recent report issued by the Security Council⁸⁸ expressed doubts that the judicial system is able to sufficiently and fairly conduct such an investigation considering its lack of independence and standards of fairness.

The Sudan government has demonstrated it lacks the political will to end flagrant violations of international humanitarian law, provide for or allow UN-AU forces to provide for the security for IDPs in Darfur or end the cycle of violence in Sudan by creating sufficient mechanisms of accountability. As such, strong international support and enforcement of ICC decisions may be the most promising means to begin to address impunity and the cycle of violence in Darfur and other regions in Sudan.

⁸⁷ Human Rights Watch, October 20, 2008.

⁸⁸ Security Council (SC) resolution,
<http://www.securitycouncilreport.org/site/c.gKWLeMTIsG/b.4441233/>

Yemen

A Tale of Two Wars: One Against Sa'dah, the Other Against Human Rights

Yemen has been the scene of large-scale violations of human rights and breaches of international humanitarian law during the past year amid the continuing armed conflict between the government and the "Al-Huthis insurgents" in the northern province of Sa'dah, mainly from the Zaydiyyah Shiite community. Although the Yemeni President officially announced the end of the internal conflict in July 2008, the prospects for the outbreak of renewed fighting remain high. Peace agreements between the parties to the conflict have broken down four times in recent history amid mutual accusations of breaches to various peace agreements, the most recent time being in 2004. The decision to end the war was not accompanied by the release of detainees or information on the whereabouts of disappeared persons.

During the last year, the armed conflict has been the cause for hundreds of deaths, with growing concerns about the involvement of the Yemeni authorities in some of these extrajudicial executions. The conflict also resulted in the displacement of thousands of persons. Dozens more were victims of enforced disappearance and arbitrary detention, many of whom have not been heard from for weeks or even months after their disappearance amid allegations that those subject to enforced disappearance and/or arbitrary detention were also subjected to ill-treatment and torture. Strengthening these suspicions, the Yemeni authorities prohibited access to

prisons and detention centers by Yemeni rights organizations and the International Red Cross.

Journalists and human rights activists have been subject to death threats, arrests and unfair trials by the government in an effort to prevent them from disseminating information related to the conflict and human rights violations within the country. Moreover, the repressive acts that the Yemeni authorities carried out in reaction to social protests under the pretext of countering terrorism have added to human rights violations in Yemen. Although the Yemeni president had declared an amnesty for all political detainees, there is continuing reports that hundreds more remain in detention, as well as the arbitrary arrest of others.

Consequences of the ongoing armed conflict in Sa'dah:

There are no official counts on the numbers of civilians killed in action during the military operations in the region, but United Nations sources suggest that hundreds of men, women and children have been killed⁸⁹, including unconfirmed reports that extrajudicial executions have been carried out by security forces in the context of military operations.⁹⁰ Women have been subject to physical attacks during military operations. Moreover, 79 houses were demolished, 74 houses were partially destroyed by the military forces and around one hundred were turned into military barracks by the armed forces.⁹¹

International reports have suggested that the continuing armed conflict has led to the displacement of more than 100,000 people, and that 17 thousand more of whom living in the city of Sa'dah suffer from poor living conditions, with no access to electricity or potable water. More than 15 thousand displaced people endure life threatening living conditions in the camps adjacent to the city of Sa'dah, with little access to clean water and medical care, and the threat of starvation caused by soaring food prices.⁹² In light of the deteriorating security situation, a number of humanitarian organizations have been forced to halt operations and evacuate from Sa'dah.

⁸⁹ IRIN News, Humanitarian News Service of the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA). The conflict in Sa'dah Governorate- analysis. 27/08/2008.

⁹⁰ Amnesty International Annual Report 2007, Yemen.

⁹¹ Yemen Observatory for Human Rights (YOHR), report, published in April. 2007.

⁹² International Red Cross publication. 08/08/2008.

According to the International Red Cross, access to the areas most affected by the conflict has become almost impossible.⁹³

Reports indicate that at least 62 cases of enforced disappearances resulted from arbitrary detention by the government in connection with the Huthis rebellion in Sa'dah. The fate of most of them remained unclear after months of their disappearance. In all of the 62 cases, the authorities have refrained from providing statistics to their families and to the NGOs on the exact numbers of disappeared and lieu of detention, nor on the reasons for which they are detained. This situation continued until they were all released.⁹⁴

Since the start of the conflict four years ago, approximately 2000 people were arbitrarily arrested and detained by the government. As of the end of 2007, 370 of remain imprisoned without charge or trial, some for periods exceeding one year.⁹⁵ The government detained some individuals to exercise pressure on members of their families to hand themselves in. Those who were "suspected" of advocating for the Huthis rebels were also illegally detained, along with journalists attempting to report on the situation.

Religious scholars and theologians were also targeted by the government at times. Absurdly, even state appointed intermediaries to the rebels that were about to reach a final agreement between the government and the Huthis, were imprisoned by the government; a strong indication that the government possesses no real intention to make peace with the rebels.

The authorities released 70 citizens of Sa'dah that had been taken as prisoners of war, and, by the end of August, the Yemeni President ordered the release of 131 more. However, 60 persons remained arbitrary detained. Among those released by the government was Sheikh *Saleh Al-Wajman*, a member of the mediation committee for the termination of the conflict. *Al-Wajman* had been a detainee for close to two years⁹⁶. Six months elapsed and to date 350 persons from Beni Hashish locality (*muderiah*) are still detained on remain without trial under the pretext of war in Sa'dah. They have been put into the central prison in the Sana'a district, and in state security prisons.

⁹³ Ibid.

⁹⁴ Human Rights watch report: "Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels in Yemen". 24 October. 2008.
<http://hrw.org/english/docs/2008/10/21/yemen20035.htm>

⁹⁵ Yemen Observatory for Human Rights (YOHR), Annual report 2007.

⁹⁶ Human Rights Watch. Op. Cit .

Political Arrests and Detentions:

In August 2008, there were reports of the continued existence of some 1,200 political detainees in the prisons of Yemen even though the Presidential amnesty didn't give an exact account of the number of detainees that it includes. In October 2008, some human rights reports indicated that 17 persons from the governorate of Hajja remained in detention for two years without charge or trial.⁹⁷ Presidential amnesty measures on 12 September stipulated the release of 12 members of the Yemeni Socialist Party, previously charged with inciting violence and disorder in southern Yemen.⁹⁸ Six more are still detained for the same reasons in the region of Karsh.

However, this amnesty did not prevent new arrests intended to suppress certain forms of political and social movements and activism. Civilians from A'ddan were detained on grounds of protesting against regular water and electricity cuts. People from southern governorates received no amnesty and remained in prison since 2007 for participating in political and social protests.⁹⁹

Conditions in prisons and detentions facilities:

Authorities impose tight restrictions on carrying out independent missions to inspect and monitor conditions inside detention centers, a measure which prevents investigations into prison conditions and treatment of detainees. Authorities also barred the Yemen Observatory for Human Rights (YOHR) from making visits to all prisons with the exception of the Hajja prison. Meanwhile, the International Committee of the Red Cross indicated that during 2007-2008 it has met with authorities to obtain their approval on accessing all detention facilities, but as of August of 2008 requests for access have been rejected.¹⁰⁰

In Yemen, cases of enforced disappearance are commonly linked to other violations such as torture and the infliction of physical and mental abuse at the hands of interrogators. In this context, it is worth mentioning that actor *Fahd Al-Karni*, prior to his release in September 2008, was subject to

⁹⁷ The National Organization for Defending Rights and Freedoms, Press release October 23, 2008

⁹⁸ Carnegie Endowment for International Peace, Arab Reform Bulletin, September, 2008.

⁹⁹ The National Organization for Defending Rights and Freedoms, 09/10/2008.

¹⁰⁰ International Red Cross Committee. Op.cit.

arbitrary arrest and detention at the central prison in the Tae'z governorate. He was placed in a special punishment chamber for capital offenders with nine other prisoners that had been sentenced to execution. *Al-Karni*'s only "crime" had been a refusal to sign a pledge stating that he will refrain from exercising any political activity as a prerequisite to his release.¹⁰¹

A large amount of complaints have been made by the families and lawyers of detainees accusing the security authorities of not allowing access or visits to those detained.¹⁰² According to statements made by some Yemeni parliamentarians, some of the prisoners have been subjected to torture and inhuman treatment, and cases of rape have been attributed to some of the officers in women's prisons.¹⁰³ During the trial of 32 accused of planning and carrying out terrorist attacks on oil fields, three of the accused were subjected to torture and forced to sign confessions of their involvements in the above mentioned incidents. Despite their complaints of torture the court sentenced them to up to 15 years in prison.¹⁰⁴

Freedom of opinion and expression:

Repressive measures were used against political and human rights activist and journalists in an effort to prevent them from criticizing public figures and silence reporting and criticism about the repercussions of the Sa'dah war and the violations of human rights carried out during this conflict. The authorities continued to block many web sites, particularly these containing political commentary, criticisms of the government or information about the war in Sa'dah.¹⁰⁵

In June of 2008, prominent journalist *Abdel Karim Al-Khaiwani* received a court ruling sentencing him to a six-year prison term after being charged with belonging to a "terrorist cell." Human rights organizations believe that the sole purpose of the conviction is to punish him for his active role in monitoring and reporting on human rights violations by the government during the war in Sa'dah. In response to a large international campaign calling for his release, the President issued an Amnesty for him on the 25th of September 2008. Previously, on 27 August 2007, one year before his conviction before a Yemeni court on accusations of terrorism, *Khaiwani* had

¹⁰¹ Press release issued by Front Line, protection of human rights defenders. 9-5-2008.

¹⁰² Press release issued by Yemeni Organization for Defending Democratic Rights and Freedoms. August 20, 2008.

¹⁰³ Hood, the National Organization for Defending Rights and Freedoms. July 1, 2008.

¹⁰⁴ Arab Reform Bulletin, Carnegie Endowment for International Peace, September, 2008. <http://carnegieendowment.org/arb/?fa=show&article=20712>

¹⁰⁵ Annual Report of Amnesty International. Op.cit.

been kidnapped, severely beaten by gunmen and had received threats that his hands would be amputated and death threats directed at him and his family. Those threatening him demanded an end to his criticisms of the Yemeni President.¹⁰⁶

Furthermore, in June 2007, shortly after the *Al-Share'* newspaper published a story on the Yemeni army mobilizing different tribes to help it on the ongoing war in Sa'dah, a group of armed men in two military cars forced their way into the newspaper's headquarters and threatened to kill its Editor-in-Chief – *Nabil Subaie* – if he did not stop publishing information on the war in Sa'dah. The Ministry of Defense also filed a complaint to the competent Penal office of the Attorney General claiming that publications made by the paper had been detrimental to combat operations by having a negative impact on the morale of the armed forces. During the same time period, journalists, *Ahmad al-Qamei* and *Abbas al-Assal*, and writer *Ahmad Amr Ibn-Farid* were arrested and imprisoned under the pretext of the political disorder in the South of Yemen.¹⁰⁷

On 30 June, 2008, rights activist *Luaay Al-Moua'yed* became a victim of enforced disappearance after publishing reports criticizing the conflict in Sa'dah on the *Yemen Hurr* (Free Yemen) website of which he is the editor. Access to the site is prohibited from within Yemen. *Lua'y* was later released in 11 September 2008. Adding to this a child of approximately 13 years of age was detained for seven months when airport security found in his possession CDs pertaining to the Huthis.¹⁰⁸

In July, 2008, the authorities arrested two assistants of a foreign correspondent, *Ali Nasser Al-Bekhity* and *Mohamed Ahmed Hasan Al-Bekhity*. They were accompanied by a British journalist who was deported from the country immediately after the arrest of the two men. A month following their detention, reports were issued stating that the two Yemeni men were denied access to legal council and the right to appear before a competent judicial body. Strict orders were previously issued preventing foreign journalists from traveling without being accompanied by a guide appointed by the Ministry of Information.¹⁰⁹

In March 2008, the Ministry of Information banned *Al-Sabah* newspaper on allegations that the information it published was detrimental to “national

¹⁰⁶ Arab Reform Bulletin, September, 2007.

<http://carnegieendowment.org/arb/?fa=show&article=20867>

¹⁰⁷ AL-AYYAM JOURNAL, daily release from Adan.

¹⁰⁸ Human Rights Watch Report, Op.cit.

¹⁰⁹ Reporters without Borders, Press release, 20 August, 2008.
http://www.rsf.org/article.php3?id_article=28237

unity and public order” and for publishing news on the Huthis. In April, 2008, the Ministry, by virtue of a court order, revoked the license of *El-Wasat* (The Centralist) daily newspaper on similar grounds. For the same reasons, the editor of the *Ayam* newspaper was severely beaten by unidentified men, as well as the editor of the *Moharer* newspaper that also had the property of his newspaper stolen.

It should be noted that all television and radio stations in Yemen are state controlled. Audio-visual mass media remained monopolized by the ruling regime. Websites are banned and licenses for publishing newspapers are increasingly denied.

In June 2008, a State Security Court issued a one-year suspended imprisonment sentence for *Mohamed Al-Mokaleh*, General Secretary of the Yemeni Socialist Party. *Al-Mokaleh* was sentenced for contempt of Court after having laughed out loud during *Al-Khaiwani's* trial. A sentence was also issued imprisoning actor *Fahd Al-Karni*¹¹⁰ for a year and a half in July, 2008 on the charge of insulting the President of the Republic in some of his plays.

Freedom of assembly and organization:

Members and activists of some human rights organizations and within civil society experienced further repressive measures for their expressed solidarity with victims of human rights violations, or for their role in attempting to expose such violations, especially within Sa'dah, or for participating in peaceful demonstrations calling for the end of the war there.

Activists of the Yemeni Organization for Defending Democratic Rights and Freedoms have been detained and tortured, namely, *Louay Al-Mouayyad*, *Yaser Al-Wazir* and *Khaled Al-Sherif*, *Ali El-Emad* and *Moui'ne El Moutawakel*. The above mentioned detainees were severely mentally and physically tortured, and some of them were threatened with sexual abuse or to have some of their relatives sexually abused. Nude pictures were also taken of them by police officers during their detention. Other active members of the Organization have in turn been subjected to arbitrary detention and threats, including: *Salah Kai'd Salah*, a parliamentarian *Nassir Al-Khaigi* and *Yehia Ghalib Ahmed*, as well as *Mohamed Moftah*, a member of the administrative body of Change- Organization for Defending Rights and Freedoms.¹¹¹

¹¹⁰ Front Line, protection of human rights defenders Press release. Op. Cit.

¹¹¹ Press release Issued by ANHRI. June 17, 2008

Executive Director of the *Hiwar* (discussion) forum, *Abdul Rashid Al-Faqih*, was assaulted on the September 22, 2008 by security forces in front of the gates of the office of the Prime Minister and later detained after recording a video of a sit-in protest organized by the families of detainees of the Sa'dah war. Yemeni organizations expressed grave concerns towards the detention of rights activist and prominent law professor, Dr. *Mohamed Ali Al-Saqqaf*, who was apprehended by security forces on his way to catch his flight to Dubai on August 11, 2008. The probable cause of detention had to do with *Mr. Al-Saqqaf* being a defense lawyer for several activists detained in political protests that occurred in Northern Yemen.

In May 2008, Security forces broke into the house of activist *Ali Al-Dilmi*, Executive Director of the Yemeni Organization for Defending Democratic Rights and Freedom, and brutally beat his brother *Hasan Al-Dilmi*, tying him up and pushing him down a flight of stairs before taking him into detention.¹¹² The chairperson of Women Journalists without Chains (WJWC) organization has received anonymous death threats.¹¹³ Furthermore, on July 13, 2008, security forces prohibited a sit-in protest organized by civil society organizations to be staged in front of the parliament in solidarity with victims of enforced disappearance in Yemen. The forces blocked all routes leading to the parliament and seized signs and posters. Security forces also prohibited another sit-down in front of the Supreme Court in solidarity with journalist *Abdel Karim Al-Khaiwani*.

<http://anhri.net/yemen/makal/2008/pr0617.shtml>

¹¹² Yemeni Organization for the Defence of Rights and Democratic Freedoms May 25, 2008.

¹¹³ Press release Issued by "women journalists without chain" April 5, 2008

Lebanon

Human Rights Amidst Regional and International Challenges

During the period covered by the report Lebanon experienced a sharp deterioration with regard to respect and promotion of human rights, security for humanitarian agencies and employees, as well as respect for democratic standards and practices. The human rights situation reflected the escalating political crisis that has grown since the assassination of *Rafik El-Harriri* four years ago, and the subsequent series of terrorist bombings and assassinations that have claimed the lives of prominent MPs and journalists. In addition, Syrian control and interference in internal affairs still poses a challenge to international decisions to disarm *Hezbollah*. The latest war with Israel in July 2006 ensured that Hezbollah became an alternative state structure within the state of Lebanon. This situation has led to internal conflict in Lebanon which threatens to ignite another civil war. Other key incidents include the incursion of Hezbollah into Beirut, and the use of force by Hezbollah against Lebanese civilians despite the group's claims that their main intention is to resist Israeli aggression.

This acute political crisis in the country has resulted in the undermining of constitutional institutions in the country. Ministers of Hezbollah and the Shiite *Amal* movement boycotted the government and resigned in protest to the government's decision to establish an international tribunal to investigate the assassination of *Harriri*. The President of the Parliament –who is also the

official leader for the Shiite *Amal* movement- refused to convene the Lebanese Parliament for almost one and a half year. As a result, a presidential vacuum persisted for months after the end of the term of the previous President, *Emil Lahoud*, in November 2007. Under Qatari mediation, in coordination with the Arab League, the Doha Agreement was concluded on May 21, 2008. It managed, temporarily, to defuse a Shiite-Sunni war and led to the election of General *Michel Soleyman* as President.

Between September 2007 and August 2008, bombings, assassinations, and armed conflict between opposition forces claimed 130 lives. During its military operations in Beirut, Hezbollah and its supporting militias targeted media institutions belonging to the political movement "Movement of the Future." Hezbollah maintained control over the ability of media professionals to travel around Beirut during its military operations there, particularly in the Southern suburbs. Also, Humanitarian conditions in Palestinian refugee camps throughout Lebanon further deteriorated. Palestinian refugees were subjected to violence due to the armed confrontations which claimed hundreds of lives in *Ein El-Helwa* camp in March 2008, and in *Nar El-Bared* camp the year before.

Human rights NGOs were able to pursue their activities freely in Lebanon. None-the-less, insecurity caused by the political conflict and threats directed towards NGOs have led to some self-censorship and political control.

Pending human rights issues include: The fate of missing persons as a result of the Lebanese civil war in the 1970s and during Syrian control, the investigation into and trial of Hariri's assassination, and investigation and trial of the perpetrators of subsequent political assassinations in the country.

Repercussions of the Political Crisis and Internal Armed Conflict :

The Lebanese Government's decisions to dismiss the Chief of Security at the International Beirut Airport, and to submission of *Hezbollah's* internal documents to a Lebanese court as proof of *Hezbollah's* intentions to overthrow the current government, was considered by the Hezbollah Secretary General as a declaration of war.

Together with allies from the *Amal* movement and Pro-Syrian parties, Hezbollah closed down the Beirut Airport and blocked the main roads leading to it. Afterwards, on May 7, Hezbollah and *Amal* militias moved to control the Western areas of the Lebanese capital and laid siege to the

government headquarters and the houses of a large number of the leaders of the pro-government “March 14 movement.” Though the Lebanese army provided protection for several vital locations as well as the houses of *Saad El-Hariri* and *Walid Junblat*, the Movement of the Future had to close its newspaper office, which was later ransacked and set on fire. Though the objectives of the Shiite groups, *Hezbollah* and *Amal*, were political, the practices of their fighters were of a sectarian nature, including the public defamation of Sunni religious figures.¹¹⁴

65 persons were killed during confrontations that lasted for four days. These confrontations not only illustrate the inability of the Lebanese army to contain the conflict, but the divided loyalties of members of the military, some of which abandoned their posts in order to allow Hezbollah to operate without resistance. This was attributed, by some, to the Shiite’s influence in the army, particularly in the military intelligence circles, and/or to avoid having different factions inside the army.

In addition to killings, civilian property was destroyed and the right of movement restricted by parties to the conflict. Reports cited the use of children and minors in military and para-military activities in violation of international conventions. Military attacks also negatively affected the ability of orphan and child care organizations to function. Confrontations were accompanied by abduction, torture and extra-judicial killings, as well as mutilation of bodies. Attacks also damaged the offices and houses of some members of the Parliament.¹¹⁵

Eye-witnesses, who requested anonymity, reported that some state security personnel participated in the arrest of members of the Movement of the Future. Sunnis were also arrested due to their religious and political faith. They were all stopped in the neighborhood of residence of the Parliament President –head of the *Amal* movement- in *Ein El-Tina*. The arrestees were beaten and tortured before being handed over to the Lebanese military intelligence. These claims were supported by reports aired on TV showing the participation of the Parliament Security Service Personnel, affiliated to the general administration for internal security, participating in the attack against Beirut city and the intimidation of its inhabitants.

Signs of a sectarian Sunni-Shiite war were becoming more visible. Individuals in the Majdal and Anjar districts attempted to block the international road to Damascus in response to the Beirut Airport’s closure by Shiite militias. Also, Sunni protestors killed 11 persons from the Syrian

¹¹⁴ The International Group for Crisis Action, Lebanon: Hezbollah directs its arms to the inside, May 15, 2008.

¹¹⁵ Report by the Human and Humanitarian Rights Institution, May 22, 2008.

National Social party, a group that supports Hezbollah, in response to shootings by affiliates and members of the Syrian National Social Party on a demonstration supporting the Movement of the Future.

Lebanese political parties pledged in the Doha Agreement on May 21, 2008 to abstain from the use of violence to achieve political gains in the country. Nonetheless, from June–July 2008, further confrontations of a sectarian nature took place in Northern Tripoli between pro-Syria and pro-opposition Shiites, and the Sunnis in the Bab El-Tebana and Jebel Mohasen areas, killing 24 persons. Other confrontations took place in June in the central areas in Saadnayel and Ta'alabaya villages, claiming the lives of a minimum of 4 people.

On August 13, 2008 a bombing occurred in Tripoli, targeting a vehicle carrying civilians and military personnel and killing 17 persons. *Antoine Ghanem* and five other MPs were assassinated in September 2007. Also Major *Francois El-Haj* and one of his companions were killed in December 2007.

Plight of Palestinian and Other Refugees:

The situation of Palestinian refugees further deteriorated, particularly amid the military confrontations in *Nahr El-Bared* camp between the army and *Fath El-Islam* group, starting in May 2007. Accordingly, 30,000 Palestinians were fled from the camp to avoid the conflict which lasted until September 2007. 400 individuals including 42 civilians were killed. The properties and houses of the refugees were sabotaged, looted and burnt. Furthermore, the detained refugees were subjected to torture and degrading treatment.¹¹⁶

In March 2008, *Ein ElHelwa* camp witnessed confrontations between members of the Palestinian movement *Fath* and the *Jund Al-Sham* group, resulting in the death of 9 persons and the displacement of hundreds of refugee families.¹¹⁷

Complaints relating to discrimination against Palestinian refugees, including denying them their rights to work, education and proper housing continued.¹¹⁸

¹¹⁶ Amnesty International, press release issued on October 31, 2007 and the Palestinian Organization for Human Rights (rights)

¹¹⁷ The Palestinian Organization for Human Rights (monitor), March 24, 2008

¹¹⁸ Amnesty International, *Put an End to Discrimination against Palestinian Refugees*, October 17, 2007

Other asylum seekers, particularly Iraqis, were threatened with refoulement to Iraq, as Lebanon refused to legalize their status as recommended by UNHCR. As such, they have been treated as illegal migrants and many of them are arrested and/or forced to pay fines.

War on the Press and Mass Media:

The war waged by *Hezbollah* and its proponents had grave consequences on the press and media institutions. Receiving death threats has hindered the activities of media professionals of various parties. The situation deteriorated with the closure and banning of some audio-visual and print outlets of the Movement of the Future, as well as the destruction of the Movement's offices. *Al-Manar media*, owned by *Hezbollah* and NBN was also banned. Scores of journalists, photographers and reporters were attacked. Houses of some media professionals were burnt. News websites were repeatedly hacked. Various parties to the conflict used media outlets in a provocative manner to incite violence and hatred.¹¹⁹

According to eye-witnesses, soldiers from the Lebanese army assisted in media repression. A military official asked the staff of the Future TV to evacuate their offices at the request of *Hezbollah*. Some army members insulted the journalists in the Future newspaper, after *Hezbollah* and *Amal* militants bombarded the building of the newspaper and set two stories on fire.

Even after the cease of military operations, it has become evident that *Hezbollah* has tightened restrictions on the work of journalists, including non-Lebanese news agencies- hindering them from performing their professional duties. One example is the detention of the French journalist *David Houari* in Southern Beirut for three hours before being questioned concerning his professional activities and personal life.¹²⁰ A few days after this incident, three Brazilian journalists were arrested in Southern Beirut and were kept in custody by *Hezbollah* for almost 5 hours, during which they were taken to three locations before being released with a pledge to immediately leave the country. Such incidents proved that the licenses issued by the Information Ministry for journalists and reporters are no longer valuable and are being replaced by the need to acquire licenses approved from *Hezbollah's* Information Bureau.¹²¹

¹¹⁹ Human and Humanitarian Rights Institution, *ibid*

¹²⁰ Reporters Without Borders, August 18, 2008

¹²¹ Reporters Without Borders, August 22, 2008

Pressures on Human Rights Activists:

Human rights activists are subject to threats, intimidation and other dangers. From May to June 2008, *Ghassan Abdallah*, Director of the Palestinian Organization for Human Rights, received several death threats. Moreover, some of the organization's activists were summoned for questioning because of the organization's investigations into the case of abduction of a Palestinian refugee from the *Rashidiya* Camp by one of the Palestinian military officials working inside the camp.

Also Dr. *Mohammed Al-Maghraby* head of the Center for Democracy and Rule of Law was summoned for investigations in June 2008 for a statement he had delivered five years earlier on the situation in Lebanon before the European Parliament¹²². *Al-Maghraby* is accused of demeaning Lebanon under the provisions of Article 383 of the Penal Code of demeaning Lebanon.

In the meantime, the supervisor of the *Tarrad* Center is still facing charges of libel and defamation due to the services she provides to refugees.¹²³

A Human Rights Watch researcher was also summoned for questioning in September 2007 and accused of "weakening the spirit of the nation", after the release of a Human Rights Watch report on human rights violations in Lebanon.¹²⁴

Human Rights Watch was targeted in August 2007 in defamatory media campaigns by *Hezbollah*, via *Al-Manar* TV, as well as on its website, due to its condemnation of the rocket attacks carried by Hezbollah on civilians in Israel during the 2006 war despite the fact that the organization had also condemned Israeli attacks on civilians in Lebanon. Consequently Human Rights Watch canceled a press conference scheduled for August 30, 2007 in Beirut on the occasion of the release of its detailed report on the behavior of Hezbollah in the war. The Hezbollah media channels called for protests to hinder the conference.¹²⁵

Justice Denied?

Political developments in Lebanon posed large obstacles to the carrying out of an independent investigation of the assassination of *Harriri* in a trial

¹²² www.cggl.org/scripts/new.asp?id=523

¹²³ Human Rights Watch, January 31, 2008

¹²⁴ See www.hrw.org/arabic/docs/2008/01/31/lebanon17784exi.htm

¹²⁵ Human Rights Watch, August 29, 2008

before a specialized international Criminal Tribunal, as established by the UN Security Council Resolution No.1757 of May 2007. Statements made by the Chief of the legal department at the UN in a press conference on July 25, 2008 indicate that the tribunal will be established. However, potential political obstacles at the international and regional levels may slow down the procedures of establishing the court or secure non-abidance by the courts decisions as well as any subsequent rulings it may issue. Fears persist that a settlement agreement with Syria may occur, either in the Harriri case or subsequent assassinations. Syria's historical political weight and its role and responsibility for security in Lebanon for almost three decades as well as its interference with the members of the Lebanese security agencies even after leaving Lebanon will probably hinder the creation and/or work of the court.

Doha Agreement: Potential to Emerge from a Dark Tunnel:

It can be argued that the Doha Agreement has partially managed to temporarily contain the political crisis in Lebanon. However, this agreement is not solid enough to provide sustainable guarantees against the reigniting of a civil war.

The agreement paved the way to end the state of Presidential limbo, and the unanimous election of *Michel Soleyman* as President of the Republic. Parliamentary life resumed after the Parliament was closed for almost a year and a half. It also created the conditions necessary for the formation of a national unity government composed of 30 ministers distributed on the basis of political balance: 16 ministers for the majority (the Movement for the Future), 11 for the opposition (Hezbollah and its proponent) and three to be named by the President of the Republic. All the parties pledged, by virtue of the agreement, not to withdraw from or attempt to block the government's work. Some election constituencies were redistributed in preparation for the anticipated parliamentary elections to be held in mid 2009. Under the agreement, resorting to violence to settle political questions is prohibited. The agreement highlights the need for political leaders to end the use of political hate speech and sectarian incitement. Furthermore, dialogue between the various parties should be maintained by the President-elect to enhance the authorities of the Lebanese state.

The factors aggravating the situation in Lebanon are still pending, particularly with the continued bombings and armed confrontations taking place even after the Doha agreement was signed. Negotiations to form a national unity government took two months (the longest period in the history of forming Lebanese governments). Reaching a consensus accord was not easy and required a new Qatari mediation with Syria and Iran, due to their

influence on *Hezbollah* and the other Lebanese pro-Syria parties. The first round of dialogue did not result in any conclusions.

The ability of the government to perform its tasks and to take legal measures with regard to violations that accompanied the outbreak of the political crisis remains uncertain. *Hezbollah* has demonstrated a dangerous disregard for the sovereignty of the Lebanese state, bringing the country to the brink of civil war. The political movement of “March 14” asserted that it will be imperative to disarm *Hezbollah* because it was the arming of *Hezbollah* that allowed this organizations assert control over the political system. The conflict proved to Sunni groups that the Movement for the Future is not strong enough to protect them – giving rise to more radical calls among Sunnis to provide protection for themselves, including the creation of an armed Sunni resistance group to balance the power of *Hezbollah*.¹²⁶

Currently, Lebanon is prone to further conflict that could hinder the parliamentary elections in 2009. Lebanon’s ability to end this crisis is conditional upon the capacity of the parties to the conflict to hold a real dialogue aimed at enhancing the authority and sovereignty of the state and putting an end to sectarian militarization. Such a process needs to include reaching a solution to ensure the gradual integration of the *Hezbollah* militia within the framework of the security and military forces of Lebanon in order to guarantee *Hezbollah* will not use its arms to attack Lebanese civilians or ignore constitutional processes.

The success of the Lebanese political parties in eliminating all obstacles to peace -a condition for ensuring the protection of human rights- will depend on developments at the international and regional levels. Furthermore, domestic political parties will have to agree to not allow external political forces, either global actors such as the US and some European parties, or regional actors such as Israel, Syria and Iran, to use Lebanon as a launching pad for international political conflict.

¹²⁶ The International Crisis Group , *ibid*

Chapter II
**Status of Human Rights
and Democracy**

Egypt

The Counter-Attack On Reformists

Egypt has witnessed an increase in the repression and suppression of public freedoms, including limitations imposed on various forms of political and social activism at both the legislative and policy levels. Official promises to end the state of emergency, in force since 1981, have gone unrealized. Similar pledges to increase freedom of the press and other civil and political freedoms were never implemented. While Press freedoms in Egypt are comparatively much more respected than in most other Arab states, during 2007 and 2008, harsh punishments were imposed on five Editors-in-Chief of partisan and independent newspapers, as well as on a large amount of journalists.

Newly introduced legislation created further restrictions on the freedom of peaceful assembly. More laws that contradict with civil and political freedoms are anticipated, including the “anti-terrorism law” and the law regulating media broadcasting. Amendments to the Associations Law designed to further restrict freedom of association are expected. These amendments are likely to increase governmental repression of civil society, especially human rights organizations. In 2007 the government closed down, in what constitutes an unprecedented act, two human rights NGOs. Emergency Laws continue to be used to repress reform initiatives by harassing bloggers, laborers and protesters. Dozens of activists that helped to organize strikes and protests have been referred to Extraordinary Courts, as were senior leaders of the legally-banned Muslim Brotherhood who are to face military trials.

The right to political participation was violated in an unprecedented manner in Municipal elections whose outcome was predetermined. 90% of the Muslim Brotherhood candidates and 70% of the opposition parties' nominees were excluded and denied their right to run in elections.

Citizens' right to life was violated as a result of systematic torture in places of detention, use of excessive force in suppressing public strikes and demonstrations and acts of sectarian violence. The considerable increase of sectarian violence in Egypt is mainly due to the use of religion by political Islamists and government institutions as a means to justify their repressive policies and/or increase their political base. In addition, an atmosphere of impunity, a lack of the rule of law and increased discrimination against religious minorities also remained endemic in Egypt.

A Full-Scale Legislative Attack:

In May 2008, the Parliament, controlled by the ruling party, approved the extension of Emergency Laws for two more years, justifying this continuation on the fact that the Anti-Terrorist law is yet to be finalized. The planned Anti-Terrorist law, which has been included in recent Constitutional amendments, is thought to maintain the various exceptional powers granted to the President of the Republic and security bodies under Emergency Laws. Furthermore, the exceptional procedures of this law are likely to increase repression of the peaceful activities of political opponents, journalists and human rights NGOs.¹²⁷ In February 2008, the People's Assembly approved a bill prohibiting demonstrations inside places of worship and proscribing imprisonment for those who stage and/or take part in protests.

Amendments to the Associations Law are likely to impose further restrictions¹²⁸ on NGOs by increasing the reach of the existing Associations Law to include a wider range of organizations, such as non-profit companies established under the Civil Code.

Official repression of freedom of expression and freedom of the press continued. The "Principles Regulating Radio and TV Transmission and Reception in the Arab Region"¹²⁹ attempted to extend such repression to satellite channels. This law was initiated by the Egyptian Information

¹²⁷ On this draft law, see *El Masry El Youm* newspaper on February 20, 2008.

¹²⁸ For further details, see *Towards an End to the Plan to Kill the Civil Society*, Essam Mohamed Hassan, position paper, CIHRS, December 4, 2007, www.cihrs.org

¹²⁹ On this document, see the Chapter on the League of Arab States.

Minister and adopted by the Arab Information Ministers in their meeting in February 2008.

Furthermore, the Egyptian government is increasing its control over audio-visual and electronic media, as is evident in a new bill that establishes the National Agency for Regulating Audio-Visual Broadcasting, to be supervised by the Information Minister.¹³⁰

Unfair Trials and Extraordinary Courts:

Emergency Laws have always been used to violate the standards of fair trial and to manipulate the decisions of investigating authorities or courts. In certain cases, defendants are released and acquitted of charges by the Criminal Court, but later administratively detained or referred to extraordinary courts. This was particularly evident in the referral of leaders of the Muslim Brotherhood to military courts.

On April 16, 2008, the Military Court ruled against 25 Brotherhood leaders, including the Deputy Chief of the Brotherhood, General Guide, *and Khayrat El-Shater*. Sentences ranged from 3 to 10 years imprisonment for being members in the legally banned group and for money laundering. The Court released 15 other detainees out of a total of 40 persons and confiscated the financial resources of some of them.

Also under Emergency Laws the President of the Republic ordered the retrial of 26 farmers from Sarando village who had been acquitted by a Higher State Security Court. Surprisingly, the Higher State Security Court acquitted them again in its first hearing. The charges included trespassing and ruining property resulting from a conflict with a major landowner in the village of Sarando.

No One Exempted from Torture:

During the first 6 months of 2008, the Egyptian Organization for Human Rights (EOHR) documented 29 cases of torture and ill-treatment inside police stations, of which 10 cases, according to EOHR, resulted in the death of the victims. Torture practices extended to families of the detainees.¹³¹

¹³⁰ For the text of the bill, see: <http://www.ilqadaya.net/mode/444>.

¹³¹ The Egyptian Organization for Human Rights (EOHR), *Torture, a Crime against Humanity: Stop Torture*, report issued on June 26, 2008.

People arrested in relation to the 6th of April strike and labor protests in the city of Mahala were subjected to torture. Those who were injured in these incidents were shackled to their hospital beds with steel chains.¹³² Some reporters, correspondents and bloggers were subject to the same practices.¹³³

Twenty-two persons who were arrested in relation to the “Victorious Sect case” and for planning terrorist acts were also tortured and forced to make confessions.¹³⁴

Practices of torture and cruel treatment were extended to individuals suspected of having HIV/AIDS, and to homosexuals who were forced to sign reports acknowledging their homosexuality.¹³⁵

Authorities referred some of the perpetrators of crimes of torture to trial, but none of them were State Security officers. Incidents of torture that were widely exposed by the media, thanks to blogs featuring documented videos of such crimes, were the only such incidents to be brought to trial by authorities.

One such case was the “*Emad El-Kabeer*”-case, where the incidents of his being subjected to torture and rape were videoed by a mobile phone camera. The Court sentenced an officer and a police assistant in the Boulaq Al-Dakroul police station to three years in prison.¹³⁶

Freedom of Expression and the Media: Continued Repression

During 2007, the Syndicate of Journalists reported that 1000 journalists were summoned to appear before investigative entities¹³⁷. Human rights reports in August 2008 documented that the Egyptian courts at the time were considering 47 cases related to journalism, out of which 40 defendants were

¹³² The Egyptian Initiative for Personal Rights (EIPR), press release on April 13, 2008.

¹³³ EOHR, *Egypt: Freedom of Opinion and Expression and the Press in Two Years*, report issued on May 21, 2008.

¹³⁴ Human Rights Watch, *Egypt: Torture and Coercive Confessions Used in High-Profile Terrorism Investigation*, report issued on December 11, 2007.

¹³⁵ Human Rights Watch and Amnesty International, joint press release, *Egypt: New Indignities in HIV Crackdown*, on March 11, 2008.

¹³⁶ For further details on cases involving police officers or assistants, see: EOHR, *Torture, a Crime against Humanity*, *ibid*.

¹³⁷ The Arab Network for Human Rights Information, *Freedom of Opinion and Expression in Egypt*, 2007 Annual Report.

journalists.¹³⁸ Among the prominent cases in this respect is the case of the Editor-in-Chief of *Al-Dostour* independent newspaper, *Ibrahim Eissa* who was sentenced to two months in prison for publishing false news about the health of the President of the Republic and undermining public security and interests¹³⁹. A presidential amnesty was issued to release *Eissa* after the issuance of the ruling.

Meanwhile, one of the appeal chambers is currently considering the appeal filed by four editors-in-chief of independent and partisan newspapers, who had been sentenced earlier in September 2007 to one year in prison each for publishing false news, data and rumors that disturb public peace.

In August 2008, the Khalifa First Instance Criminal Court sentenced, Dr. *Sa'ad El-Din Ibrahim*, Director of Ibn Khaldoun Center for Development Studies, in absentia to two years in jail with labor, and charged him 10,000 EGP bail. He was accused of damaging Egypt's reputation and acting against the national interest. The ruling was based on a report issued by the Foreign Ministry that highlighted some articles published by Ibrahim in key US and international newspapers. In these, Ibrahim had called upon the US administration to make the aid it provides the Egyptian government conditional on Egypt's progress towards democratic reform.

In 2007-2008 the Public Prosecutor has issued several gag orders banning coverage of certain events. Consequently seven journalists who violated the prohibition imposed are facing prosecution.¹⁴⁰ Also, the state-owned *Al-Ahram* print house stopped the publication of the first and second editions of the independent *Al-Badeel* newspaper on August 20, 2008, under the pretext that "print house officials" had objected to some headlines in the coverage of the Shura Council¹⁴¹ fire.

Furthermore, in September 2007, based on objections made by security authorities, the Supreme Council for Journalism revoked the license it had earlier issued to the *Zohour* magazine one day before the publication was to be printed. The Council also denied *Al-Shorouk* newspaper a license,

¹³⁸ EOHR, press release, September 28, 2008.

¹³⁹ EOHR, *ibid.*

¹⁴⁰ The Arab Network for Human Rights Information, press release on September 23, 2008.

¹⁴¹ *Note by the Editor:* the Shura Council is the Upper House of Egyptian bicameral Parliament

claiming that some of its journalists were shareholders in the same magazine, a situation which is deemed against the law¹⁴².

Several bloggers were subject to administrative detention under Emergency Laws. This includes the Sinai blogger, *Mosaad Abu Fajr* who, on his blog “*Wedna Neeish*,” called on the inhabitants of Sinai to a protest for equality.

Several bloggers were subjected to administrative detention in response to their calls for a public strike on the occasion of the 80th birthday of the President on April 6. This includes blogger *Karim El-Beheiry*, owner of “Egypt Workers” blog; blogger *Israa Abdel Fattah*, accused of creating a Facebook group calling for the April 6 public strike; blogger *Ahmed Maher Ibrahim*, one of the founders of the April 6 group and the May 4 group.¹⁴³

Satellite channels were subjected to unprecedented repression, including the blocking of three channels: *Al Hewan*, *Al-Hekma* and *Al-Baraka*. Security agents attacked the Cairo News Corporation and confiscated some of its property¹⁴⁴. In July 2008, security authorities closed the office of the Iranian government’s *Al-Alam* TV channel, claiming that it did not have a broadcast license¹⁴⁵.

In January 2008, security authorities detained *Howeida Taha*, program developer and director, and her team at Al-Jazeera Satellite channel while they were shooting a documentary on daily wage workers, farmers and marginalized peasants in Egypt. It is worth-mentioning that the program developer had already acquired all necessary permits from competent authorities¹⁴⁶. In another case, the Nozha Appellate Criminal Offence Court issued a ruling on February 11, 2008, charging *Howeida Taha* a 20,000 EGP fine for publishing false news and damaging Egypt’s reputation aftershooting a film on torture in police stations¹⁴⁷.

State pressure on writers, intellectuals and authors increased this year, either from religious institutions or the government’s security agencies. The Islamic Research Community of *Al-Azhar* recommended the confiscation of

¹⁴² The Arab Network for Human Rights Information, September 7, 2008 and *Al Dostour* newspaper on September 6, 2008.

¹⁴³ EOHR, *Egypt: Freedom of Opinion and Expression and the Press in Two Years*, *ibid*.

¹⁴⁴ *See*, The Arab Network for Human Rights Information <http://www.anhri.net/press/2008/pr.526shtml>

¹⁴⁵ Reporters Without Borders, press release on July 24, 2008.

¹⁴⁶ <http://www.anhri.net/egypt/hmcl/2008/pr.128.shtml>

¹⁴⁷ <http://www.anhri.net/press/2008/pr.0211.shtml>

the book entitled *Muslim Women: Quran Liberation and Jurist Restrictions*, by the Islamic thinker, *Gamal Al-Banna*.

Moreover, the Administrative Court in Egypt overturned the decision by the Minister of Culture to grant the poet *Helmy Salem* the Excellence Award in Arts. This was in response to the case filed by Sheikh *Yousef El-Badry*, member of the Supreme Council for Islamic Affairs, claiming that the poet marred the deity in one of his poems published in *Ibdaa* magazine in Fall 2007. The magazine was withdrawn from the markets after publication. A report issued by the Islamic Research Community supported *Badry's* claims and deemed the poet an infidel.

A court ordered the editor-in-chief of *Al Fajr* newspaper, *Adel Hamouda*, and one of its journalists, *Mohamed El-Baz*, to pay a fine of 80,000 EGP each. The defendants had been sued by the Grand Imam of *Al-Azhar* for libel and slander.

In April 2008, a book entitled *Not to be Fooled (ashan ma tenderebsh ala afaak)*, was confiscated. The book tackles the rights of Egyptian citizens and police violations. The author, *Omar Afifi*, is an attorney and a former police officer in the Ministry of Interior¹⁴⁸.

Journalist, *Abdel Khalek Farouk*, was referred to the Military Public Prosecutor in July 2008, for some of the topics published in his book *Writ of Summons*, where he speaks about military control over civil service institutions. The writer was released after two and a half hours of interrogations, with instructions to not depict the military institution again without prior approval¹⁴⁹.

Growing Suppression of Social Movements and the Right to Peaceful Assembly:

The call for a public strike on April 6, 2008, launched by some political activists and bloggers, was met with violence on the part of the government. Main roads and streets in the capital and governorates were barricaded. The city of El-Mahala El-Kobra was turned into a military compound where policemen detained workers who had started the strike. Security forces used excessive force, including tear gas and rubber bullets, to prevent people from assembling in front of the factories in Mahala, resulting in at least two deaths. Acts of -violence by the police in the city increased for around three

¹⁴⁸ EOHR, *Egypt: Freedom of Opinion and Expression and the Press in Two Years*, ibid.

¹⁴⁹ The Arab Network for Human Rights Information, press release on July 9, 2008.

days. Hundreds of workers and inhabitants of Mahala were detained, in addition to a number of bloggers, correspondents and journalists who participated in covering the events¹⁵⁰. 47 people suspected to be involved in organization of the events of Mahala were referred to extraordinary courts.

Security forces prevented a protest that was to be held in downtown Cairo. The protest was called for by a number of poets and intellectuals on June 11, 2008 against the incidents of fanaticism and sectarian violence.¹⁵¹

After several months of tolerance towards the popular protests staged in Damietta governorate against the potential environmental degradation that could be caused by the building of the Agriom factory, 25 protestors were arrested in April 2008 for illegal assembly and blocking traffic¹⁵².

Inhabitants of the Dweiqah shantytown, who lost family members and their homes as a result of a deadly rock slide in September 2008, were subjected to various forms of repression, including beatings and dozens of arrests, while protesting the delayed rescue and relief operations and the corrupt procedures concerning the distribution of alternative housing units.¹⁵³

Tightening Restrictions on Civil Society and Human Rights NGOs:

The Ministry of Social Solidarity delayed the implementation of the ruling by an Administrative Court dated March 30, 2008, that obligates the Ministry to register the Center for Trade Unions and Workers Services (CTUWS), a recipient of the French Republic Award for Human Rights. The Ministry did not register the NGO until June 30, 2008, after French mediation with the Egyptian authorities. In August 2007 the Ministry refused to register the NGO due to “security concerns” – an official acknowledgment of security-based interference in the activities of civil society.

The Association of Human Rights Legal Aid (AHRLA) was dissolved in September 2007 for alleged acceptance of foreign funding in 2005 and 2006 without the approval of the Administrative authorities. On October 26, a judicial ruling was issued to halt the dissolution of the NGO.

¹⁵⁰ see <http://www.anhri.net/press/2008/pr.405.shtml> and *El Masry E Youm* newspaper, April 7 and 8, 2008.

¹⁵¹ The Arab Network for Human Rights Information, press release on June 12, 2008.

¹⁵² *El Masry El Youm* newspaper on April 9, 2008.

¹⁵³ See, Hisham Mubarak law Center, press release on September 30, 2008.

Harassment of human rights defenders continued with the physical assault on the Head of Al-Nadeem Center for the Rehabilitation of Victims of Violence and Torture, Dr. *Magda Adly*. The latter was assaulted after visiting four detainees in Kafr El-Dawar village who had reported being tortured by Kafr El-Dawar investigations' officers. Adly had photos in her bag of the scars and blood-stained clothes of the victims. Upon leaving the courthouse, she was attacked and her bag was stolen. She was knocked unconscious and her upper arm broken. The man was caught by bystanders. Although he confessed before the crowd that he was acting under orders of the head of the investigations office in Kafr El-Dawar police station he later denied saying so before the prosecution.

Security authorities interfered on various occasions to ban seminars held by some NGOs, including the New Woman Foundation and the Arab Center for the Independence of the Judiciary and Legal Profession.

The year witnessed further harassment of NGOs, many of which were denied participation in international activities. For example, the Egyptian Initiative for Personal Rights was prevented, upon the request of the Egyptian government, from participating in the meeting of the UN General Assembly on HIV/AIDS, held in June 2008

Likewise, the Egyptian government, as a co-president of the Union for the Mediterranean, vetoed the participation of representatives of civil society from Northern and Southern countries of the Mediterranean in the preparatory meeting for the Istanbul Summit on Gender.

Devaluation of Political Participation:

The founder of *Al-Ghad* Party, Dr. *Ayman Nour* is still imprisoned. Mr. *Nour* was sentenced to 5 years imprisonment for allegedly falsifying his political party's registration documents in 2005. Legal and judicial attempts to release him for health reasons have failed, and he was excluded from the Presidential amnesty decrees releasing detainees with graver crimes.

During his detention *Nour* has been subjected to some inhuman treatment and has been denied the rights of prisoners, such as weekly meetings with his wife. *Nour* also reported that the Prosecution has refused to consider his complaints of cruel treatment, libel and slander by some newspapers, and of

what he considered the forgery of some of the judgments passed against him.¹⁵⁴

On another note, it has become evident that the ruling party is determined to use various tools to totally undermine the political participation of members of the Muslim Brotherhood. This is particularly evident in the municipal elections that took place in April 2008. The ruling party monopolized the elections by securing the interests of its candidates and preventing other political parties, in particular the Brotherhood members, from filing out and handing in their candidacy enrollment forms¹⁵⁵.

Freedom of Belief and Minority Rights:

Restriction of religious freedoms is not limited to believers in unrecognized religions or creeds, but also extends to different sects of Islam, the State's official religion. In May 2007, the State Security forces arrested and detained five Quranists¹⁵⁶ on accusations of rejecting Prophetic tradition. The State Security Prosecution released them in September, using their homes as guarantees until their referral to trial¹⁵⁷.

Furthermore, human rights reports in November 2007 reported more than 200 cases in which people challenged the Civil Status Authority at the Ministry of Interior for its insistence on registering them as Muslims in the official records, while in reality they embrace another religion.

On February 9, 2008, the Supreme Administrative Court issued a sentence for 12 citizens who had converted back to Christianity after first converting to Islam. The Court ordered relevant authorities to issue new identity cards for them proving their being Christians. However, the Court prescribed that their IDs should indicate their previous conversion to Islam –

¹⁵⁴ For more information, see the open letter from Ayman Nour to the President, published by some newspapers and blogs. *El Youm El Sabee* newspaper, September 2008, <http://www.youm7.com>.

¹⁵⁵ For more details, see:

- Press release by the Brotherhood on the final stance on local elections: <http://www.ikhwanonline.com>.

- Khalil El-Anany, *Local Elections: End of Democracy Spring*, Arab Reform Newsletter, April 2008.

- Human Rights Watch, press release, March 30, 2008.

- EOHR report on the elections, April 18, 2008.

¹⁵⁶ *Note by editor*: Islamic sect, also written as Koranites and Koranists

¹⁵⁷ Andalusia Center for Tolerance Studies, September 29, 2007.

an act that will most likely result in official and unofficial discrimination against them.¹⁵⁸

Over the last few years, those of the Baha’I faith have faced difficulties due to the Egyptian government’s continued refusal to recognize their religion on their identity cards and other personal documents, or to even leave the religion item blank. On January 29, 2008, an Administrative Court acknowledged the right of Egyptian Baha’is to acquire birth certificates and identity cards without indicating certain religions in their identity documents. To date, neither ruling has been implemented¹⁵⁹.

Discrimination against Christian Copts continues unabated. The state has refused to adopt a unified law on places of worship concerning building, renewing or maintaining churches and to ensure equality in this area. Copts are also subject to discrimination concerning holding public and senior posts in the state, and in the education curricula.

The incident of *Abu Fana* monastery demonstrates an unwillingness of authorities to uphold the rule of law in cases involving sectarian conflict. In May 2008, the *Abu Fana* monastery was attacked by 60 armed Bedouins living in an adjacent village following an ongoing conflict concerning the ownership of lands surrounding the monastery that the Muslims considered their property. The attack resulted in the death of one Muslim and the injury of 7 Christian monks, 3 of whom had been abducted and tortured. After official “reconciliation” efforts by Executive and security agencies, the monks amended their reports and stated that they could not identify their abductors and torturers. In return the suspect for the killing of the Muslim was released and not brought to trial. Such practices propagate a policy of impunity within sectarian conflict and undermine the rule of law.¹⁶⁰

¹⁵⁸ EIPR and Human Rights Watch, press release on February 10, 2008.

¹⁵⁹ EIPR, press release, January 3, 2008.

¹⁶⁰ See: Egyptian Against Religious Discrimination, press release on the conciliation agreement in Abu Fana, <http://forum.maregroup.org/j279.html> and EIPR, press release on October 8, 2008.

Tunisia

Continued Human Rights Violations Under an Authoritarian Police State

The human rights situation in Tunisia witnessed further deterioration under the rule of an authoritarian police state that props up the *Zein el Abedin ben Aly* regime. The executive authority controls both the legislative and the judicial branches, and strictly monitors all media outlets and human rights NGOs. Arbitrary arrest and acts of torture continued to be practiced on a large scale by the security authorities who enjoy total impunity. Recently, a Tunisian prisoner released from Guantanamo Bay said that he would prefer to go back to Guantanamo rather than stay in a Tunisian prison. Continued massive suppression of all forms of peaceful social protest, especially relating to the *Gafsa* mining basin area (also known as *Al Hod al Mangamy* area) led to violence and repression by security forces against the demonstrators. Scores of protestors were killed and injured. Those who were arrested, including trade unionists and human rights activists, were subject to unfair trials and imprisonment.

Restricting Freedoms and Violating Norms of Justice Under the Pretext of Combating Terrorism:

Under the Anti-Terror law, arbitrary detention has been widely practiced in Tunisia. Arrested persons are kept in solitary confinement for long durations in violation of the maximum limit of detention allowed by the

Tunisian law. Detainees are usually subjected to various forms of torture and mistreatment. Human rights reports state that the courts generally accept fabricated evidence and torture-extracted confessions. Detainees are also denied the right of legal consul and representation.¹⁶¹

Under the counter-terrorism laws, hundreds of people have been arrested during the last two years and subjected to court proceedings that do not conform to the basic standards for fair trial.¹⁶² During the trials some defendants claimed to have been subjected to torture and harsh treatment. In response security forces have beaten defendants while inside the court and harassed their lawyers.¹⁶³ The court ordered the execution of one of the defendants based on information extracted from him by means of torture. The court refused to run a medical check on him or on other defendants.

The judiciary also sentenced a mentally handicapped person to 15 years in prison despite the testimony of the doctor assigned by the court confirming that the defendant does not possess the faculties of reasoning and comprehension of an average person.¹⁶⁴

Impunity enjoyed by Perpetrators of Torture:

Incidences of torture are escalating in Tunisia. Forms of torture vary between sleep deprivation, threats of rape directed toward the detainee or one of their female relatives, severe beating, electric shocks, and/or hanging detainees from the ceiling while they are almost naked. Reports explicitly refer to the negligence or even accomplice role of the Tunisian judiciary which provides legal immunity and impunity for alleged security agents accused of crimes of torture.¹⁶⁵ *Ramzy al-E'efy*, *Osama Al-Abbady*, and *Al-Mahdy ben Al-Haj* were subjected to torture after being arrested in the aftermath of armed conflict between a *Jihadist Salafist* group and the security forces in Suleiman City. The lawyers of the three detainees said that

¹⁶¹ For more details, see the Human Rights Watch Report, September 5, 2007, www.hrw.org/arabic/reprts/2007/tunisia0907/.htm

¹⁶² Preliminary list of Tunisian prisoners under the Anti-terror law can be found on the following link: www.aafaq.org/reports/asp?idnep=401

¹⁶³ In this regard, see the daily statements of "Freedom and Justice" Association as well as those of the Tunisian League for Human Rights and **Committee for the Respect of Freedom and Human Rights in Tunisia** The Committee has published in collaboration with the Association for Combating Torture in Tunisia (ALTT) a full report on torture in Tunisia in June 2008.

¹⁶⁴ A statement by the International Association for Political Prisoners, www.chabab.forumaecif/nonajada-fl/cobic-j570-hm

¹⁶⁵ See Amnesty International Report on June 23, 2008, titled: "Violating Human Rights in Tunisia" www.amnesty.org

on October 16, 2007, the prison guards in Al-Mernakia prison severely beat the defendants and tied them up on after the three started a hunger strike protesting against the conditions of their detention. *Ramzy Al-E'efy* and *Osama al Abbady* received lifetime imprisonment sentences. The duration was reduced to 30 years in prison by an appeals court.¹⁶⁶

Despite the fact that torture is commonly used by Tunisian authorities, many Arab and European governments, as well as the United States, extradited Tunisians back to Tunisia for suspected involvement in terrorist activities. The extradited persons were subjected to grave human rights violations the moment they were received by the Tunisian authorities. *Hussein Tarkhani* was extradited from France to Tunisia and he remained under secret detention for nine days where he was severely beaten. He was also subjected to electric shocks, insulted and threatened with death.¹⁶⁷

Abdalla Al Haji Ben Amro who was extradited by the United States to Tunisia after spending five years in Guantanamo prison was subjected within two days of his interrogation by the Ministry of Interior to severe beatings and threatened with the rape of his wife and daughters. In the end *Ben Amro* was forced to sign papers which he did not know the content of, after which he was sent to Mornaguia prison. Upon arriving at Mornaguia prison he was confined in a solitary cell for five weeks.

Human rights activist, *Zakia Difawy*, member of the Kairawan Branch of the Tunisian League for the Defense of Human Rights, and a member of Association for Combating Torture in Tunisia (ALTT), was subjected to sexual harassment and threatened with rape during her detention at a police station in the Gafsa governorate, in the South of Tunisia. During her trial on July 29, 2008, the judge refused to record her complaints about the threats she received. *Difawy* was arrested together with others as she participated in a women's protest in solidarity with the mining basin area people against security suppression.¹⁶⁸

On June 25, 2008, the Tunisian authorities re-arrested *Ziad Mekrawy*, a former prisoner and a victim of torture according to Amnesty International. *Mekrawy* was charged with affiliation with a terrorist organization and inciting terrorism. The re-arrest took place after he had been released in May 2008 after serving an imprisonment term for a similar case.¹⁶⁹

¹⁶⁶ op.cit.

¹⁶⁷ See the report by the Human Rights Watch "A non-friendly return", op.cit.

¹⁶⁸ AMNESTY INTERNATIONAL, "HUMAN RIGHTS ABUSES IN TUNISIA CONTINUE DESPITE DENIAL," JULY 8, 2008.

¹⁶⁹ A statement issued by Frontline Association on July 8, 2008

Violations of the Rights of Association and Intimidation of Human Rights Activists:

Tunisian authorities have continued to systematically deprive independent associations of the right to be granted legal recognition. Among the unrecognized organizations is the National Council for Freedoms in Tunisia; Observatory of the Freedom of the Press, Publishing and Creativity (OLPEC);, Tunisia Center for the Independence of Judiciary and Legal Profession, the Association of Combating Torture, Freedom and Justice Association, the Association for Defending the Secular Culture, and The International Association for the Support of Political Prisoners. The International Association for the Support of Political Prisoners was denied the ability to register on the grounds that the name of the organization implies the existence of political prisoners in Tunisia.

The Tunisian League for the Defense of Human Rights has been struggling for years as a result of restrictions imposed by the authorities. The Headquarters of the League is under surveillance day and night by the Tunisian police. Security Agents have prevented members and non-members of the Association from entering its premises. The League has been incapable of organizing public meetings and seminars for long period of time.

Anwar Al Kawsary, member of Board of Tunisian League, and *Samir Deek*, member of Board of the International Association for the Support of Political Prisoners, were subjected to harassment by the Tunisian police.¹⁷⁰

For two months security agents surrounded and controlled movement in and out of the residence of *Massoud al Ramdany*, Head of the Tunisian League Branch, who is also the coordinator of the National Committee for Supporting the Mining Basin people. The same conditions were imposed on the residence of the Secretary General of "Freedom and Justice" Association, as well as the homes of other members of the same organization.¹⁷¹ A number of members of the Tunisian League for Human Rights were arrested several times before being released.¹⁷²

¹⁷⁰ According to a statement issued by the International Association for the Support of Political Prisoners on September 5, 2008, *Ben Said* was referred to trial and he was sentenced for two months imprisonment for not obeying a traffic light. Ben Said himself emphasized that his arrest and trial were due to his participation in a peaceful demonstration in Benzert on July 25, 2008.

¹⁷¹ "Freedom and Justice" Organization, a statement issued on June 17, 2008.

¹⁷² A statement issued by Frontline Association, the International Association for Defending Human Rights Defenders, August 6, 2008. See also a report issued by **Observatory of the Freedom of the Press, Publishing and Creativity (OLPEC)** on May 3, 2008.

On August 19, 2008, the official spokesperson for the National Council for Liberties in Tunisia (CNLT), *Siham Ben Sedrin*, was banned from traveling to the Austrian capital, Vienna. Her movements as well as the website of her electronic newspaper *Kalima* (Word), were subjected to surveillance. *Sedrin* and her husband, a prominent Tunisian opposition leader *Omar Mestiri*, were also detained in March 2008 for several hours as they were taken to the police station. At the station, they were harassed and beaten. The impact of the assault was very clear as *Siham's* body showed many bruises. Two other Human rights activists, *Samia Ebbo* and *Fatma Kassila*, were also subjected to police assault in Sousa city on February 18, 2008.

Repression of the Freedom of Expression and Media Outlets:

The Tunisian authorities exerted strict control over various media outlets whether by means of continued implementation of harsh and repressive penalties for press and publication crimes or by means of arbitrary interference in the licensing of newspapers. The state also exerts control over media sources by regulating the circulation of advertisements and controlling several printing houses. During more than twenty years of the reign of President *Zein el Abedin ben Aly*, no independent media outlet was ever been licensed.

The Ministry of Interior rejected for the fifth time in nine years, the publication request of *Kalima* (Word) newspaper. The independent press, such as *Al Mawkef* and *Mowatenoun* newspapers which do not receive any public funds, have been suffering a financial crises. The distribution of both papers is usually hindered and sometimes withdrawn from press stands. *Rashid Khashana* and *Mongy Al Lawzy*, two journalists from *Al Mawkef* newspaper, started a hunger strike in April 2008, protesting against the enormous governmental pressure imposed on the paper after four issues had been confiscated and a defamation case filed against it before the press board.¹⁷³

Tunisian journalist, *Salim Boukhdeir*, was referred to court due to his writings that criticized the Tunisian President and his family. He was sentenced for one year imprisonment in December 2007 on charges of

¹⁷³ The International Committee for Protecting Journalists, releasing a Tunisian writer on the internet, July 21, 2008, www.arhri.net/ifex/alests/tunisia/2008

insulting a civil servant and violating public law and order. *Boukhdeir* was released in July 2008 after spending eight months in prison.¹⁷⁴

The State is attempting to create an impression of the existence of media plurality by means of privatizing some radio and television channels while entrusting them to people who are loyal to the ruling regime.¹⁷⁵

In this context, *Al Hewan* (Dialogue) channel has faced enormous repressive measures. The owner of the channel is continually under surveillance, and has been subjected to harassment and intimidation since the beginning of the channel's broadcast. Correspondents are usually subjected to severe beating and insults, while their equipment is frequently confiscated. 13 cameras were confiscated from journalists at the *Al Hewan* channel alone in less than one year.¹⁷⁶

Regarding electronic media and communication, the Tunisian government has developed technological capabilities to enhance government supervision over the internet and to monitor and/or control email messages and fax machines. This has led in some occasions to the isolation of Human Rights activists and political advocates from the international realm. Furthermore, in August 2008, the website FaceBook was blocked for a month in Tunisia..

Suppression of All Forms of Peaceful Protest and Assembly:

The incidents that occurred at the mining basin area in *Gafsa* City in the South West of Tunisia remain the most dramatic example of the state using violent repressive measures against a popular protest movement. In January 2008 a social movement, which included sit-ins and hunger strikes was organized to protest against unfair and discriminatory hiring practices in the area. The authorities detained a number of trade unionists as well as other people who participated in the strike of April 8, 2008. Security forces broke into homes and used excessive force to suppress peaceful demonstration at *Al-Radeef* area resulting in the injury of nine citizens.

¹⁷⁴ A report by **Observatory of the Freedom of the Press, Publishing and Creativity (OLPEC)** in Tunisia, (op.cit.)

¹⁷⁵ A statement by the **Committee for the Respect of Freedom and Human Rights in Tunisia** " dated August 21, 2008, www.crlidht.org

¹⁷⁶ *Ammar Amrousa*: "Al Hod al Mangamy Revolt: An Evaluation Attempt", *Al Wasad* Tunisian Newspaper Online, Reuters, April 10, 2008, www.tunisia&wasat.com/wesima-articales/index.2008

Violence escalated in May 2008 after the death of *Hesham Ben Saad El Alaemy* on May 6 when he was electrified by security agents during a sit-in. The protests lead tounprecedented levels of repressionand control by the authorities in the area.Security forces seized control ofroads leading in and out of the city. Security forces attacked various neighborhoods using tear-gas bombs and rubber bullets. Homes were raided and residents were assaulted. Live ammunition was used in suppressing protests, leading to the death of *Al-Hefnawy Ben Reda* on June 6, and the injury of others.The security siege was tightened over *Al-Radeef* city and a number of trade unionists and human rights activists were detained due to their participation in the *Gafsa* Mining Basin movement on June 22. Unfair trials were held for at least 107 citizens who were kidnapped and tortured by security forces.

The preliminary court in *Gafsa* issued verdicts sentencing human rights activist, *Zakia Difawy*, to six months in prison. Six other individuals who participated in a peaceful demonstration on July 27, calling for the release of the detainees of the *Gafsa* Mining Basin area were also sentenced to six months in prison.

On September 11, 2008, the *Gafsa* Preliminary Court also sentenced 13 other defendants to three years and five months imprisonment for their participation in the protest. Lawyers of the defendants confirmed that their clients were subjected to torture in order to force them to make confessions.The lawyers also said that there has been a great deal of explicit fabrication in the investigations documents presented by the state.¹⁷⁷

BleakHorizons for Political Reform and Political Participation:

A complete denial of the right of citizens to political participation and representationpersists in Tunisia.The ruling party (the Democratic Constitutional Assembly) continues to dominate all State institutions, including the executive, judicial, security and legislative branches, as well as the press.20% of seats in the Parliament are reserved for officially recognized opposition parties. The ability of a political party to attain one or more of these seats is determined by the degree of political acquiescence and support for the agenda of the ruling party. In contrast, the Democratic Progressive Party and Democratic Forum for Labor and Liberties in Tunisia – which are legally recognized by the State and independent from the ruling authority –are subjected to a great deal of exclusion, harassment and mistreatment.

¹⁷⁷ A statement by the Tunisian League for the Defense of Human Rights on September 13, 2008.

By the beginning of 2008, Tunisian authorities managed to manipulate the constitution once again, adding an amendment that will further exclude independent parties from participation in the Presidential elections of 2009.

Meanwhile, the Tunisian authoritarian trend of totally excluding moderate Islamists (represented mainly by the *Nahda* Movement) as well as the regime's absolute refusal to license the Liberal Democratic Party, other leftist parties and even the Green (environmental) Party, has been sustained as a policy. In all cases, the opportunity for having true competitive presidential elections is almost, if not totally, impossible due to the constitutional constraints that stipulate the signature of at least 30 Parliamentarians, as well as the same number of heads of local councils, to endorse the candidacy of any independent candidate.

As such, the upcoming 2009 Presidential elections in Tunisia are expected to be nothing more than another tool for sustaining the *de facto* referendum technique in selecting the president. Usually candidates that are allowed to run in the elections belong to parties that are loyal to the ruling party and receive financial compensation for their loyalty.

Algeria

Back to terrorism: the Failure of the Reconciliation Process

Over the past three years, Algeria has experienced new waves of violence and terrorism, indicating the inability of policies and measures adopted by the authorities to reach peace and civil détente, and turn the page on the violence and civil unrest that has prevailed since the 1992 Parliamentary elections were cancelled. During the 1990s state security and military forces as well as armed Islamic groups were responsible for rampant human rights violations. It is believed that as many as 200,000 people were victims of wide-spread extra-judiciary executions, and approximately 10,000 people were victims of forced disappearance. Thousands more were victims of arbitrary detention and torture.

Amnesty laws adopted under the so-called "National Reconciliation" Charter intensified impunity and deprived the victims and/or their relatives of the right to obtain information, court proceedings or reparation for family members that had disappeared. The 2006 decree implementing the Charter for Peace and National Reconciliation gave impunity to security forces and provided an amnesty to members of armed groups who were in prison for "terrorism" related offences and who had surrendered to the authorities, regardless of whether they had already been brought to trial or not.¹⁷⁸

¹⁷⁸ Amnesty International, Algeria, Briefing to the Human Rights Committee, 1st of October, 2007.

Furthermore, the decree imposed restrictions on freedom of expression, as well as heavy fines and prison terms of between three to five years for "anyone who by speech, writing, or any other act, uses or exploits the wounds of the National Tragedy to harm the institutions of the Democratic and Popular Republic of Algeria, to weaken the state ... or to tarnish the image of Algeria internationally." Other restrictions have been put in place with the aim of silencing victims, their relatives, human rights defenders and all those attempting to unveil the truth and uncover who is responsible for the human rights violations of the 1990s.

All forms of mass media, in particular the press, continue to be subject to repression and restriction. The authorities continue to restrict freedom of religion amongst non-Muslims. Moreover, fundamental rights and freedoms have been undermined by renewed violence and terrorism. Torture and ill-treatment continue in places of detention. The judiciary continues to lack sufficient independence, and, as a result, is commonly used as a tool for restricting freedom of opinion and expression through the implementation of long-standing and newly created punitive provisions enacted by the government for this purpose.

Escalating Acts of Terror:

596 people are reported to have been killed, and 883 wounded in escalating terrorist acts and confrontations with armed groups in 2007.¹⁷⁹ Most prominent amongst these acts are the two suicide bombings on the 11th of December 2007, which targeted the headquarters of the Algeria Supreme Court and the United Nations in the capital and that resulted in a death of 40 people, including 17 UN staff members. 30 people were killed in a suicide bombing on the 6th of September 2007, targeting the Algerian President's convoy. Also, many armed persons were killed during confrontations with the Algerian army or during security attacks on different locations.¹⁸⁰

In light of the government's policy of impunity, investigations are not carried out into the circumstances surrounding the killing of members of armed groups. The scarcity of official statistics for the number of members of armed groups who were arrested and detained, suggests that many were subject to extra-judicial executions.¹⁸¹

¹⁷⁹ *Salah Ad-Din Siddhom*, 16th Year of Political Violence, "Algeria's monitor", 1/2/2008.

¹⁸⁰ For more details on terrorist acts and confrontations with armed groups in 2007, see annual report of Arab Organization for Human Rights 2007, p.47.

¹⁸¹ Amnesty International, *Ibid*.

In 2008, especially during the months of June, July and August, an escalation of terrorist acts targeting security and military officials occurred, killing many civilians. Most prominent among these acts was the 17th of August suicide attack on a paramilitary training school at Issers, in the Kabylie region. The bombing killed 43 and injured 45 others. Two other attacks were carried out on the 20th of August in the town of Bouira, killing at least 11 and injuring 31 others.

Procedural and legal measures taken by the authorities to combat terrorism involved widespread violations of human rights. Many people have been arrested by intelligence agencies and detained in secret facilities for excessive periods of time. Those prosecuted under the pretext of combating terrorism were often held incommunicado, tortured and subjected to ill-treatment.¹⁸² Laws allow security bodies to infringe on individual freedoms and the right to privacy with impunity.¹⁸³ The judiciary continued to be controlled by the Executive branch, and courts often relied on confessions extracted through torture.¹⁸⁴

Exercise of Torture:

Despite the 2004 Amendments to the Penal Code which prohibit and punish torture, torture remained a common and wide-spread practice in police stations, as well as army and intelligence facilities, as a means of extracting confessions or as collective punishment and intimidation of detainees. Crimes of torture are almost never investigated.

The most frequent methods of torture included beatings, electric shock, and the chiffon method, in which the victim is tied down and forced to swallow large quantities of dirty water, urine or chemicals through a cloth placed in their mouth. Many of the detainees of counter-terrorism lawsuits in Al-Harach prison reported that they had been stripped of their clothes, humiliated and assaulted by prison guards. According the Algerian League for the Defense of Human Rights, many of these victims had bone fractures as a result of abuse.

¹⁸² Amnesty International Annual Report 2007.

¹⁸³ Law on Penal Procedure. Official Gazette: www.joradp.dz

¹⁸⁴ Amnesty International Briefing to Human Rights Committee (ibid.)

Suppression of the Freedom of Expression and the Press:

Facing severe state penalties and financial burdens associated with litigation, self-censorship is widespread among press institutions and professionals. The fact that the state controls the distribution of advertisement quotas contributes to the ability of the state to exert control over media sources. The larger advertisement quotas are given to newspapers that are most in-line with official policies. In addition, the state exerts control on the printing industry.

On the 4th of March 2008, the Jijel court passed a ruling, sentencing *Omar Belhoshat*, the Director of the *Al-Watan* newspaper, and *Shawqi Omari*, a journalist, to one month of imprisonment and fined them a million dinars in a defamation case. In another case, the Court of Appeal in Wahran declared on the 28th of June 2008 that journalists *Belhoshat* and *Salmia Telmesani*, were not guilty in the defamation case. The accused had published a report suggesting the involvement of military personnel in drug trafficking. The preliminary court ruling charged them a fine of 50,000 dinars each.¹⁸⁵

On the 19th July, three other journalists from the daily *Al-Arabeya*, *Nasr Ad-Din Quasem*, *Khodeir Bu Quala* and *Shahrzad Lamogid* were sentenced to 6 months in prison and charged a fine of 50,000 dinars for defamation after the Minister of Defense made a complaint against an allusion to a former Algerian General that appeared in one of their articles.¹⁸⁶

The editor-in-chief and the director of the publication of *Alhurreya*, *Ali Wafiq* and the cartoonist, *Ali Dilam* were brought before a court in June 2008. During the trial, initiated by the Minister of Defense due to a cartoon published depicting a former Algerian army general, the prosecution requested a two-month prison sentence for defamation.

On the first week of May, the authorities banned the French weekly *Jeane Afrique* in Algeria. This censorship came soon after an article in *Jeane Afrique* had criticized economic and security issues in the Kabylie region of Eastern Algeria.¹⁸⁷

In November 2007, the Algerian authorities confiscated *The Jails of Algiers*, a book by *Mohamed Benchicou*, a journalist, from one stand at the "12th Book Fair." The stand of the *Inas* Diffusing publishing house, which printed the book, was ordered to close.¹⁸⁸

¹⁸⁵ Reporters without Borders, 1/7/2008.

¹⁸⁶ The daily Al-Watan, 5/3/2008. www.alwatan.com

¹⁸⁷ Reporters without borders, 9/5/2008.

¹⁸⁸ Reporters without borders, 6/11/2007.

Restraints on Religious Freedoms:

The Algerian law criminalizes religious speech or writings that are deemed to undermine the laws of the state or incite people to rebellion, incitement, coercion or other "seductive" means to convert a Muslim person to another religion. The collection of funds by religious groups that are not regulated by the state, and religious activities that are not regulated by the state are all prohibited.

In May 2007, the Algerian government issued a decree making it obligatory to apply for permission to observe non-Muslim rites. Under this provision, many people were prosecuted and tried in 2007 and 2008, either for preaching Christianity or for practicing unlawful religious rites. Five persons are reported to have been sentenced to imprisonment and charged fines in 2007 on accusations of preaching Christianity and undermining public order.¹⁸⁹

In May 2008, *Habiba Qwaider* stood before the court of Tiaret, Southwestern Algeria, for practicing non-Muslim religious rites without permission. The Ministry of Religious Affairs represented the civil prosecutor and requested a sentence of 3 years in prison. *Habiba* had been arrested on a bus with a Bible and other Christian books. Earlier, the Tiaret court had sentenced four Algerians to 2-6 months imprisonment, with a pending punishment and charged them a fine of €100 – 200 for embracing Christianity, while two others were declared not guilty on the same accusation.

In November 2007, the [Tissemsilt](#) Misdemeanor Court sentenced *in absentia* two Algerians who embraced Christianity to two years of imprisonment and charged them a fine of €5000. The accused requested retrial¹⁹⁰.

Restrictions on the Freedom of Association and Peaceful Assembly:

On 15th of April 2008, members of the Independent General *Union* of *Algerian* Workers staged a sit-in in the capital's main square after a two-day strike. This was in protest to the fact the trade unions were not consulted in the draft law presented by the government for revising wages. The protesters were dispersed using batons and tear gas. Ten people were arrested and

¹⁸⁹ See: Law No. 9/2006, published on the 17th of April 2006, the official Gazette, Amnesty International Briefing to the human Rights Committee, *ibid*.

¹⁹⁰ The London-based *Al-Hayat*, 4/6/2008.

released after investigations, but are likely to be charged and brought before a court.¹⁹¹

Human rights defenders that strive to end impunity, unveil the truth and hold those responsible for past human rights abuses, have been subject to punishment under the Decree implementing the Charter for Peace and National Reconciliation (1997). In October 2007, the Relizane Court passed a sentence of two-month imprisonment and charged *Mohamed Smain*, a member of the Algerian League for the Defense of Human Rights, a fine and damages on charges of defamation and reporting a “false” crime. This “false” crime was a mass grave uncovered and alleged to contain the bodies of 20 victims of enforced disappearance carried out by the security forces and state-armed militias in the Relizane region. *Smain* was also tried by the Supreme court in 2002.

Political Participation Problems:

The countdown for presidential elections, to be held in April 2009, has started. Experts speculate that a constitutional amendment is being formed with the aim of neutralizing Article 74 of the constitution, which prohibits election for more than two terms. Such an amendment would allow President *Abdel Aziz Bouteflika* to run for reelection for a third term. Furthermore, members of political parties constituting the Ruling Presidential Coalition, including the National Liberation Front, the National Democratic Bloc, the Islamic Party, and the Peace Society Movement, have 249 seats of the 389 parliamentary seats. In light of this lack of strong opposition, be it from traditional political parties or Islamist forces, there is little possibility that competitive presidential elections will be held. Unless the President decides not to run for a third term, the 1999 election scenario -in which the majority of candidates withdrew in the last moment in protest to the explicit support of the military establishment of *Bouteflika*, is most likely to be repeated.¹⁹²

¹⁹¹ Statement by the Observatory for protecting Human Rights Defenders, 22/4/2008, www.fidh.org.

¹⁹² Mostafa Sayeg, Arab Reform Bulletin, Carnegie Endowment, September 2008.

Morocco

Ambivalence After Progress

The human rights situation in Morocco is relatively better compared to other Arab countries. Over the past year, Morocco has taken progressive steps towards disclosing the truth about past human rights violations, including providing some forms of accountability and victim reparations for the widespread human rights violations that took place in the country throughout the previous decades. The margin of freedom and independence given by the government to Moroccan, Arab and international press and civil society organizations has been expanded.

The year 2007 and the early months of 2008 were characterized by the introduction of a number of positive measures taken by the government to enhance human rights. The Moroccan decision to join the first Optional Protocol attached to the International Covenant on Civil and Political Rights, in addition to withdrawing the Moroccan reservations to articles 20 and 22 of the Convention Against Torture (CAT), and withdrawing the Moroccan reservation to Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination and article 14 of the International Convention on the Rights of the Child were all positive indications of a political will for reform. Morocco also ratified other international human rights treaties

including the Convention Against Corruption and signed the Convention for the Protection of all Persons against Forced Disappearance. The Moroccan nationality law was also amended to allow a child born to a foreign father and a Moroccan mother the right to obtain Moroccan nationality.

None-the-less, Morocco has witnessed a setback regarding some previously acquired human rights gains. During the past year, a number of human rights activists were arrested, and a number of journalists were charged with having “undermined the sacred notions of the nation.” Arbitrary detention, torture and search and seizure without a warrant were reported to be daily practices of the security forces once again. The judiciary in Morocco still lacks many guarantees for its independence. The security apparatus of the state has recently reverted to violence in order to repress or scatter peaceful gatherings and protests. Participants in protests were mistreated. Also, human rights NGOs in the Western Sahara are still banned from obtaining legal status.

Freedom of Expression and the Media:

Press organizations in Morocco exercise a degree of independence; press outlets, have been allowed to deal with previously political taboos in Morocco, such as the monarchical system, the ruling dynasty, the military and the national security apparatus. However, many of these independent media outlets were hindered by judicial proceedings which resulted in harsh verdicts. Several press organizations had to pay large fines and others were banned from publishing. Many activists that used the media were subjected to unfair trials under the pretext of insulting the sacred notions or insulting the symbols of the kingdom. Others were charged with propagating false news. The overall consequence of all these oppressive measures is a setback in Morocco’s freedom of the press ranking in both 2007 and 2008. In 2007 Morocco’s ranking fell from 97 to 106, and in 2008 its ranking fell again to 122 according to the rating system of Reporters without Borders.

One of the most flagrant violations of press freedom involved *Mustafa Harmatalla* and *Abdel Rehim Ariri*, two journalists from the weekly paper *Al-Watan Al-An* (Homeland Now). Both journalists were arrested and accused of allegedly carrying out illegitimate and illegal investigations into government files on terrorist threats. The government claimed that these documents constitute classified information. A story about these files appeared in Issue 253 of *Al Watan Al –Anon* July 14, 2007. The trial of the two men concluded with the sentencing of the editor-in-chief of the daily, *Abdel Rehim Ariri*, to a suspended sentence of imprisonment, while *Mustafa*

Harmatalla had to serve a full term of seven months in prison. Both journalists were also fined.¹⁹³

Two other journalists, *Ali Anouzla* and *Mohamed Hafiz*, are also facing trial for publishing public documents “belonging to the Moroccan people” without due permission from the government. The two men published the testimonies of Moroccan political figures which testified before the “Justice and Reconciliation Committee.” This Committee is mandated to document 40 years of brutal violations of human rights that occurred during the reign of the deceased Monarch *Al-Hassan* the Second. The Head of the Moroccan Human Rights Advisory Council had called upon newspapers to stop publishing these testimonies.

The trial of *Ahmed Reda Ben Shamsi*, Director of two weekly magazines, *Nishan* and *Teel Keel* was postponed. *Ben Shamsi* was brought to trial on charges of “inciting disrespect for His Majesty the Monarch”.¹⁹⁴

The authorities also ordered the blocking of the satellite transmission of the Arab Maghreb news program transmitted from Rabat via *Al-Jazeera* Qatari channel. The decision was made under the pretext that the program did not fulfill the legal and technological preconditions for operating in Morocco.¹⁹⁵ Tensions between the Moroccan authorities and *Al-Jazeera* satellite channel escalated after *Al-Jazeera's* coverage of events in Sidi Ifni (Southern Morocco). Director of *Al-Jazeera's* office in Rabat, *Hassan al Rashedy*, was accused of publicizing false reports about the killing of a number of people. Although *Al-Jazeera* later broadcast a correction to this story, the court charged *Al-Rashedy* a fine of 50,000 *Dirhams* and cancelled his journalistic license.

Moroccan authorities detained *Ibrahim Sabe' el Leil*, a member of the Moroccan Center for Human Rights National Bureau in Sidi Ifni. He was arrested on June 27, 2008, after participating in a press conference in Rabat where he presented information which was later proven to be false. He claimed that the security agents killed a number of people during the Sidi Ifni city incidents while working to quell the uprising in the city port. According to *Sabe el Leil's* wife, the Moroccan authorities first took her husband to an unknown place before he was sentenced to six months in prison and charged a fine of 1000 *Dirhams*.

¹⁹³ *Wafaa Lomo*, wife of *Mustafa Hormatalla*, was also detained with her newly born child in a detention room next to his. The authorities did so to force *Hormatalla* to disclose his source of information. See: Reporters without Borders, July 28, 2008 and September 8, 2008.

¹⁹⁴ See the statement by Reporters without Borders on September 4, 2008, www.nsf.org

¹⁹⁵ *Al-Masaa* Newspaper, issue 560 dated July 7, 2008

Several internet activists have been imprisoned in the last year. On March 18, 2008 Eng. *Fouad Mortada* was released from prison by Royal pardon. A few weeks earlier, *Mortada* had received an imprisonment sentence of three years for pretending to be the Prince *Mawlay Rashid Aly* (from the Royal family) on Facebook. It is reported that *Mortada* was subjected to torture during detention.¹⁹⁶

On September 8, 2008 Moroccan blogger, *Mohamed Al Raji*, also received a sentence of imprisonment for two years. *Raji* had been charged with showing disrespect to His Majesty the Monarch. The trial of *Al-Raji* took one session during which time he was denied access to a lawyer. The appeals court set him free ten days after the initial ruling was made.¹⁹⁷

The Right to Peaceful Assembly:

The first three months of 2008 witnessed 48 incidents where security forces prevented peaceful assemblies and/ or demonstrations. Violence was used in 30 incidents where the security forces clashed with the demonstrators. This led in one case to the miscarriage of a pregnant woman, and serious injuries among protesters.¹⁹⁸

Members of popular social protest movements, including the labor syndicate or trade unions', and the *Amazighi* cultural and language-based movements were also subjected to similar maltreatment and beatings.

The incidents that took place in Sidi Ifni were the most prominent human rights violations in 2008. On Saturday, June 7, 2008, the city was the scene of what has since been dubbed Black Saturday, during which a large amount of violent incidents were carried out against civilians by Moroccan security forces. A number of unemployed youth staged a sit-in inside the city port to prevent trucks loaded with fish from reaching export areas of the port as a form of protest against the deteriorating economic and social conditions of the young people in the city, and the government's reluctance to respond to the demands and needs of the citizens.

The demonstrators demanded that senior officials come to negotiate improvements in living and working conditions. The protest lasted for a week from May 30 to June 6, 2008. When protestors received news that the security forces would invade the port and make mass arrests they withdrew

¹⁹⁶ See the Moroccan Association for Human Rights, February 28, 2008

¹⁹⁷ The Committee for Protecting Journalists: Morocco, An Appeal Court cancels the verdict against a blogger, September 18, 2007

¹⁹⁸ See the report of the Moroccan Observatory for Public Freedoms on May 14, 2008

from the port and fled to nearby mountain areas around the city. The security forces then raided the homes and terrorized the families of known protestors. In the course of these raids security agents destroyed the doors and furniture of the houses, and stole jewelry, cash, photo cameras and mobile phones. Reports also surfaced that security agents beat many people and sexually harassing women, including taking off their clothes and verbally abusing them. According to some testimonies, some of the detained men and women were stripped naked and beaten.¹⁹⁹ The authorities accused the detainees of forming and leading criminal gangs, inciting others to set trucks on fire, sabotaging industrial facilities, hindering the passage of trucks, assaulting civil servants while performing their duties, sabotaging port facilities and roads leading to it, participating in armed revolt and taking part in an unauthorized demonstration.

Some Moroccan human rights NGOs took the initiative of forming fact-finding committees to disclose the facts about the Sidi Ifni incidents, and published reports. In the meantime, the committee formed by the Parliament for fact-finding has not released its report.

Similar to the incidents of Sidi Ifni is the issue of the detainees of the May 1, 2007 celebrations who were arrested by the security forces in the Aghadeer and the Al-Kasr Al-Kabir areas. Another example of the repression of protest movements occurred when a state prosecutor began trial proceedings against human rights activists that participated in a protest of solidarity with previously arrested activists in the Beni Melal areas in May 2007.

Members of the Moroccan Association for Human Rights and other civil society activists were charged with "harmingsacred notions" after participating in a peaceful demonstration in which they chanted slogans criticizing the Monarch and monarchical system. Eight of the defendants were sentenced from two to five years in prison, and ordered to pay fines. The basic conditions of a fair trial were not met during court proceedings against these defendants. The King issued a royal pardon for some detainees after the courts ruling.

¹⁹⁹ See the statement of the Central Bureau for the Moroccan Association for Human Rights on the latest incidents in Sidi Ifni, issued on August 24, 2008. Also the Moroccan Organization for Human Rights, the Fact-finding Committee report on the incidents of Sidi Ifni, issued on July 1, 2008

The Right to Form Associations and Political Parties:

The Amazeghi Democratic Party was banned and deprived of legal recognition after holding its first conference in February 2007 in Marrakech. A law suit was filed by the Minister of Interior in November 20, 2007 to ban the Party under the pretense that statements made by the Secretary General of the Party prove that the Party is organized on ethnic and linguistic grounds.²⁰⁰ Furthermore, a party noted for its Islamic orientation called the *Al-Haraka Men Agl Al-Ouma* "Movement for the Nation" was also banned and the Ministry of Interior refused to give it the receipt for the deposit of its registration fees.²⁰¹

Independence of the Judiciary and the Right to Fair Trial:

Morocco has not yet implemented recommendations made in November 2005 by the "Justice and Reconciliation" body. These recommendations aim at sustaining and strengthening the independence of the judiciary by introducing a constitutional amendment and adopting a law that would be considered as the basic code of justice. The recommendations also called for an explicit and clear separation between the Ministry of Justice and the Supreme Council of the Judiciary.

On January 12, 2008, the Parliament approved a law regulating the establishment and the functioning of a court concerned with monitoring members of the government and holding them accountable for any crimes or misdemeanors they commit during the exercise of their duties. Unfortunately, the conditions required to begin an investigation or law suit, as set out in the new law, put in place a very high threshold of evidence that will make it

²⁰⁰The judicial file presented by the Ministry of Interior to the Administrative Court included some statements claimed to have been made by the Secretary General of the Party. According to the file, these statements emphasize and promote the linguistic and ethnic essence of the Party. See the article: Three questions to *Ahmed el Degherny*", *Al-Ayam* Newspaper, Casablanca, December 1, 2007

²⁰¹The Secretary General of the Party, *Mohamed Al-Marwani*, was arrested in the so-called "Beleereh" terrorist cell case. He has been on trial and he has been detained with other five people belonging to Islamic and leftist political parties on accusations of founding a terrorist cell.

extremely difficult to activate this mechanism and, as such, may hinder the promotion of the rule of law.²⁰²

The Moroccan authorities also took a very hostile position against opinions criticizing or uncovering the corruption of the judiciary. Two lawyers from the Al Rabat Association are currently facing law suits before the Consultants Chamber of the Court of Appeal for disclosing facts whereby they claim that the accusations made against their clients in the so-called *Ansar Al-Mahdy* cell case has been fabricated.²⁰³

Impact of the Western Sahara Crisis on the Situation of Human Rights in Morocco:

The Moroccan proposal regarding granting self-rule to the Sahara regions was welcomed in the UN Security Council, and direct negotiations began between the Moroccan State and the Polisario front in August 2007. None-the-less, regulations limiting public freedoms imposed by the Moroccan government remain more repressive in this region compared to the other parts of the Moroccan Kingdom.

Various activists who oppose Moroccan rule over the people of the Western Sahara have increased their visibility and actions within Morocco. Throughout 2007 and the beginning of 2008, large-scale demonstrations for Western Sahara self-determination took place in a number of Moroccan Universities, and were initiated by students originally from Western Sahara. In response, many students from the Sahara were severely beaten and harassed inside university dorms. One female student lost her eye and dozens of other students were arrested and later released without any being

²⁰² Experts from the United Nations Conference on Cooperation and Development expressed in a report prepared lately in Geneva their concern about the status of the judiciary in Morocco. The experts pointed that the judiciary in Morocco is one of the main obstacles against the flow of foreign investments as the cases reviewed by the judiciary take very long time and rulings are not implemented. The report also states that bribery is very much abundant especially regarding the judicial expertise. The report did not miss the fact that judges and their assistants are poorly paid in Morocco. See the report by the "Justice Association" on independence of the judiciary published on the Association's website www.justicemaroc.org

²⁰³ This issue concerns two lawyers, *Abdel Fattah Zehrash* and *Mesa'ef Benhmo*, who made statements to the Press regarding *Ansar al-Mahdi* cell case. They reported the grave violations to which their clients were subject. The public prosecution authority refused to allow the lawyers to review the interrogation and investigation files, therefore the lawyers said to the Press that the file is fabricated. Consequently, the two lawyers were charged with contempt of the judiciary.

charged. Around 20 students were convicted of committing acts of violence and sentenced up to one year in prison.

A number of human rights activists from the Western Sahara were arrested by the authorities for alleged participation in anti-Moroccan demonstrations. Many of them stated that they were subjected to torture and/or mistreated during interrogations.

On October 9, 2008, one of the courts in Aghadeer issued harsh sentences against a number of political activists from the Sahara region for their participation in demonstrations demanding self-rule and the release of Sahara political detainees. The imprisonment sentences varied between a year and 15 years in prison.²⁰⁴

Repression of Human Rights NGOs and Advocates:

Despite the relative freedom which human rights groups and NGOs enjoy in Morocco compared to other countries in the region, human rights advocates were subjected to various repressive measures by the state. Members of the Moroccan Association for Human Rights were subjected to harassment and arrest during their participation in peaceful demonstrations where they chanted slogans criticizing the Monarch. The charges made against them varied between "harming the sacred entities" to "undermining the Royal Régime".

Moreover, Human Rights activist, *Khadiga Zayyan*, a member of the Local Secretariat in Sidi Ifni, was kidnapped by security agents on July 28, 2008 in front of the gate of Enzkan prison as she was visiting the detainees of Sidi Ifni incidents. Sources from the Local Secretariat said that "Security elements dressed in civilian clothes arrested *Khadiga Zayyan* immediately despite the fact that they checked her identity card".²⁰⁵

Human rights NGOs in the Sahara regions are continuously subjected to comprehensive restrictions. Local authorities dissolved and banned the Sahara branch of "Truth and Justice Forum" in 2003. Authorities continued to refuse to recognize and register the founding documents for the "Sahrawi Association of Victims of Grave Violations of Human Rights Committed by the Moroccan State" (*ASVDH*). Reluctance of the authorities to recognize this association contravenes a ruling by an Aghadeer court issued in September 2006 obliging the authorities to license and allow the operation of

²⁰⁴ <http://www.anhri.net/morocco/maka/2008/prl009.html>.

²⁰⁵ See the statement issued by the Moroccan Center for Human Rights, August 2, 2008

ASVDH. The authorities also prevented the meeting of a founding General Assembly for another group of human rights defenders in the Sahara, known as CODESA in October 2007. The authorities even pressured the owner of the building where the headquarters of the Sahara branch of the Moroccan Association for Human Rights was located to end the lease contract and evict the organization from the premises in 2007. The head of the Sahara branch of AMDH branch, *Hammoud Lejleid*, was arrested several times.²⁰⁶

Enhancing Political Participation:

As the official results of the legislative elections were revealed in September 7, 2007, the Moroccan King Mohamed VI appointed Abbas El Fassy, the Secretary General of Al Istiklal (Independence) Party as Prime Minister. Al Fassy was appointed to form the government as evidence of the State's commitment to "democratic reform" made three years ago.

For the first time, the September 2007 elections were held under the procedural supervision of international observers. Furthermore, Moroccan civil society associations were allowed to monitor the elections. Elections' monitoring was handed over to the Advisory Council for Human Rights that decided to assign three organizations to perform this task. The three organizations openly criticized what they described as the government's "huge monopoly of money" in these elections and the negative neutrality of the authorities.

Despite small steps toward democratic reform, turnout for the election only reached 37% of the population, the lowest in the history of Moroccan elections, and a strong indicator of the growing public perception that the Parliament and political parties have been largely marginalized in decision making processes by the monarchy.

Unless all political parties in Morocco, including secular and Islamic parties, can work together to ensure that the Parliament gains more real power and can act as a check on the power of the monarch then faith in the political system among Moroccan citizens will continue to decrease, a

²⁰⁶ Information and documents were revealed during two interviews by the Cairo Institute for Human Rights Studies with *Al-Ghalya Adjimy*, the Vice President of the Sahrawi Association of Victims of Grave Violations of Human Rights Committed by the Moroccan State, and with Eric Goldstein, Director of Human Rights Watch Research Department on North Africa. Both interviews were held in Washington on November 11, 2008

situation that could lead to future instability in the country and a worsening of the human rights situation.²⁰⁷

²⁰⁷ Dr. Amr Hamzawy, in his study on Parliamentary elections, published on Carnegie Endowment for International Peace website. The study was republished in brief in a article entitled "The Message of Voters in Morocco: Will it Reach the Royal Palace and Political Parties?" Sawasia Newsletter issue 78, October 2007, Cairo: Cairo Institute for Human Rights Studies, CIHRS, pp. 10-11.

Syria

Human Rights Under the Heel of Military Intelligence

The situation of human rights in Syria has continued to deteriorate throughout 2007 and 2008. Syria has recently been more responsive to the demands of the UN, the United States and Europe, in particular regarding the course of direct negotiations with Israel, and securing the Syrian-Iraqi borders. Syria has also agreed to normalize Syrian – Lebanese relations, a step that may very well result in the cutting off of Syrian direct support to Hezbollah. Unfortunately, and perhaps as a result, a decrease in international pressure for domestic reform has given Syrian Authorities full rein to repress political opponents, critics and human rights activists.

Syrian authorities have not taken a single positive step towards the amendment of the Syrian legal framework which remains inimical to the protection of human rights. Military security bodies continued to tighten their grip on the country through Emergency Laws, which have been continuously in place for 45 years. Penal provisions continued to be used as a justification for punishing individuals for expressing their opinions, or staging peaceful protests and demonstrations. Exceptional trials in state security and military courts continued to be used as a common means to punish independent voices and opponents of the ruling regime. Advocates of

reform, democracy and human rights activists have also remained a target of increased repression. Reform figures were banned from traveling abroad and continuously persecuted. The government also continued to outlaw non-governmental associations and organizations.

In response to the ongoing deterioration of conditions within Syrian prisons, prisoners often led protests and uprisings within prisons. Such protests were repressed with the use of excessive force. The use of torture and violent suppression of different forms of protest resulted in a considerable number of killings. Syrian Kurds, who constitute the largest ethnic minority in Syria, remained a target of regular discrimination. Kurdish cultural activities and advocacy were subject to severe repressive measures. Furthermore, On September 30, 2008, the President issued a legislative decree that secured the impunity of members of the military intelligence bodies for crimes committed while performing their duty, unless prosecuted by the Army Chief of Staff.

Two weeks after the issuance of the decree, *Nabil Ma'atouk*, member of Syrian Human Rights Monitor, and one of his friends were killed by a security patrol while standing in front of his house. According to official sources, the security patrol shot them by mistake while chasing smugglers. However, according to Syrian human rights organizations, the incident is more likely to be an act of willful killing.²⁰⁸

Escalation of Arbitrary Detentions and Unfair Trials of Political Activists and Reform Advocates:

Throughout December 2007 and January 2008, dozens of political activists were arrested for their participation in the National Council of the Damascus Declaration for National Democratic Change that adopted the "Damascus Declaration for Democratic National Change." Twelve of these activists were brought to trial before the Damascus First Criminal Court on accusations of "weakening national sentiment" and "spreading false or exaggerated news which would affect the morale of the country," as well as charges of "affiliation with a secret assembly with the aim of changing the State's economic and social structure," "stirring up racial and sectarian sedition," and "destroying the dignity of the State." Such accusations are punishable by the Criminal law as per Articles 285, 286, 306 and 307. These

²⁰⁸ See Statement by the Kurdish Organization for the Defense of Human Rights and Public Freedoms in Syria on 16/10/2008 and the Fact-Finding Commission report on the Syrian Al Moshayrafa village incident on 20/10/2008 issued by the Syrian League for Defending Human Rights .

Articles are commonly invoked to subdue freedom of opinion and expression as well as prosecute critics of the ruling regime.

Those arraigned included Dr. *Fedaa Akram Al-Horani*, head of the National Council for Damascus Declaration; Dr. *Ahmed Tea'ama* and *Akram Al-Bani*, Secretaries of the National Council, *Riad Seif*, Head of the Council's General Secretariat Office and former parliamentary; *Waleed Al Banna*, *Mohammad Hagi Darweesh*, *Fayez Sarat*, Dr. *Yasser Al-Aiti*, *Marawan Al Aish*, *Ali Al-Abd Allah*, *Gabr Al Shofi* and *Talal Abu Dan*, who are all members in the National Council. In October 29, 2008, the Damascus First Criminal Court sentenced each to two years and six months in prison.²⁰⁹

It is worth-mentioning that in December 2007, the same court had sentenced *Ali Faek Al-Mir*, a leading member in the Democratic People's Party to three years in prison, though later commuted the sentence to one and a half year. *Al-Mir* was charged with disseminating false news, attacking the ruling regime, declaring enmity towards the state policy and communicating on a regular basis with hostile entities.²¹⁰ Meanwhile, the prominent Professor of Economics, Dr. *Aref Dalila*, was set free in August 7, 2008, following a seven-year imprisonment since 2001. Dr. *Dalila* had been tried before the Supreme State Security Court and was sentenced to ten years in prison for criticizing governmental policies.²¹¹

In August 20, 2008, the Second Criminal Court in Damascus rejected the demand by the defense to set free, on equal basis with other prisoners in relation to criminal offenses, Syrian writer *Michelle Kilo*, member of Civil Society Revival Committees in Syria, after he had served three quarters of his sentence. *Kilo* had been sentenced to 3 years imprisonment in May 2007, for weakening national sentiment and stirring up religious and sectarian sedition.²¹²

Dr. *Kamal Al-Labwani*, founder of the Democratic Liberal Gathering remained in custody by virtue of a 12-year imprisonment sentence he received for visiting the United States and Europe, and meeting government officials, journalists and rights organizations. The judgment was based on statements given by *al-Labwani* to a satellite channel which the court deemed as "communicating with a foreign country and inciting it to initiate aggression against Syria." He was also accused of publishing news that

²⁰⁹ Statement by the Syrian Human Rights Monitor on October 29, 2008.

²¹⁰ Statement by the National Organization for Human Rights in Syria on December 31, 2007.

²¹¹ Human Rights Watch statement on 8/8/2008

²¹² The Syrian Human Rights Monitor, press release on August 20, 2008 and Reporters Without Borders on 22/8/2008.

“disheartens the nation,” for which he was tried before the Military Criminal Court and sentenced to three years in prison.²¹³

Many political prisoners are detained for “insulting the President”, “publishing false news,” “weakening the national feeling or criticizing security bodies.”²¹⁴ *Habib Saleh*, the political writer and political opponent, was tried on August 4 following his detention in July 9, 2008, for “weakening the national feeling and instigating civil and sectarian war.”²¹⁵

Recently, judicial rulings tended to commute the punishment of those suspected to be associated with the Muslim Brotherhood from execution to imprisonment, amounting in some cases to 12 years with hard labor and deprivation of civil rights. In September 2007, the State Security Court passed a death sentence on civilian *Ahmed Al Ogail*,²¹⁶ on accusations of associating with the Muslim Brotherhood. The death sentence was later commuted to 12 years of imprisonment. Similar rulings have been given to a minimum of 20 other persons.²¹⁷ Security bodies mounted a crackdown in August 2008 on dozens of Islamists in Deir el Zor, Aleppo and Hama.²¹⁸

Torture and Conditions Inside Prisons:

Reports issued at the end of December 2008 indicate that the death of detainee *Ahmed Abd Al-Ghafour Abd Al-Qawi* in a prison in the *Adlab* governorate resulted from acts of torture to which he had been subjected.²¹⁹ In addition, human rights organizations have accused authorities of unlawfully killing *Ahmed Selim Al-Sheikh* in November 2007. According to eyewitnesses he was beaten and kicked during his arrest until he died.²²⁰

²¹³ Statement by the Kurdish Organization for the Defense of Human Rights and Public Freedoms in Syria on 21/4/2008.

²¹⁴ For more information about cases of prisoners of conscience see the Arab Network for Human Rights Information ANHRI, background paper on “prisoners of conscience, as well as cases of forgotten opinion prisoners, missing persons and denial of visits, Seydnaya prison in Syria” www.anhri.net/press/2008.

²¹⁵ Statement by Reporters without Borders “demanding to set free the writer Habib Saleh, who is accused of weakening the national feeling on 5/8/2008.

²¹⁶ Statement by the National Organization for Human Rights in Syria on 30/9/2007.

²¹⁷ Statements of the Syrian Human Rights Monitor, the Syrian Committee for Human Rights in 12/11/2008, the National Organization for Human Rights in Syria in 30/9/2007, 16/12/2007, 12/11/2008, 10/2/2008 and 5/5/2008, the Kurdish Organization for the Defense of Human Rights and Public Freedoms in Syria in 8/10/2007 and Committees for Democratic Freedoms and Human Rights in Syria on May 17 2008.

²¹⁸ Statement by the Syrian Human Rights Monitor “Syrian security bodies detain dozens of Islamists.”

²¹⁹ Statement by the Syrian Committee for Human Rights on 31/12/2007.

²²⁰ Statement by the Syrian Committee for Human Rights on 20/11/2007.

Human rights monitors reported that the detained Kurdish activist, *Othman Soliman Ben Hegbi*, died in February 2008 due to deterioration in his health caused by unhygienic conditions and inhumane treatment in prison.²²¹

The July 4th uprising in Sednaya prison, which lasted for several days, resulted in a large number of deaths and casualties. Reports indicated that around 30 tanks and armored vehicles, in addition to large numbers of security forces were requested by authorities to control prisoners. Most of these prisoners were Islamist detainees and convicts who had protested against the inhumane treatment they had been subject to while in prison. According to some reports, copies of the Holy Quran, possessed by some of the Islamist political detainees were thrown to the ground and stepped on. Some human rights organizations estimated that the death toll as a result of these disturbances reached 25 prisoners.²²²

Human rights NGOs and Activists Under Siege:

Many human rights activists, most prominent of whom *Ghazi Qadour*, member of the board of trustees of Committees for Democratic Freedoms and Human Rights in Syria, and member of Committees to Revive Civil Society in Syria, has been arrested. *Qadour* was arrested at his house on August 11, 2008 and escorted to an unknown detention center.²²³ On July 28, 2008, authorities set free 4 young people who had been earlier detained for participating in a training course in the Jordanian capital.²²⁴ Also, Security bodies did not disclose any reasons for, or place of, detention of human rights activist *Bahrouz Youssef*, who has been detained since early May 2008.²²⁵

Human Rights activist *Mohammad Badie Dak Al-Bab*, member of the National Organization for Human Rights in Syria remained in custody for six months on a Military Court ruling which convicted him of disseminating

²²¹ Statement by the Syrian Committee for Human Rights on 19/2/2008.

²²² For more details, review data of the Syrian Human Rights Monitor and the Committees for of Democratic Freedoms and Human Rights in Syria from 5-8 July 2008.

²²³ Statement by Committees for Democratic Freedoms and Human Rights in Syria on 11/8/2008.

²²⁴ Statement by the National Organization for Human Rights in Syria in 28/7/2008. Defenders", statement on 16/7/2008.

²²⁵ Front Line - International Foundation for the Protection of Human Rights Defenders", statement on 16/7/2008.

false news abroad that undermines the State's dignity. He was set free in September 2008²²⁶ after serving his sentence.

Mazen Darwish, head of the Syrian Center for Media and Freedom of Expression has been brought before a military court that sentenced him to a five-day imprisonment on accusations of libeling a Public Administration.²²⁷ Security authorities have also cancelled two symposia scheduled by the Syrian Center for Media and Freedom of Expression to be held in May 2008.²²⁸

Regarding exceptional military trials that have also extended to human rights activists, the military court in Al-Reka sentenced human rights activist *Ahmed Hegi Al-Khalaf*, member of the Board of Directors of the Arab Human Rights Organization in Syria to five-days of imprisonment after accusing him in April 2008 of defaming a public administration, after he published an article criticizing the education system in Syria.²²⁹

It is noteworthy that there is not a single legally registered human rights NGO in Syria. Most of the leaders of these NGOs' are either banned from travelling abroad or required to seek travel permission from the military intelligence before leaving the country.

Denial of Freedom of Opinion and Expression:

The number of websites which have been blocked by the state reached approximately 100 sites in December 2007²³⁰ and 151 sites in February 2008.²³¹

Journalist *Hamam Hadad* was detained twice in May and September 2008 for no declared reason.²³² Furthermore, the *Al-Nazaha* News website manager has been detained since 30 July 2008, and authorities have denied citizens' access to his site which criticizes the government's policies. Afterwards, access to the site was later allowed after the Administrative Court upheld the owner's appeal.²³³

²²⁶ Statement by the Arab Organization for Human Rights in Syria on 17/9/2008.

²²⁷ Statement by the Arab Organization for Human Rights in Syria on 24/6/2008.

²²⁸ Statement by Committees for Democratic Freedoms and Human Rights in Syria on 27/5/2008.

²²⁹ Statement by Committees for Democratic Freedoms and Human Rights in Syria on 23/4/2008

²³⁰ Reporters without Borders, 2007 Annual report .

²³¹ Statement by the Syrian Center for Media and Freedom of Expression on 14/2/2008.

²³² Statement by the Syrian Human Rights Monitor on 10 September 2008.

²³³ Statement by the Syrian Center for Media and Freedom of Expression on 14/8/2008.

In July 2008, authorities banned an issue of the London-based *Hayat* newspaper, and ultimately prohibited its distribution inside Syria for publishing an article criticizing the Syrian President. In February 2008, Syrian authorities also prohibited distribution of the “Economic Community” magazine for its critical approach towards some Syrian leaders’ acquisition of double nationality.²³⁴

In October 2007, authorities banned the distribution of issues no. 65 and 66 of *Boq`at Daw`* (spotlight) magazine for tackling incidents of corruption in the city council of Aleppo.²³⁵ Furthermore, it fired the correspondent of the Japanese News Agency following his journalistic coverage of the plebiscite on the President of the State. The journalist was beaten as well by security personnel.²³⁶

Immigration and passport authorities on the Syrian-Lebanese borders denied the delegation of “Reporters Without Borders” organization access to the country on 13 September 2008.²³⁷ The delegation was supposed to meet with journalists and human rights activists to discuss problems relating to freedom of expression and of the press in Syria.

The Kurdish Minority: A Continued Target of Systematic Suppression and Discrimination :

Syrian Kurds, who constitute the largest ethnic minority in the country, continued to be a target of suppression and discrimination. For decades, 300 thousand Syrian Kurds have been divested of their Syrian citizenship, prevented from expressing their Kurdish identity, and deprived of their right of using the Kurdish language in educational institutions. Denied citizenship, Kurds lack basic rights, particularly those related to the right to ownership, employment, travel, registering marriage contracts and birth certificates, as well as the right to participate in elections.²³⁸

A military court in Damascus sentenced 50 Kurdish citizens to six months in prison in September 2008. The sentence was later commuted to four months for those who had attended one of the court hearings. Indictments against them related to instigating racial, religious and sectarian sedition.²³⁹

²³⁴ Reporters without Borders on 16/7/2008.

²³⁵ Statement by the Syrian Center for Media and Freedom of Expression on 30/10/2007

²³⁶ Statement by the Syrian Center for Media and Freedom of Expression on 10/8/2007.

²³⁷ Statement by the Committees for Democratic Freedoms and Human Rights in Syria on 18/9/2008.

²³⁸ Statement by Committees for Democratic Freedoms and Human Rights in Syria on 18/9/2008.

²³⁹ Statement by the National Organization for Human Rights in Syria on 15/9/2008.

Furthermore, the Supreme State Security Court in Damascus sentenced four Kurdish citizens on February 3, 2008 to 7-10 years in prison on accusations of raising slogans in opposition of the State, and affiliating with banned political associations that aim to seize, usurp and adjoin part of the Syrian territories to a foreign country.²⁴⁰

Kurdish leader *Mash'al Al-Tamo*, official spokesman of the Kurdish Movement of the Future in Syria was arrested on September 18, 2008 and charged with inciting riots that aim to cause civil wars and sectarian violence. He was further charged with destroying the State's dignity and weakening national sentiments.²⁴¹

On March 20, 2008, three people were killed as security bodies randomly fired on Kurdish citizens who gathered in Alqameshli city to celebrate the Persian New Year.²⁴²

On the sixth of April 2008, security agents forcefully dispersed a peaceful assembly in front of the Supreme State Security Court organized in objection to the continued detention of five Kurdish activists since January 2007.²⁴³

Security agents also violently suppressed a peaceful demonstration in Alqameshli and Ain Al-Arab cities which was organized in objection to the Turkish military escalation on Iraqi borders. Security bodies used live ammunition, tear-gas bombs and batons to disperse demonstrators resulting in the death of one person and the injury of many others. Meanwhile, dozens of civilians in Alqameshli and Ain Al-Arab²⁴⁴ incidents were detained.

In December 2007, authorities banned a peaceful sit-in in front of the Supreme State Security Court in objection to exceptional trials of human rights activists and Kurds and the arrest of dozens of persons.²⁴⁵

²⁴⁰Statement by the Kurdish Organization for the Defense of Human Rights and Public Freedoms in Syria on 3/2/2008.

²⁴¹ Statement by the Syrian Human Rights Monitor on 18/9/2008.

²⁴² A joint statement by the Syrian League for Defending Human Rights and the Syrian Human Rights Monitor on 21 March 2008.

²⁴³ Statement by Committees for Democratic Freedoms and Human Rights in Syria on 7/4/2008.

²⁴⁴Statement issued by the Media Office of the Kurdish Committee for Human Rights on 3/11/2007.

²⁴⁵ Statement by the Committees for Democratic Freedoms and Human Rights in Syria on 16/12/2007.

The Kingdom of Saudi Arabia

When Medieval Standards Rule 21st Century Societies

Saudi Arabia is a unique, intricate and multifaceted case. Conservative *Wahhabi* theology dominates Saudi society in relation to respect for human rights and prospects for democratic transition. Saudi citizens have long been ruled by an autocratic monarchy. Under this regime the Saudi people have been denied fundamental political and civil rights including the right to political participation. The ruling regime has outlawed activities such as establishing a political party or owning newspapers and media channels, and made these activities the prerogative of the state. Saudi citizens are also denied the right to express opinions that contradict with those expressed by the royal family and the state, or to disagree with the Islamic interpretations promoted by the religious establishment. Saudi Arabia has not ratified most human rights treaties, including both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The state does not recognize the right of citizens to form political parties, form associations or to peacefully assemble. Moreover, religious minorities suffer obvious discrimination, and women – for no other reason than being a female – are still denied numerous basic rights.

The state has consistently failed to reform its legal infrastructure in order to make it consistent with international human rights standards. Suppression and repression of rights defenders as well as advocates of political reform is still a common political tactic used by state authorities. In the aftermath of

the 9/11 attacks, the Kingdom of Saudi Arabia (KSA) experienced significant international pressure to put in place substantial reforms for the purpose of curtailing the rising phenomenon of religious extremism and terrorism within the Saudi society. The Kingdom responded by running municipal elections for the first time, elections which were marred by criticisms of shortcomings. In addition, King Abdullah, after ascending to the crown, granted royal pardon to and released three political prisoners detained during the rule of the former King. Security agencies arrested two of the three royally pardoned inmates approximately two years after their release, re-imprisoned them and then began going after other advocates of reform in the Kingdom. External pressure to enact such reforms soon eased and these largely symbolic reform efforts ended without having left any sustained positive impact on the Saudi system.

Absence of Standards of Justice and Accountability:

The state apparatus of Saudi Arabia has no clear distinction between its three branches of government: legislative, executive and judicial.

An absence of a sufficient criminal code and judicial standards has given judges the ability to both classify and codify crimes according to their personal preferences. Judges are permitted not only to preside but also prosecute concurrently. This gives them the freedom to modify or change accusations against a defendant at will, and to do so for political purposes. Judges at times refuse to allow those claiming they were forced to confess under acts of torture to come before them and receive a trial unless they retract their claims, thus granting de facto impunity to the police and security forces. Furthermore, judges often withhold a copy of their verdict from the convicted. Absence of a copy of the verdict makes any attempt to request an appeal of the verdict extremely difficult. The capacity of judges to assume the role of the prosecution and actively argue against the accused persons at times allows judges to turn legal prosecution into political persecution. Judges have also enforced multiple harsh punishments on accused persons for reasons unrelated to the crimes for which they are being tried²⁴⁶.

In October 2007, Saudi authorities introduced new amendments to the laws regulating the judiciary system and to *Diwan Al Madhalim* (Ombudsmen). These amendments provided for the establishment of new

²⁴⁶ For further details, see the two press statements issued by Human Rights Watch on November 17 and 29, 2007.

courts in various areas of specialization, in addition to a special appeals court.²⁴⁷ None-the-less, the regulations and standards, or lack thereof, under which the Saudi judiciary operates, is deeply flawed and full of glaring loopholes that have a profound negative impact on human rights.

In addition to the absence of sufficient legal safeguards for holding fair and impartial trials, Saudi courts still issue harsh sentences convicting persons of perpetrating antiquated and/or unsubstantiated crimes for which no practical or material evidence of verification exists. For example, in November 2007, Mustafa Ibrahim was executed for witchcraft²⁴⁸; also Fawza Falih was sentenced to death by guillotine for perpetrating crimes of witchcraft, sorcery and slaughter of animals.²⁴⁹ Many victims of such accusations and sentences are also victims of the *Al-Amr bi-Ma'ruf wal-Nahy `an al-Munkar* (Command the Good and Forbid the Evil) organization, also known as *al-Mutawwi'in*. Members of the organization are the most vocal opposition to reform and commit violations of human rights, including the use of violence, in order to impose their interpretation of the Islamic religion.

Arbitrary Detention, Inhuman Treatment and Other Human Rights Violations by Security Forces:

In light of the severe lack of both "rights" and the "rule of law" in Saudi Arabia, arbitrary detention has become a common phenomenon. Security agencies commit violations with no effective legal or political restraint on their behavior. Saudi nationals and foreigners present within Saudi lands or handed over to them from other states, are often detained or imprisoned by the Saudi government outside of any legal framework. This practice was revealed in a report issued on November 22, 2007 by the UN Working Group on Arbitrary Detention. The report focuses on the detention of Iraqi national, *Diaa Qassim Al-Hussein*,²⁵⁰ who was extradited to Saudi authorities by Kuwait on January 31, 2007. Saudi authorities detained Al-Hussein with no charge or trial. Furthermore, they denied him any family visitations and prevented him from filing complaints about his detention.

²⁴⁷ Precarious Justice (report), Human Rights Watch, March 25, 2008, p. 7.

²⁴⁸ Human Rights Watch, November 14, 2008.

²⁴⁹ See the Human Rights Watch letter dated November 13, 2008, to King Abdullah to halt the execution of Fawza Falih.

²⁵⁰ See Alkarama for Human Rights, January 15, 2008.

Another revealing example is the case of *Faisal Al Majed*.²⁵¹ *Al Majed* has been arbitrarily detained by Saudi Arabia since September 2007. *Al Majed* is originally a Saudi citizen who was living with his family in Kuwait. He was arrested by Kuwaiti authorities and deported to Saudi Arabia where he was detained and mistreated, including being deprived of food. Saudi authorities interrogated *Al Majed* about his efforts to supply Arab rights organizations with information pertinent to violations of human rights committed in the Saudi Kingdom, and his brother who has been arbitrarily detained for 6 years after being extradited by Qatar. As of now, *Faisal* has not been given a trial. *Youssef Al-Ashmawy* (an Egyptian residing in Saudi Arabia) is also being detained in *Al-Hayer* prison in Riyadh since August, 2008 with no official charge or trial. *Al-Ashmawy* was most likely detained for having been a technician in a company that has carried out work for the Saudi Ministry of Foreign Affairs. Security agencies may have feared he might pose a threat or share confidential information he acquired during his period of work²⁵².

Under the pretext of counter-terrorism, Saudi security forces have arrested numerous persons on accusations of planning for the undertaking of acts of violence within Saudi Arabia. According to the official classification of the authorities, the name "deviant group" is the common name designated to these *Salafi jihadists*. In November 2007, 208 people were arrested under the allegation of planning terrorist acts of assassinating scientists and security officers, as well as sabotaging oil facilities and economic establishments.²⁵³ In addition, more than 50 people were arrested in March, 2008 under the allegation of communicating with leading figures in the *Al-Qa'ida* organization abroad, receiving orders to restructure the organization within Saudi Arabia and undertaking terrorist attacks.²⁵⁴ In June, 2008, 520 people were accused of perpetrating or attempting acts of terrorism and simultaneously arrested and detained. According to press reports, out of the hundreds arrested between the end of 2007 and middle of 2008, approximately 180 were released by authorities for having no connection with *Al-Qa'ida*.²⁵⁵

²⁵¹ See Alkarama for Human Rights, May 25, 2008.

²⁵² The Arabic Network for Human Rights Information (ANHRI), October 14, 2008.

²⁵³ Saudi Arabia: Arresting 208 wanted persons affiliated to 6 cells/secret groups that aim at inflicting harm upon security, scientists' and oil sites, Asharq Alawsat International Newspaper, November 29, 2007.

²⁵⁴ Saudi Arabia arrests 56 people from the "deviant group", Asharq Alawsat International Newspaper, March 3, 2008.

²⁵⁵ Ministry of Interior: 520 detainees planned attacks on oil facilities and security agencies and promoted understandings via the internet, Asharq Alawsat International Newspaper, June 26, 2008.

Saudi officials have announced that, detainees arrested in connection with terrorist attacks that began in 2003 will be tried in separate security courts that will soon be established. Saudi officials have claimed that these courts will be neither military nor exceptional in nature, and that their establishment falls under the framework of reorganizing the Saudi judiciary system. According to some estimates, about 3200 people were arrested for being suspected in terrorist attacks or plots. The process by which these courts will evaluate evidence and verify accusations against the accused has yet to be disclosed, raising concerns that such courts will further erode legal protections for defendants in criminal trials.²⁵⁶

In addition to carrying out arbitrary detention and imprisonment, security agencies and police officers also carry out inhumane treatment and torture on a regular basis. On March 9, 2008, while attempting to arrest approximately 25 Yemeni emigrants holding no documentation, police officers set fire to a pit in which the emigrants were hiding. 18 of them suffered severe burns.²⁵⁷

Complete Prohibition on the Freedom of Expression and Media:

Many of the popular Arabic newspapers and most popular media channels in the Arab world are substantially funded by Saudi capital. As such, the Saudi authorities have a significant ability to censure criticisms expressed and voiced about official policies employed by the government, including human rights violations.

In Saudi Arabia itself almost no press freedom exists. The press that exists is subject to governmental control, and highly restricted by the dominance of extremist religious figures, especially those associated with the state. The religious figures issue ad hoc advisory opinions (*fatawa*) that often pose threats to various media channels and journalistic professionals. For example, on September 12, 2008, Chairman of the Supreme Judicial Council, *Sheikh Saleh Al-Luhaidan*, issued an ad hoc opinion (*fatwa*) allowing for the murder of owners of Arabic satellite channels. *Al-Luhaidan* accused the owners of the channels of being depraved individuals who attempt to "spread depravity."²⁵⁸

²⁵⁶ Christopher Boucek, Courts Open New Chapter in Counter-Terrorism, Arab Reform Bulletin, Carnegie Endowment for International Peace, September, 2008.

²⁵⁷ See Human Rights Watch, May 14, 2008.

²⁵⁸ See Reporters Without Borders, September 16, 2008.

Repression of freedom of expression and the media has been extended to the internet. Almost 400,000 internet sites within Saudi Arabia have been blocked under the pretense of protecting Islamic moral values. As elsewhere, bloggers have been targeted. On December 10, 2007, Saudi security agencies detained blogger *Fouad Al-Farhan*²⁵⁹ without filing any charges against him. *Al-Farhan* was detained for more than 4 months during which he was denied access to an attorney.²⁶⁰ He was later released on April 26, 2008 but his blog was taken off the internet. In early 2007, the Saudi State closed the "*Menbar Al-Hewar*" website, which often discussed human rights and political reform issues, as well as *Ra'if Badawi's* website which addressed human rights violations by the *Amr bil Ma'ruf wal Nahy an al-Munkar* (Command the Good and Forbid the Evil) organization. In October 2007, police interrogated *Badawi* about his relations with Human Rights Watch. And on December 13, 2007, the intelligence service detained *Muhanna Al-Falih*, a supporter of constitutional reform.²⁶¹

All other forms of expression and media are also subject to state repression. In 2008, Saudi authorities deported *Sheikh Abdullah Al-Khayyat*, an Egyptian residing in Saudi Arabia since 1966, without any clear reason.²⁶² *Al-Khayyat* commonly wrote in papers and on internet sites about the political and social situations in Egypt, not Saudi Arabia.

Despite state dominance over television broadcasting in the Kingdom, citizen complaints about the small increases in employees' salaries were allowed to be broadcast during a live TV program. The incident prompted the Minister of Media to issue a decree on January 30, 2008 banning the live broadcast of any show on all Saudi channels.²⁶³

As of July, 2008, *Al-Islah* TV channel, under the Movement for Islamic Reform, an opposition movement located outside KSA, no longer broadcasted on the Hot Bird satellite owned by the European company Eutelsat. Since its inception in 2003, the channel has been regularly jammed. Moreover, the Director of the channel has accused Saudi authorities of causing that broadcast disturbance by exercising pressure on the European company.²⁶⁴

²⁵⁹ Refer to the letter dated January 10, 2008 addressed by Reporters Without Borders and The Arabic Network for Human Rights Information (ANHRI) to the Saudi Monarch to release *Al-Farhan*.

²⁶⁰ <http://egypt.ifex.org/ifex/content/08/vol153/p0510-7.shtml.html>

²⁶¹ See Human Rights Watch, January 10, 2008.

²⁶² See The Arabic Network for Human Rights Information (ANHRI), July 26, 2008.

²⁶³ See Reporters Without Borders, February 1, 2008.

²⁶⁴ See Reporters Without Borders, September 2, 2008.

Cost of Involvement in Defending and Calling for Human Rights and Reform:

The Kingdom of Saudi Arabia is considered a high-risk environment for rights' defenders and advocates of reform. Despite official declarations over the past two years which promised human rights reforms and the establishment of two government supported rights organizations, namely the "National Society for Human Rights (NSHR)" and the "Human Rights Commission (HRC)", non-governmental human rights organizations are still not allowed to be established. In September, 2007, the Ministry of Social Affairs ignored a request to register the "Saudi National Human Rights Committee." The founders received no response for their request. Furthermore, in September, 2007, the founding group of the Association for Defending Women's Rights received ultimatums warning it against carrying out demonstrations and was additionally denied registration and official recognition.

In August 2007, a group of citizens wanted to form an organization for combating unemployment and supporting women in joining the labor market. However, in 2008, the Ministry of Labor refused licensing the organization under the pretence that other organizations working to achieve the same goals already exist. Although the NGO "Human Rights First Organization" has submitted an official request in November 2002 for licensing, to date it has not received this license from the government.²⁶⁵ On December 31 2007, the *Shura* Council approved a new law of associations comprising provisions that give a degree of latitude to authorities to dissolve or integrate such associations as well as to place their activities, administration and resources under strict supervision.²⁶⁶

Under laws that criminalize peaceful demonstrations, authorities detained brothers *Abdullah Al-Hamid and Issa Al-Hamid* – prominent advocates of reform in Saudi Arabia – on accusations of enticing wives to carry out demonstrations in demand for the release of their husbands detained for over two years without charges. In November, 2007, a sentence convicting the brothers was issued. Abdullah was sentenced to four months in prison and *Issa* to six. The judge stressed the importance of punishing the *Al-Hamids* because their dispositions may lead to actions prohibited by Islam.²⁶⁷

Saudi authorities also arrested Dr. *Matrouk Al-Falih*, Professor of Political Science at King Sa'ud University (KSU) - Riyadh²⁶⁸, at his office

²⁶⁵ See Human Rights Watch, January 10, 2008, *ibid*.

²⁶⁶ Arab Organization for Human Rights (AOHR), annual report, 2007, p. 28.

²⁶⁷ See Human Rights Watch, November 9, 2007.

²⁶⁸ Refer to a press statement dated June 11, 2008, issued by 30 Arab rights organization, published on the Cairo Institute for Human Rights Studies (CIHRS) website.

on May 19, 2008. The probable cause of arrest is an email he had sent two days earlier to an internet site. The email spoke of the poor living and health conditions within the Buraidah public prison, which he had personally witnessed during his visit to Dr. Abdullah Al-Hamid and *Issa Al-Hamid* – two human rights activists who have been imprisoned since late November, 2007.

Saudi authorities decided to punish Dr. *Matrouk* for his public criticism of the conditions of detention and also confiscated his personal laptop and mobile phone. The professor was also subject to physiological torture while in confinement at Al-Haer prison in Riyadh. In August, 2008, *Al-Falih's* wife furnished information to the Arab Organization for Human Rights (AOHR) revealing his further subjection to numerous forms of maltreatment.²⁶⁹

Saudi Authorities have also deprived *Abdel Rahman Al-Lahham*, Attorney at Law and human rights activist, from travelling. As such, in 2008, *Al-Lahham* could not travel and receive his International Human Rights Lawyer Award from the American Bar Association.²⁷⁰

Freedom of Belief and the Situation of Minorities:

Although the Saudi monarch adopts a discourse that seems lenient with religious freedoms, members of *Al-Amr bil-Ma'ruf wal-Nahy `an al-Munkar* (Command the Good and Forbid the Evil) organization continued to enjoy vast powers and privileges that allow them to persecute those who they see as in violation of religious standards, be it in the dress code or the integration between the sexes. Detention is automatically inflicted upon any man in seclusion with a woman who is not his *mahram* (an unmarriageable person), any person not practicing religious rituals or any person practicing an unrecognized personal religious ritual. Not abiding by the set dress code and head cover (*hijab*) are grounds for sanctioned harassment against women. Members of the organization often mistreat their detainees. The group is known for their extremely harsh punishments that sometimes go as far as execution. Press reports have documented the trial of several of the group's members for their involvement in the execution of some ten men and women.²⁷¹

²⁶⁹ The Arab Organization demands Saudi authorities to release Saudi activist Matrouk Al-Hamid, *Al-Masry Al-youm* newspaper, August 13, 2008.

²⁷⁰ See a press statement issued by Front Line (Protection of Human Rights Defenders), May 14, 2008.

²⁷¹ Media spotlights focus on religious police, Middle East Online. April 3, 2008.

Cases related to the insult of Islam are common. On May 5, 2008 government authorities accused and brought legal proceedings against *Ra'if Badawi* for "setting up an electronic site that insults Islam." The prosecution demanded that Badawi be imprisoned for a 5-year term and pay a fine of 3 million Saudi Riyal for the information he posted on his website about the violations committed by *Al-Amr bil-Ma'ruf wal-Nahy `an al-Munkar* (command the good and forbid the evil) organization and for raising suspicions about the common interpretations of the Islamic religion. After receiving threats of detention and physical harm, *Badawi* was left with no choice but to leave the Kingdom in late April, 2008.

On May 1, 2008, the Mecca Court of Cassation sanctioned the sentence issued on 31 March, 2008 ruling for the execution of *Sabri Buğday* (a Turkish barber) for "cursing God", despite his denial of the accusations made against him.²⁷²

On June 22, 2008, Saudi authorities detained Sheikh *Tawfik Al-Amer* under the orders of Prince *Badr Bin Jalawi*, Governor of Al-Ahsa province. This is the second detention for Sheikh *Amer* for demanding religious freedoms for members of the Shiite sect.²⁷³

Discrimination against the Shiite sect is an official policy adopted in Saudi Arabia. Saudi law and social practice restricts the rights of Shiites in all areas of life including employment, the building of mosques and the publication of religious books. Moreover, the testimonies of Shiites are not admissible in courts of law. There is a tendency to consider all those belonging to the Shiite school as disbelievers of God. This tendency is supported by many official and non-official religious leaders as well as the *Al-Amr bil-Ma'ruf wal-Nahy `an al-Munkar* (Command the Good and Forbid the Evil) organization and religious *dawa* (call) centers. Authorities allowed Shiite groups to organize commemorations for the occasions of the Day of *Ashura* and the *Arba'een* (end of the 40-day mourning period) in Al-Qatif, but forbid these ceremonies in areas such as Ad-Dammam and Al-Ahsa. On January 15, 2008, security forces and members of *Al-Amr bil-Ma'ruf wal-Nahy `an al-Munkar* (command the good and forbid the evil) organization harassed Hussein processions in the village of Rumailah – Al-Ahsa. Security forces and members of *Al-Amr bil-Ma'ruf wal-Nahy `an al-Munkar* tore down Husseinists' signs and flags and forbid some of their meetings for not obtaining any prior authorization to hold them.

²⁷² See Human Rights Watch, May 13, 2008.

²⁷³ See Human Rights First Organization – Saudi Arabia, statement published on The Arabic Network for Human Rights Information (ANHRI), June 23, 2008 and September, 2008.

The government also carries out discrimination against the Shiite sect in the educational system. In Al-Ahsa, 50% of the population is Shiite. Nevertheless, Shiite professors in one of the major universities in Al Ahsa make up only 2% of its total professors. While hundreds of all-boys schools exist in Al Ahsa, only five of them are run by Shiite principals. Although the state has recently started to appoint female Shiite principals to all-girls schools, in general, Shiite teachers, even in areas majorly populated by Shiites, are not permitted to teach history or religion.²⁷⁴

Shiites are also excluded from representation in higher diplomatic, security and military posts. Throughout the history of KSA, no Shiite has ever been nominated as a minister. Many Shiite in Saudi Arabia suffer poverty and poor standards of living as a consequence of the discriminatory policy adopted by the state. Areas in which they reside are neglected, utility infrastructures in shambles and health and education services in very poor condition. In addition, Shiites have not benefited from oil revenues the same way Sunnis in the country have.²⁷⁵

²⁷⁴ US Department of State, report on religious freedoms in the Kingdom of Saudi Arabia, 2007, p. 8.

<http://riyadh.usembassy.gov/root/pdfs/international-religious-freedom-report2.pdf>

²⁷⁵ Shiite in Saudi Arabia: from Marginalization to Containment, US Cable News Network (CNN), April 7, 2007.

http://arabic.cnn.com/2007/middle_east/3/8/shiite-saudi/

Bahrain

Illusions of Reform Shattered

The situation of human rights and public freedoms in Bahrain witnessed further deterioration and setbacks in 2008, shattering Illusions of human rights and democratic reform, actively nurtured and projected by the current leader of Bahrain, Sheikh *Hamad Bin Eissa Al Khalifa*, since his assumption of power in 1999.

Authorities tightened restrictions on freedom of expression, while also increasing harassment and repression of peaceful political opposition and demonstrations, including groups calling for rights of citizenship. As such, civil society and human rights defenders have also been subject to increasingly harsh repressive measures, including arbitrary detention, torture and unfair trials.

Shiite citizens, which constitute the majority of the population, continue to be denied their citizenship rights to equality and non-discrimination based on their religious faith. The Bahraini elections were reported to be manipulated as many Sunni citizens from Saudi Arabia were imported, paid to move and granted Bahraini citizenship to counter-balance the high percentage of Shiite votes.

Bahraini authorities took a commendable step in mid 2008 by recruiting a Jewish woman as its Ambassador to the United States. However, this move, like Bahrain's supposed reform initiative, may simply be a public relations stunt designed to distract the international community from the marginalization and high-level of discrimination faced by the majority of citizens in Bahrain, and the ever increasing deterioration of civil and political rights in the kingdom.

Freedom of Expression:

The Bahraini government has exerted tight control over the internet in the Kingdom. Websites are subjected to strict censorship and commonly blocked. In late 2007 18 websites were banned and blocked in an attempt to suppress information on the “Bandar- Gate”²⁷⁶ scandal. Also during 2007, 26 national and international websites were blocked.

In May 2008, the Bahraini government presented proposed amendments of the Press Law to the Parliament. These amendments would have abolished the use of imprisonment for “press crimes.” Unfortunately, these amendments, if passed, would be insufficient to provide protection to journalists against imprisonment as the Bahraini Penal Code²⁷⁷ contains many other provisions that can be used to imprison journalists for story content. Drastic reform of the entire Penal code to ensure protection for basic civil and political rights would have to occur for real protection to be given to journalists.

During 2008, authorities banned the publication of an academic book by Dr. *Nader Kazem*²⁷⁸. Also, in January 2008, the Ministry of Islamic Affairs refused a distribution license (a form of censorship) for a novel by *Abdallah Khalifa*²⁷⁹ on the grounds that the novel “demeans an Islamic figure and incites sectarian sedition.”

In 2008, the Public Prosecutor filed 46 cases against journalists from various Bahraini newspapers, compared to 13 cases in 2006. Only 19 cases were investigated, whereas 16 cases were rejected for lack of merit, 3 cases were closed due to insufficient information, and one case was postponed.²⁸⁰

Religious figures also contributed to the repression of the press. In May 2008, the Egyptian Islamic preacher, Sheikh *Wagdi Ghoneim*, harassed *Al-Ayam* Bahraini newspaper and filed charges against both *Eissa El-Shayhi*, its editor-in-chief, and journalist *Saed El-Hamad*, on accusations of libel and

²⁷⁶ According to the Bahrain Center for Human Rights, the Bandar reports monitor a secret organization run and funded by official institutions, particularly the royal institution. The organization aims at spreading sectarian violence and rigging election results to reduce the opposition representation and marginalize the Shiite citizens. It also aims at creating governmental civil society organizations under the cover of NGOs to hinder and control the active civil society institutions, in addition to a politically-driven plan to change the demographic formula through importing and nationalizing thousands of citizens from other countries in the region.

²⁷⁷ See Reporters Without Borders on July 3, 2003.

²⁷⁸ See press release by the Bahrain Center for Human Rights on October 24, 2007.

²⁷⁹ For further details see press release by the Bahrain Center for Human Rights on January 23, 2008.

²⁸⁰ See press release by the Bahrain Center for Human Rights on January 17, 2008.

slander. The defendants had criticized him, and the case was built on the assumption that their criticism of him individually was a criticism of Islam as a whole.²⁸¹

In June 2008, national security authorities arrested and began investigating seven persons for editing *Al-Wefaq* newsletter and the *Awal* website.²⁸² Upon their release, the detainees indicated that they were mistreated, including being beat by officers. They were released after referral of their case to the Public Prosecution who, none-the-less, charged them with “incitement to hatred of the ruling regime and dissemination of news igniting sectarian sedition, and affecting public peace and order.” After meetings among MPs, The Ministry of Interior issued a press release warning against depicting royal figures negatively²⁸³.

The Situation of Human Rights Defenders and Civil Society Activists:

Bahrain is becoming a more dangerous country for human rights defenders and civil society activists. Human rights defenders and advocates are increasingly unable to work due to threats against their personal safety, and a systematic lack of safeguards necessary to secure their lives and bodies against violation by state and non-state actors. The security agencies enjoy wide unchecked powers and impunity for human rights violations they commit.

In November 2007, the Bahraini human rights activist, *Mohamed El-Masqati*, Head of the Bahrain Youth Society for Human Rights, was brought to trial.²⁸⁴ Another human rights defender, *Ali Jaseem Mekki*, was killed while participating in a peaceful protest on the occasion of the Martyrs Day on December 17, 2007. The protest was violently repressed by the government. Security agents used excessive force to scatter protesters. Soon after the killing of *Mekki*, before an autopsy was performed, the official news agency issued a press release indicating that *Mekki* died of natural causes.²⁸⁵

On December 21, 2007, the riot police attacked *Al-Sadeq* Mosque in Manama²⁸⁶ and used tear gas and rubber bullets against prayer attendants,

²⁸¹ See press release by the Arab Human Rights Information Network on May 28, 2008.

²⁸² See press release by the Bahrain Center for Human Rights on July 1, 2008.

²⁸³ Ibid.

²⁸⁴ See Press Release by the Bahrain Center for Human Rights on November 28, 2008.

²⁸⁵ See press release by the International Federation for Human Rights (FIDH) and the World Organization against Torture (OMCT), under their joint program “Monitor of Human Rights Defenders” on December 21, 2007.

²⁸⁶ See Press Release by the Bahrain Center for Human Rights on December 22, 2007.

after a speech by the Secretary General of the *Haq* (truth) Movement in which he blamed the Bahraini authorities for the murder of *Mekki*'.

Soon after, security agencies launched a large operation to repress protests by arresting, detaining and abusing rights activists in Bahrain.²⁸⁷ In addition to being detained and subject to physical abuse, the homes of political and rights activists were broken into and property, including documents and computers, confiscated. Detainees were held incommunicado, unable to meet with their families or lawyers. The lawyers of those detained were denied the right to be present during the questioning.

A number of detainees were subjected to cruel and inhuman treatment during their imprisonment in the criminal investigation building. Many detainees were subjected to sleep deprivation for long periods of time while being questioned by security agents.²⁸⁸

In January 2008, the Bahraini authorities released three of those detained in the December protests.²⁸⁹ Other human rights defenders were not released. Trials for those being held in connection with the December protests began on February 3, 2008 in the High Criminal Court. Accusations against the defendants included the use of violence against civil servants, vandalizing of a police vehicle, theft of a gun owned by the Ministry of Interior, and acquisitions of ownership of unlicensed guns.²⁹⁰ The trial for those detained was concluded on July 13, 2008, and resulted in the sentencing of four activists to five years imprisonment, one activist to seven years in prison and a fine of 9,980 Bahraini Dinars, six activists to one year imprisonment and four activists were acquitted.

In the aftermath of the trials, the King of Bahrain issued a warning to human rights activists against conspiring with the West. He accused them and their reports of being tools for a Western agenda "full of lies".²⁹¹

Torture :

Detainees in the events of December 2007²⁹² were reported to have been subjected to cruel, inhuman and degrading treatment while in detention, including: (1) electrical shocks administered to their bodies, (2) being made

²⁸⁷ See Press Release by the Bahrain Center for Human Rights on December 24, 2007.

²⁸⁸ See press release by the Bahrain Center for Human Rights on December 25, 2007.

²⁸⁹ See the Frontline Institution, an international organization concerned with advocacy for human rights defenders, on January 17, 2008.

²⁹⁰ See press release by the Bahrain Center for Human Rights on July 13, 2008.

²⁹¹ See press release by the Bahrain Center for Human Rights on July 23, 2008.

²⁹² For further details, see the previous reference on the situation of human rights defenders.

to strip naked and stay naked for long periods of time while being questioned, , (3) and threats of arrest and rape of female relatives unless the detainee confessed to a crime . Moreover, a number of detainees claimed to be sexually abused during investigations.²⁹³ On January 17, 2008 an Interior Ministry official denied the occurrence of any maltreatment of detainees. He added that all claims of maltreatment had been investigated by forensic science specialists and that no signs of torture appeared on any person.²⁹⁴ However, the Public Prosecution refused to allow a team of physicians to visit the detainees.²⁹⁵

Peaceful Assembly :

The authorities and security agencies violently repressed demonstrations, arresting protestors and subjecting them to torture inside detention centers. On April 25, 2008, the Bahraini security agencies banned a public seminar to discuss a popular referendum calling for the dismissal of the Prime Minister for his involvement in human rights violations throughout his tenure. The authorities threatened to violently repress the seminar if it was held. The organizers of the seminar had to change the location of the seminar and held it in a different venue on June 5, 2008. Security Forces, with the participation of civil militias, intervened in the seminar one hour before the seminar was to begin, injuring and arresting several attendants.²⁹⁶

In October 2007, the security forces detained a group of young persons during a protest in the Karzakan province. Testimonies report their being subjected to abuse and torture during detention.²⁹⁷

Religious Minorities and Freedom of Belief:

Shiite citizens are systematically discriminated against by the Bahraini government. Shiites are denied access to senior positions in the government and government-owned institutions, and are regularly marginalized in the economic, educational and political realms.

Shiites are denied the ability to attain many civil servants positions in the government. The Bahraini army, abundant with foreigners and nationalized citizens from various other countries, is not accessible for Shiite

²⁹³ See the Bahrain Youth Society for Human Rights on January 16, 2008.

²⁹⁴ Human Rights Watch, January 21, 2008.

²⁹⁵ The Bahraini Association for Human Rights, January 27, 2008.

²⁹⁶ see press release by the Bahrain Center for Human Rights on June 9, 2008.

²⁹⁷ The Bahrain Youth Association for Human Rights on October 27, 2007.

citizens. Shiites' actual representation in the army is 1%, though they exceed 70% of Bahrain's population.²⁹⁸ The Bahrain government has failed to fulfill its minimum international commitments concerning non-discrimination, including the recommendations of the UN Committee against Racial Discrimination.²⁹⁹ Bahrain is one of few countries in the world that does not have a law that outlaws and/or criminalizes discrimination on religious or racial grounds.

The Bahraini government manipulates the population percentages of the country by selectively nationalizing Sunni foreigners to reshape electoral constituencies in a manner that does not reflect the indigenous demographic reality. This practice of selectively granting citizenship, military standing and voting rights based on religious belief continues.

On February 27, 2008, the riot police attacked a Shiite religious ceremony and used sound and tear gas bombs causing serious injuries among participants in the event. In April 2008,³⁰⁰ the authorities arrested around 47 activists from various Shiite villages and later released them. Reports soon surfaced of detainees being subjected to torture and maltreatment.

In May 2008, the Bahraini government appointed Ms. *Hoda El-Nounou*, a Bahraini Jewish woman, as an ambassador to the US. Human rights NGOs in Bahrain accused the authorities of manipulating the issue of women and religious minorities to distract the U.S. and other countries from the sectarian discrimination and wide spread human rights violations occurring in the country.³⁰¹ They added that Ms. *Nounou* headed a human rights association created by the government to fight independent human rights NGOs. This association was also a key party to a government scheme to marginalize Shiite citizens.

²⁹⁸ As quoted by *Nabil Ragab*, Head of the Bahrain Center for Human Rights, in an interview on the *Afaaq's* paper website on May 18, 2008.

²⁹⁹ See press release by the Bahrain Center for Human Rights on May 18, 2008.

³⁰⁰ See press release by the Bahrain Center for Human Rights on April 20, 2008.

³⁰¹ See press release by the Bahrain Center for Human Rights on May 30, 2008.

Part II

Arab States performance At the Regional and International Mechanisms

The League of Arab States

A Shield for Human Rights Violations, War Criminals and Military Coups

During 2008, a new kind of deterioration has been noted in the behavior of the League of Arab States (LAS) in relation to Human Rights at both the international and regional levels. The regional organization has been transformed into a launching pad for attacks on freedom of expression and media related freedoms. It has actively protected the Sudanese regime and prevented holding senior officials in the government accountable for war crimes and crimes against humanity. In the meantime, it neither played a responsible role in putting an end to these crimes nor provided protection for the millions of inhabitants affected by its consequences.

The LAS demonstrated leniency toward authoritarianism by supporting an internationally and regionally denounced military *coup d'état* in Mauritania, which toppled a civil government elected by the free will of Mauritanian people.

Furthermore, the doors to the LAS remained closed to non-governmental organizations (NGOs). The Arab Charter for Human Rights, which in comparison with international and regional counterparts only provides minimal guarantees for the protection of Human Rights, has not been enforced in practice despite its official enforcement.

From Connivance to Moral Support of Perpetrators of War Crimes:

In 2004, the LAS issued a report based on its fact-finding mission in the Darfur region. Regardless to its soft diplomatic language, the report implicitly condemned and criticized the Sudanese government. In response, the government denounced the report and claimed it was in line with the Western conspiracy against Sudan. As a consequence, the LAS has since been silent on crimes perpetrated in Darfur. It is worth mentioning that the Arab governments chose to not interfere to save or even alleviate the suffering of the people of Darfur, who have been subjected to a wide range of violations since the eruption of the armed conflict in the westernmost region of Sudan in 2003. It is estimated that the conflict over five years has resulted in the death of 300 thousand person, the displacement of about three million, the rape of thousands of women and children, the destruction of hundreds of villages and the loss of the means of living for civilians. In the mean time, when the International Criminal Court (ICC) Prosecutor filed an arrest warrant for the Sudanese President Omar Al Bashir this year, the LAS General Secretariat played an active role in protecting him.

Hence, it seems that the political and legal plan of action adopted by the LAS does not aim to save the people of Darfur from the ordeal they have been facing, but to delay or prevent any procedures and decisions of the ICC from taking effect. Under the Security Council Resolution referring the ICC to the Darfur situation all members of the UN, including all states in the LAS, are legally obligated to respect and assist the court in its activities concerning Darfur. The LAS' attempts to block any ICC prosecution of senior Sudanese officials are justified on grounds of prioritizing the political settlement of the conflict and giving the Sudanese judiciary time to consider the crimes in question. It could be argued that this strategy has actually given the Sudanese legislative body time to legalize acts in the national Penal Code that are actually prohibited under International Humanitarian Law.³⁰² The above argument in favor of more time for the development of peace initiatives and domestic legal processes ignores the fact that the Sudanese regime has been unwilling to introduce reforms in its judicial and legal structures necessary to hold Darfur criminals accountable and have repeatedly violated peace agreements for years³⁰³. Meanwhile, the Sudanese

³⁰²For more details on the Arab Plan of Action, see the LAS Secretary General's statements on www.arableagueonline.org on 23/7/2008.

³⁰³See: Written Statement submitted by the CIHRS before the UN Human Rights Council in September 2008. www.cihrs.org/left/pdf/2-710200874144.pdf

- For more details on Sudan's evasion of justice penalties in Darfur, see the chapter on Sudan in this report.

President has successfully maneuvered within the international community to maintain the status quo at the expense of the Sudanese people in Darfur.

Was Lebanon only an exception?

The LAS has failed to put an end to armed conflicts, whether between Fatah and Hamas in the Occupied Palestinian Territories (OPT) or in Yemen during its four years of war in Sa'ada. However, the LAS made positive contributions to the initiative by Qatar that achieved some success in defusing the civil war that was about to erupt in Lebanon after Hezbollah directed its forces towards Lebanon itself in order to solidify its political power.

However, the agreement was not able to prevent an increase of violence, as it had ignored critical issues that caused the exacerbation of the crisis. The earlier position regarding allowing Hezbollah to independently arm had made it practically a state inside the Lebanese state. Consequently, Hezbollah became capable of imposing its will with the power of arms on national authorities and different political parties. Given the silence on these issues, the future of peace in Lebanon will continue to depend on the behavior and interests of international and regional parties, first and foremost of Iran, Syria, the United States and Israel³⁰⁴, but certainly not the League of Arab States.

Supporting the Coup against Legitimacy and Democracy:

There is a huge difference between the stance of the LAS and the position of international institutions regarding the military coup in Mauritania. On the 6 August 2008, democratic life was torn down and the elected President Sidi Wild Al-Sheikh Abdullah was imprisoned.

The United Nations denounced the coup from the very beginning. The African Union froze the membership of Mauritania in the Union until democracy and constitutional order are restored. The European Union (EU) strictly condemned the coup and threatened in October 2008 to impose sanctions on Mauritania. The EU granted the coup members a one-month grace period to provide tangible proposals that guarantee restoration of constitutional order. The EU further announced that it will not accept any solution that does not restore power to the ousted President.

³⁰⁴ For more details, see the chapter on Lebanon in this report.

In sharp contrast, the LAS, went beyond its ordinary role as a silent bystander when it comes to crimes against Human Rights and democracy in Arab countries, by offering implicit support to the coup. In the aftermath of the coup, the LAS was satisfied with issuing a statement which pointed out that the League was closely monitoring the development of the situation in Mauritania, and referring to a keenness to respect the people's will. Ahmed Ben Heli, Secretary General Assistant to the LAS, later legitimized the coup leader by addressing him as the President of the state. According to statements made by Ben Heli during his visit to Mauritania, the primary concern of the LAS was to "keep the fight at the level of political discussion". It can be argued that this is an implicit declaration that military coups – from the perspective of the LAS – have become a legitimate tool for political change and national discussion.³⁰⁵

The LAS: A Launch Pad for Restricting Media Freedoms:

On 12 February 2008, the Arab media Ministerial Council approved a document entitled "Principles of Regulating Satellite Audio-Visual Broadcasting and Transmission in the Arab region". Provisions of this instrument show that its ultimate goal is to restrict the margin of freedom enjoyed by mass media in a number of Arab countries in reference to "national and moral considerations". The proposal, initiated by the Egyptian government and supported by the Kingdom of Saudi Arabia, was approved by all Arab countries, except Lebanon and Qatar.

This document offers governments' means to issue legislation to regulate the media and to take any measures deemed appropriate against mass media, including confiscating transmission devices or revoking, withdrawing or canceling broadcast licenses.

Despite assertions to respect freedom of expression, the document makes use of rhetorical phrases that are abundant in Arab legislations that aim to restrict freedom of expression. These include stipulating that freedom of expression shall be practiced with responsibility to protect "the supreme Arab interests," that "mass media shall not broadcast anything that undermine "Arab solidarity ", or "respect the dignity of Arab countries and

³⁰⁵ See the Middle East newspaper "Europe grants Mauritania one month before sanctions", 21 October 2008 and Ben Heli statements to "London Life": Mauritania politicians are divided regarding the military coup, 14 August 2008.

- Dr. Saied Al Lawendi, The sin of Ben Heli and other situations, Nahdet Misr newspaper, 28 August 2008.

national sovereignty"" and shall not "insult their leaders, national or religious figures".

This makes it clear that this instrument aims to protect Arab regimes, symbols, policies and practices against criticism and to impose further restrictions on the right of mass media to tackle major problems that Arab communities face³⁰⁶.

In pursuant of these Principles, the Arab Ministers of Information decided at their meeting on 19 June 2008 to assign the Secretary General of the LAS to submit a proposal on establishing a general media commissioner to ensure, first and foremost, the respect of the provisions in the above-mentioned instrument and that the domestication of the latter in national legislations by Arab governments. Adoption of this instrument provides a means for governments to control mass media, draft national laws regulating media broadcasting, as with the Egyptian draft bill that was announced later, and further impose restrictions on audio- visual as well as electronic media.

Illusions of Regional Protection of Human Rights:

In light of the negative attitude of Arab regimes and their regional organization towards respect of Human Rights, the official coming into force of the Arab Charter for Human Rights on 15 March 2008 has been of limited value and impact. The charter was ratified by seven countries: Jordan, Algiers, Bahrain, Syria, Palestine, Libya and the United Arab Emirates.

There seems to be no possibility that this Charter would actually protect Human Rights in the Arab Region. The Arab Charter does not provide a minimum standard of what are internationally and regionally recognized mechanisms for protecting Human Rights, such as the adequate and competent regional courts of Europe, America and Africa. In addition, the obligatory and moral value of the Charter is undermined in some articles where national legislations are given priority over the Charter. This is particularly the case with regard to the freedoms of movement, thought, belief, religion, political participation, the rights of laborers and migrants, and the rights to strike, assembly, establish associations, trade unions and political parties. Strikingly, the Charter permits death sentences against juveniles if it is provided for in national laws, justifies violation of woman's rights and lacks strict criminalization of torture practices, a wide spread

³⁰⁶See: Cairo Institute for Human Rights Studies, the failing Arab League attacks on freedom of expression, 18/2/2008 and Human Rights Watch- "Arab League: Reject proposal to restrict satellite broadcasts", 26/2/2008.

trend in the Arab Region. Furthermore, the Arab Human Rights Committee which is to be established by virtue of the Charter does not enjoy independence or any competencies that would enable it to assume an effective role in the respect of Human Rights.

Making the Charter effective in the long run is conditional upon giving civil society associations a role inside the LAS. This could occur by giving them observer or consultative status, approving their shadow reports as reliable sources of information, or by involving them in the discussions of the reports presented by their governments. These are roles traditionally played by civil society organizations in the United Nations and other international and regional organizations, but unfortunately not provided for under the Arab Charter.

Despite repeated rhetoric about openness to civil society, inroads to participate in the LAS is almost completely blocked for NGOs. Any rules, regulations and traditions enforced at the LAS that would give NGOs an observer status would further depend on whether they are legally registered in an Arab country. This would in practice exclude most independent Human Rights NGOs, which are subjected to persecution and denied a right to legally register and attain licenses in their own countries.³⁰⁷

³⁰⁷See: Cairo Institute for Human Rights Studies, "Is there a chance to make the Arab Charter for Human Rights effective?!" "Sawasia" magazine, 80th edition, February 2008, p.8, 9.

Arab Governments and the Mechanisms of the Euro-Mediterranean Partnership: Marginalizing Human Rights and Civil Society

The inability of the Euro-Mediterranean Partnership and the European Neighborhood policy to improve Human Rights and democracy in the southern Mediterranean countries has created a crisis of confidence in this Partnership. Following the adoption of the Barcelona Declaration of the Euro Mediterranean Partnership in 1995, a wide gap exists between the political and intellectual discourse of such projects and the practices of the European Union in south Mediterranean States.

Following the launch of the Barcelona Process, most of the EU instruments have provided for numerous commitments that regulate EU's relations with the South Mediterranean countries. These commitments and obligations, including the respect of common values, democracy, rule of law, Human Rights and freedom of assembly and association, have come to be of particular importance during the last five years. During this time, the Barcelona Process, Association Agreements and their respective roles in supporting political reform in South Mediterranean countries has been reviewed. At the practical level however, EU instruments and provisions have not been translated into effective initiatives or policies through which substantial progress in the Human Rights situation can be concretely created or measured. Furthermore, the deterioration of Human Rights in the region has not been met with any strict diplomatic or political action on the part of the EU.

The limited ability of the Euro-Mediterranean Partnership to achieve development and stability in the region can mainly be attributed to the reluctance of Arab regimes to make any tangible progress in respect of Human Rights and democratic reforms. Most Arab governments seek to develop relations with the EU only in relation to commercial, economic and security-related affairs rather than democracy and Human Rights issues. When forced to, Arab governments have worked hard to restrict mechanisms and provisions related to Human Rights and to devalue any potential role for civil society in their agreements with their European counterparts. Only Lebanon and Morocco have been relatively open to non-governmental contributions and have made tangible progress in implementing their commitments in the field of Human Rights.

The EU foreign policy adopts an approach based on long-term dialogue towards support of Human Rights in which direct confrontation with governments is avoided. The EU seeks to establish an institutional relation with external parties through which Human Rights issues can be dealt with. Naturally, the degree of the responsiveness of the states varies according to their political willingness and readiness to take real measures to initiate democratic and Human Rights reforms. EU Institutional relations take the form of a multi-lateral framework which gathers European and Mediterranean Governments into an agreement or as bilateral treaties between states as in the association agreements, the European Neighborhood Policy (ENP) Action Plans and their sub-committees and working groups. Despite informal EU consultations with civil society prior to governmental meetings, dialogue is mainly government-based and no systematic mechanism is established for sharing information with NGOs. It should be mentioned, however, that despite opting for amicable dialogue with the governments of the region in Human Rights-related issues, the political bodies of the EU have occasionally, and selectively, made open statements in which they have denounced alarming developments in some of the countries in the region.

Implementation of the ENP Action Plans: Some Case Studies:

The European Neighborhood Policy came into existence in 2003 as a result of the EU enlargement process and the desire to avoid the emergence of new dividing lines between the enlarged EU and its neighbors and to achieve stability and security in border countries. It also came to existence as a result of the EU review of its foreign policies. The review made it clear to the EU that the Euro-Mediterranean partnership, in place since the launch of the Barcelona process in November 1995, was in need of a new push to

revive the development and security goals that the Barcelona Process had failed to achieve.

The ENP adopts tailored approaches that take into account the political and economic conditions of the countries, and their attitude towards reform and development. The incentives are offered in return for progress on relevant reforms at the political, economic and social levels. Such incentives include increased financial, economic and technical assistance and enhanced market access. A series of negotiations are conducted between individual countries and the EU to arrive at detailed Plans of Action and identify indicators to measure the reforms made by both parties within a specified time frame. The European Commission (EC) has compiled strategic country reports in which review is made of the political, economic and social conditions of the countries with the purpose of guiding European delegations to create Action Plans with partner countries.

All of the Action Plans include a special section on democracy and Human Rights. However, this part is usually general in nature and sometimes relatively weak compared to state obligations in international Human Rights conventions. Also lacking in the Action Plan is a prioritized timeline for the implementation of various commitments.

The Councils of the bilateral association are entrusted with evaluating the progress of implementing the action plans. Thematic subcommittees, which are an important tool to follow up implementation of various sections in the Action Plan, are established and meet regularly to discuss specific issues. Other Human Rights ad-hoc committees were established in the cases of Jordan, Morocco, Lebanon and Tunisia. Another unofficial Human Rights working group was established in reference to Israel, and human rights issues are being discussed with the Egyptian the framework of the Sub-Committee on political and international affairs and Human Rights. This subcommittee was created as a result of the pressure by the Egyptian party on the EU during negotiations on the action plan to not have a Human Rights sub-committee per se.

The EU budget 2007-2013, introduced a new financial instrument named the European Neighborhood and Partnership Instrument (ENPI) to guarantee implementation of Action Plans and ENP as a whole. Under this instrument, states parties to the ENP receive financial assistance to implement their respective action plans and programs agreed upon with the EU. All South Mediterranean countries are parties to the ENP except for Algeria, Libya and Syria.

The European Commission announced in February that the EU is embarking on negotiations with Libya to agree on a framework of

understanding. In October 2007, the European Council had requested the European Commission to provide a concept paper on a future Framework Agreement with Libya that would lead to an association agreement between the parties. Libya's formal relations with the EU started in 2004, but to date no association agreement exists between both parties. The European Commission expressed its desire to conclude a free trade agreement with Libya and support the latter's accession to the World Trade Organization (WTO). The European Commission has declared that the hoped-for agreement with Libya aims at enhancing dialogue and cooperation between both parties on political and regional affairs, e.g. security affairs, development and Human Rights, the social and economic reform process in Libya, cultivating commercial relations between Libya and the EU, and cooperating in the fields of migration, energy, education, culture and the environment.

In April 2008, the European Commission published reports on national and regional progress in implementing the ENPs' Action plans. The reports applauded political developments in Eastern Europe but failed to monitor any qualitative developments related to Human Rights in most South Mediterranean countries. Reports described developments in Human Rights as "slow and limited" and focused their analysis instead on aspects of the economy, commerce and security. It is worth noting that security developments in both Lebanon and Palestine have greatly hindered the implementation of their respective action plans.

The EU-Egyptian Action Plan was adopted in March 2007 under which the Egyptian government was granted €58 million to implement various projects under the ENP Instrument. This announcement was disappointing for Human Rights NGOs in Egypt. Not only was the Action Plan not up to the ambitions and demands of civil society, but the announcement also came at a time when the Egyptian government was launching a campaign against civil society and reform efforts in general. Repressive measures were taken against independent judges who were calling for the independence of the judiciary and the press. The government resorted to emergency laws and military courts to suppress peaceful political opposition. The right to form political parties was restricted and judicial oversight of elections was cancelled.

Furthermore, the Egyptian government adopted constitutional amendments that constituted a real setback for freedoms and democracy. Anti-terrorism articles were introduced into the Constitution. Not only did these articles infringe on freedoms and rights but they also paved the way for the enactment of an Anti-Terror Law. The EU didn't denounce any of these acts at the time despite the explicit violation by the Egyptian government of

principles upon which the ENP Plan of Action was based. Egypt's repressive behavior extended to Human Rights NGOs, where two active NGOs were closed down and it was announced that there were intentions to further restrict the Associations Law. This European silence has undoubtedly discredited European initiatives. As such, public opinion, mass media and many civil society associations were discouraged from positively viewing or interacting with, and following up on, the ENP Action Plan.

The Egyptian government has never taken serious measures to implement the dimensions of the Action Plan relating to Human Rights and democracy, and has attempted as much as possible to avoid its commitments under this agreement. Meanwhile, it aggressively sought to gain as much commercial and economic assistance as possible, while projecting a false image of the negotiations on the Action Plan to the public. The Egyptian Ministry of Foreign Affairs has repeatedly accused the EU of imposing its cultural values in an unacceptable manner on the Egyptian society through its Action Plan. The government portrayed the Human Rights section of the Action Plan as an imposition of the values of a foreign culture in an attempt to resist EU pressures for reform and to justify its rejection of these human rights obligations.

The first months of 2008 witnessed unprecedented tension between the Egyptian government and the EU as a result of the European Parliament resolution that contained criticism of the situation of Human Rights in Egypt. The Ministry of Foreign Affairs officially summoned and informed European Ambassadors of its official objection to the European resolution. The Egyptian Parliament also officially withdrew from the proceedings of the Euro-Mediterranean Parliament. The Egyptian government cancelled the meeting of the European Egyptian sub-committee for Human Rights that was scheduled to be held at the same time. Several Egyptian officials made strong statements against the EU and its interference in Egyptian internal affairs. Head of the People's Assembly, Fathy Serour, warned Human Rights NGOs against cooperating with or providing the EU with information on the situation of Human Rights in Egypt. Those who contravened such directions were warned that they would be brought to court on accusations of high treason and espionage.

On April 3, the European Commission issued the first yearly progress report evaluating Egypt's implementation of the ENP Action Plan. The report was criticized by a number of Human Rights NGOs as being too weak. The report contained no reference to any tangible reforms by the Egyptian party in the field of Human Rights and democracy. This situation clearly indicated the non-willingness of the Egyptian government to adhere to the Human Rights obligations included in the Plan, and its sole interest in

financial assistance and commercial benefits. The Egyptian government presented an ambitious proposal at the meeting of the European-Egyptian Partnership Council held in Luxemburg on April 28, 2008 on how to develop its relations with the EU. The proposal included undertaking projects in the fields of economy, energy, trade, commercial, scientific and cultural exchange and reinforcing political dialogue between both parties. Again, the proposal made no reference whatsoever to Human Rights or political participation.

In the EU annual report on Human Rights, the European section expressed concern over the restrictions imposed on Human Rights NGOs, the safety of Human Rights defenders in Tunisia and the fact that no progress was made with regard to freedom of opinion and expression. Funding provided in the framework of the European Initiative for Democracy and Human Rights to support national NGOs has remained frozen by the Tunisian authorities since 2003.

The ENP Plan of Action drafted by the European Commission raised a number of issues related to Human Rights in Lebanon, including the situation of Palestinian refugees in Lebanon, and the necessity for holding consultations between the Lebanese authorities and civil society associations on public policies. Despite the relatively free environment in which the Lebanese media operate in comparison to other countries in the region, concern was expressed about the extremist sectarian and political affiliations of many mass media sources and their potential impact on the professionalism and objectivity of broadcast media.

The progress report of Jordan did not refer to any tangible positive steps made by Jordan in the fields of Human Rights and democracy. The report rather criticized the practices of the Jordanian authorities during Parliamentary elections held in November 2007, in which international monitoring was rejected and NGOs monitoring was restricted. The report also criticized the Law on Elections that authorizes the government to distribute electoral constituencies, thus infringing upon fair parliamentary representation. Laws criticized by the report also included the Law on Political Parties issued in March 2007 that is deemed to obstruct political association and expression in Jordan.

The Human Rights section in the Israeli ENP Plan of action is extremely weak, especially in relation to respect for International Humanitarian Law (IHL) in the Occupied Palestinian Territories (OPT). Despite its flagrant violations of international law in the OPT, Israel is entering a new advanced stage of relations with the EU, compared to other South Mediterranean countries. The Human Rights situation and democratic practices in Israel are

much better than in other countries of the region. Nevertheless, the preferential treatment of Israel by, and its excellent relations with, the EU cannot be justified or accounted for given the continued crimes perpetrated by the Israeli military against civilians in the Palestinian territories. The EU is also tolerant of applications to the Partnership Agreements on the part of Israel that not only violate rules of IHL but also rules of European Law. For example, Israel was one of the first non-European states to join the European Program For Research and Technology Development, including Israeli companies working in Israeli settlements³⁰⁸.

No commentary was made in the Israeli ENP progress report issued in April 2008 on Israeli violations in the OPT. Instead, the report was limited to select Israeli internal affairs. The eighth meeting of the Israeli-European Partnership Council was held on June 16. In the final communiqué of the meeting, the EU expressed concern over the expansion of settlements in the OPT in contravention of International Humanitarian Law and urged Israel to lift the siege on Gaza and the West Bank.

The European Parliament issued a resolution on the situation in Gaza on February 21, in which it criticized the resort of the Israeli authorities to collective imprisonment of Palestinians in Gaza, and called upon Israel to adhere to rules of IHL.

The EU praised Morocco's cooperation in the implementation of the Action Plan. The annual EU Human Rights report for 2007 highlighted Morocco's implementation of the recommendations of the Equity and Reconciliation Commission, especially in relation to compensation and combating torture. Morocco enacted anti-torture legislation, and withdrew its reservations to the Convention against Torture (CAT). The EU also welcomed Morocco's decision to end the death penalty for several years while urging Morocco to provide guarantees for the protection of journalists, freedom of opinion and expression, the right to peaceful assembly, especially in the Western Sahara region, and to remove restrictions on the work of NGOs. The EU decided in October 2008 to further develop its economic and political relations with Morocco.

Union for the Mediterranean: The Rise of Political Realism:

Foundations were laid for the Union for the Mediterranean (UFM) during a summit held in Paris on July 13, 2008. On the anniversary of the French revolution, authoritarian Arab Leaders met in France with their European

³⁰⁸ A Human Rights Review for the EU and Israel 2005-2006, a report published by the Euro Mediterranean Human Rights Network, www.emhrm.net

counterparts to establish the Union for the Mediterranean. Arab and international Human Rights groups warned in vain against neglecting Human Rights issues at the summit itself. Contrary to the aspirations of human rights advocates the project ended up being based almost wholly on pragmatic considerations that give priority to economic and security interests while marginalizing democratic and human rights concerns.

The UFM was initially known as the Mediterranean Union. It comprises all EU member states, the countries on the Mediterranean rim in addition to Jordan and Mauritania. On July 13 2008, French President Sarkozy launched the Union with the aim of establishing developmental projects in the countries on the Mediterranean rim. The project was seen as a reactivation of the Barcelona Process launched in 1995 that included Morocco, Algeria, Tunisia, Egypt, Israel, the POT, Jordan, Lebanon, Syria, Turkey and the EU. The Summit adopted a joint presidency model. President Sarkozy was assigned presidency of the north Mediterranean bank and President Mubarak of Egypt was assigned presidency of the southern area for a two-year term, after which the presidency shall be transferred to leaders of other countries. The final communiqué stated that the principle of “joint presidency” of representatives of the EU and non-European Mediterranean countries shall be applicable to all summits and meetings of ministers, senior officials, the General Secretariat, the standing Committee and experts. It was agreed that a summit shall be held every two years and shall be hosted on a rotational basis by an EU member and a non-European Mediterranean state, while the EU Ministers of Foreign Affairs meeting shall be held on an annual basis. No reference was made to Human Rights and democracy except in specific locations in the initial preamble of the project.

According to the founding document of the UFM., the initiative is considered a step towards consolidating Europe’s relations with South Mediterranean countries. All approved projects focus solely on security cooperation, migration, energy, environment or economy, while Human Rights are only mentioned in the general preamble of the document. The role of civil society has consistently been ignored, whether in preparation or implementation of the project. Hence, many NGOs considered the UFM a setback for the role played by Europe in promoting Human Rights and the civil society in South Mediterranean countries.

Despite assertions that the UFM shall build on, rather than replace, the Barcelona process and the Euro-Mediterranean Partnership, it seems that the political underpinnings of the UFM are signs of a conservative turn in which priority is given to strategic, security and commercial relations with the South Mediterranean governments, and the cost of promotion and protection of human rights in these countries.

The Exportation of Repression Arab State³⁰⁹ Performance at the Human Rights Council

1. Establishing the Human Rights Council: A Promising Reform Initiative:

On the 3rd of April 2006, the United Nations (UN) General Assembly (GA) passed Resolution 60/251 which replaced the UN Commission on Human Rights with a Human Rights Council. The resolution set out a process of transition from the Commission to the HRC, defined the HRC's purposes,³¹⁰ provided a basic outline of its structure (requiring it to maintain the three components of the Commission- including a system of Special Procedures, a Human Rights complaint mechanism and the Sub-committee on Human Rights),³¹¹ and gave the new body one year from its first session³¹² to "review and, where necessary, improve and rationalize all mandates, mechanisms, functions and responsibilities of the Commission."³¹³ Accordingly, the HRC was then required to report back to the GA in one year so that any suggested changes could be either rejected or approved.

³⁰⁹ In this Section "Arab State" refers to states in which Arabic is the official language of the State, and the most widely spoken language within the State's territory.

³¹⁰ The main purposes of the HRC include: Promoting universal respect for and protection of all Human Rights, preventing Human Rights violations, address situations of violations of Human Rights and make recommendations, and further develop international Human Rights law. See Para. 2-5, GA Resolution 60/251.

³¹¹ For more information on the Commission and its mechanisms see: P. Alston, "The Commission on Human Rights," in P. Alston, *The United Nations and Human Rights*, (Clarendon Press, 1995), pp. 126-209.

³¹² The first session of the HRC occurred in June, 2006.

³¹³ Para. 6, General Assembly resolution 60/251.

In response to criticisms leveled at the former Commission on Human Rights, including by the Office of the UN Secretary General (SG),³¹⁴ General Assembly (GA) Resolution 60/251 contained several institutional innovations that provided a good basis for the improvement of the institutional framework and substantive work of the Commission. These innovations included: (1) Requiring the election of HRC Member States by the UN G.A. to the HRC by an absolute majority of UN state delegations (97 votes out of 192), while taking into account the candidate's "contribution...to the promotion and protection of Human Rights," (2) the Universal Periodic Review (UPR), a system by which the fulfillment of the Human Rights obligations of *all* UN member states would be subject to review by a group of peers (states delegates) at the HRC in four year cycles, (3) the creation of a standard HRC Session Agenda to balance operational predictability and flexibility, (4) making the HRC a standing body required to hold three general Sessions per year to last a minimum of 10 weeks in total, two UPR Sessions a year, and the optional ability to call Special Sessions at anytime, and (5) elevating the status of the body from a subsidiary of the UN ECOSOC Commission to a subsidiary of the GA, thus allowing it to report directly to the GA. Furthermore, resolution 60/251 required the HRC to submit an annual report to the GA, and to undergo a full review by the GA within five years (2011) in order to consider its effectiveness as a body, allow the GA to take any corrective measures, and to reconsider the possibility of elevating the HRC to a principle organ of the UN, a move that could give the HRC an institutional ranking on par with the GA.³¹⁵

Most experts and Human Rights practitioners concluded early-on that the Universal Periodic Review (UPR) mechanism is "the most significant innovation relating to the new Council."³¹⁶ In theory, the UPR represents the first time in history that the policies and behavior of *all* member states of the UN will be evaluated in light of their Human Rights obligations on a systematic and regular basis. Though not as widely acknowledged as the

³¹⁴ *A More Secure World: Our Shared Responsibility*, A/59/565 (2 December 2004), *In Larger Freedom: towards development, security and Human Rights for all* (7 A/59/2005, (21 March 2005), *Addendum 1 of UN Secretary-General Report transmitted to President of the General Assembly (GA)* (14 April 2005).

³¹⁵ For an overview of the general differences between the former Commission on Human Rights and the new HRC see: M. Abraham, *A New Chapter for Human Rights: A Handbook on Issues of Transition from the Commission on Human Rights to the Human Rights Council*, (International Service for Human Rights and the Friedrich Ebert Stiftung, 2006), at <http://www.fes-geneva.org/publications/OtherPublications/Handbook.pdf> and at www.ishr.ch.

³¹⁶ M. Abraham, *Building the New Human Rights Council: Outcome and analysis of the institution-building year*, Occasional Papers N. 33/August 2007 (Friedrich Ebert Stiftung 2007), p.5. For a detailed discussion of the institutional formation of the UPR see the above publication, pp. 35 – 41.

UPR, the new membership structure of the HRC has and will continue to have a significant impact on the ability of the HRC to be an effective tool for Human Rights promotion and protection, as well as on the strategies that will need to be adopted by those who attempt to ensure this success. In the new HRC the total number of member states has decreased slightly from 53 to 47. The number of member state slots allocated to the Western Europe and Others Group (WEOG) and the Group of Latin and Caribbean States (GRULAC) has decreased by 6 seats in total. WEOG, GRULAC and Eastern Europe now have a combined total of 21 seats on the Council. As such, the Asian and African state blocks, each with 13 seats, can now vote in coordination with each other in order to win any vote or defeat any proposal. Even if the WEOG, GRULAC and East Europe states all act and vote in unison at the HRC, in order to have an effect on Council outcomes these groups will still depend on their ability to “attract the support for at least three African and Asian states.”³¹⁷ The fact that the membership slots of the HRC now accurately reflect the population density of the world can be seen as a victory for democratic reform at global institutions. Unfortunately, how this numerical superiority has been used by African and Asian states at the HRC thus far has been counterproductive to both international Human Rights and democracy.

2. Political Power and the Arab Group of States at the Human Rights Council:

The Commission on Human Rights’ politicization, selectivity and lack of action on important Human Rights situations, all deficiencies that inspired the creation of the HRC, was due in large part to the increasing preference and reliance of states at the Commission to act and vote in accordance with block politics³¹⁸, and the avoidance of transparent and individual voting methods.³¹⁹ The HRC has inherited this aspect of the Commission, and, in

³¹⁷ Y. Terlingen, ‘The Human Rights Council: A New Era in UN Human Rights Work’, (2006) 21 Ethics and

International Affairs 167, p. 171. Also see Ibid fn. 8, p.7

³¹⁸ Block voting occurs when a state votes in accordance with a political, geographical, religious or another type of group of states that it is a member of. Decisions taken by block voting are usually done in a consensual manner that hides and marginalizes any dissenting state positions within that group. Usually decisions among the group/block are made behind closed doors and lack transparency. As such, block voting not only increases the power of a particular group of states but it decreases the ability of observers to measure individual responsibility and accountability for each state within a block.

³¹⁹ See *Report of the United Nations High Commissioner for Human Rights*, General Assembly, 59th Session, A/59/36 (27 September 2004), p.3.

fact, block voting and group behavior among member states at the HRC has actually grown stronger in many ways. Block voting and behavior not only detracts from transparency and accountability concerning state behavior at the HRC, but it often leads to undemocratic decision making processes. As at the Commission, regional and other groups of states at the HRC have often “been held ransom by their most extreme members.”³²⁰ Such a member “effectively dictates the policy of the whole Group and then, because of group solidarity, every member or almost every member of the Group votes as part of that block.”³²¹

Hundreds of geographical, linguistic, political, economic or religious state groupings that exist throughout the world have profound effects on state behavior at multilateral institutions. At the HRC the most formalized of these groupings are the regional geographic groups already mentioned (i.e. Africa, Asia, East Europe, GRULAC and WEOG). As pointed out before, the largest of these formal regional blocks are Asia and Africa, with enough votes among the two combined to constitute a majority of the HRC. Within the Asian and African blocks the strongest two groups, in terms of both numerical power and internal cohesiveness, has been the Organization of Islamic Conference (OIC) and the Arab Group (made up of almost all states which are members of the League of Arab States). Furthermore, within the OIC the most influential group of states has always been members of the League of Arab States, or, in HRC terminology, the Arab Group. As such, the Arab Group of states finds itself in a highly unique and powerful position to influence the HRC by working through all of these state groupings and blocks. As one might expect, the Asian Group, African Group, Arab Group and the OIC all regularly act at the HRC to pursue a shared set of policy preferences.

The African Group at the HRC often serves as an especially useful tool of influence for the Arab Group and the OIC. By far, the most influential and active state delegations within the African Group at the HRC has been North African states. Algeria, Egypt, Morocco and Tunisia have all been members of the HRC. Moreover, the African Group has always had a N. African Coordinator; in 2006-2007 Algeria served as its Coordinator, since then the leader of the group has been Egypt.

In fact, Algeria, Morocco and Egypt have been three of the most active and influential states at the entire HRC. On the other hand, the vast majority of sub-Saharan African state delegations (with a few notable exceptions)

³²⁰ Ibid fn. 7, p 28

³²¹ ISHR, *Overview of the 61st Session of the Commission on Human Rights*, available at: www.ishr.ch

have so far maintained a very low level of activity and presence at the HRC. As such, North African countries have had a highly disproportionate influence on the behavior and decisions of the African Group. Egypt, the current leader of the African Group, has often made decisions “on behalf” of the African Group during HRC sessions with either little or no consultation with the African Group. This constitutes a credible explanation as to why the African Group often votes and acts in very close accordance with the goals and policies of the Arab Group and OIC at the HRC.

It should be noted that it is impossible to measure the exact amount of influence Arab states have within each of these groups as each group usually makes decisions within non-public, closed meetings. In the case of the African Group, Arab Group and OIC, the policies that are pushed by these organizations have often already been decided on outside of Geneva, within the regular meetings of the African Union, League of Arab States and the OIC. The ability of Arab states to have a strong impact on these three organizations has never been questioned. The degree that Arab states influence the Asian Group is more debatable. The fact that the majority of the members of the OIC and League of Arab States are located within the Asian region, which includes the Middle East and Arabian Peninsula at the HRC, would indicate a strong voice for the Arab Group, though mitigated by several strong East and South Asian states such as China, India and Japan (all three of which are members of the HRC). Above all, it should be noted that all OIC member states, by virtue of the OIC Charter, have a general obligation to promote and defend “unified positions on issues of common interest in international fora.”³²²

The chart below indicates member states and the relevant group affiliation of these states for the HRC African and Asian Groups between 2006 and 2008. As you can see from the chart the Arab Group and OIC includes a relatively large percentage of members distributed throughout the African and Asian Groups during this time period:

³²² OIC Charter, Article 1, para. 17.

Arab Group and OIC States- Human Rights Council (HRC):³²³

African Group

Algeria 2006-2007.....	AL-OIC
Angola 2007-2010	
Burkina Faso 2008-2011.....	OIC
Cameroon 2006-2009.....	OIC
Djibouti 2006-2009.....	AL - OIC
Egypt 2007-2010.....	AL- OIC (current Coordinator of African Group)
Gabon 2006-2008, 2008-2011.....	OIC
Ghana 2006-2008, 2008-2011	
Madagascar 2007-2010	
Mali 2006-2008	
Mauritius 2006-2009	
Morocco 2006-2007.....	AL- OIC
Nigeria 2006-2009.....	OIC(current President of HRC)
Senegal 2006-2009.....	OIC
South Africa 2006-2007, 2007-2010	
Tunisia 2006-2007.....	AL-OIC
Zambia 2006-2008, 2008-2011	

Asian Group

Bahrain 2006-2007, 2008-2011.....	AL- OIC
Bangladesh 2006-2009.....	OIC
China 2006-2009	
India 2006-2007, 2007-2010	
Indonesia 2006-2007, 2007-2010.....	OIC
Japan 2006-2008, 2008-2011	
Jordan 2006-2009.....	AL- OIC
Malaysia 2006-2009.....	OIC
Pakistan 2006-2008, 2008-2011.....	OIC(current President of OIC)
Philippines 2006-2007, 2007-2010	
Qatar 2007-2010.....	AL- OIC
Republic of Korea 2006-2008, 2008-2011	
Saudi Arabia 2006-2009.....	AL- OIC
Sri Lanka 2006-2008	

³²³ Notes: AL = Member of League of Arab States.OIC = Member of Organization of Islamic Conference. States in bold font are current members.

However, in hindsight it would appear Resolution 60/251 should have included either a stronger regime to limit states not committed to Human Rights from becoming members of the HRC, or should not have opened up successful and important aspects of the former Commission, including the independence of the Special Procedures and the role of the Sub-Commission, to radical reformulation by HRC member states during its first year of operation. (very important point I think should be included and footnote-gives main reason why reform didn't work.)

4. The Agenda of Arab States at the Human Rights Council: Blocking Progress

The main concern of this brief overview is not to measure the political influence of the Arab Group at the HRC, an impossible task to do with empirical precision, but, rather, the manner in which this political influence has been demonstrably used, and the resulting consequences and implications. Arab states, in cooperation with allied or like-minded³²⁴ states within the OIC, African Group and Asian Group, have often used their influence at the HRC to push a highly negative agenda that undermines the purposes of the HRC, in particular its role as the main UN mechanism to promote, protect and formulate international Human Rights standards within the world.

The last two years have demonstrated that a large amount of states with either little commitment to or even hostility towards international Human Rights standards have often been able to achieve membership and attain a large amount of power at the HRC. In turn these states, including most Arab states, have used their position at the HRC to undermine attempts to enact progressive reforms during the institutional formation process (2006-2007), and have also greatly limited the ability of the Council to deal with pressing, substantive Human Rights issues in a balanced and effective manner, thus repeating many mistakes that detracted from the legitimacy and effective functioning of the Commission. Any gain in the amount of "democratic" or rights-friendly states who are members of the HRC has been offset by the strengthened power of "spoiler" states-or states who seek to limit the ability of the HRC to effectively function as an international accountability mechanism for Human Rights violations committed around the world. As noted by Meghna Abraham in her study of the first year of the HRC:

³²⁴ In particular, China and Russia have been active member states at the HRC that often support or contribute to the unprogressive agenda pursued by Arab states.

The proponents for positive changes put forward a number of proposals but lacked the coordination and cohesiveness of those articulating the negative agenda. This is not surprising as the degree to which the OIC, the African Group and many Asian States were articulating mutually supportive positions was probably unprecedented in the history of the body.³²⁵

In almost every case, Arab states were in the vanguard of states advocating a “negative agenda” and assuming leadership roles within state groups during both the first and second year of the HRC’s existence.

The membership and participation of Arab and OIC states at the HRC is not negative in and of itself. Indeed, individual Arab states have on occasion demonstrated the ability to act in a constructive way for the benefit of Human Rights protection and the Human Rights Council. Some examples include Egypt’s recent efforts at the 9th Session of the HRC to draft and pass a resolution on “Protection of Human Rights of civilians in armed conflict,”³²⁶ and the Arab Groups continued support of Palestinian rights, including demonstrating a willingness to begin to criticize violations of Human Rights by Palestinian military factions. Also, the role that the Moroccan delegation has played in the development of the UPR has been, overall, a constructive contribution to the HRC. Nonetheless, *in toto* the Arab Group, and particular Arab states, have constituted what many Human Rights proponents believe to be the most damaging and negative force at the HRC on both institutional and substantial (particular Human Rights) matters.

A. HRC Institutional Formation and Arab States: Importing Repression

Morocco, Algeria and Egypt from the African Group, and Saudi Arabia and Jordan from the Asian Group, emerged as key players in the institutional formation process. These five states, along with Pakistan, a close ally, assumed leadership positions at the newly formed HRC in 2006, and worked together closely in order to push through a shared agenda during the Working Groups that developed the HRC institutional text, as well as during the HRC sessions. This agenda represented an extension of their repressive domestic Human Rights policies.

Acting in tandem with one another, these states pursued a set of goals to ensure that the HRC was unable to act as an effective tool of accountability for Human Rights violations committed by their governments or the

³²⁵ Ibid fn. 8, p. 48.

³²⁶ Resolution 9/9

governments of their close allies. In order to accomplish this they attempted to ensure that a “negative agenda” was pursued during the formation of the HRC that would (1) limit the independence and freedom of Special Procedure mandate holders, (2) limit the ability of NGOs to participate in the processes of the HRC, (3) weaken Human Rights protection mechanisms at the HRC and (4) ensure that the control of HRC member states over the mechanisms, processes and procedures of appointment of the HRC was strengthened.³²⁷ Morocco and Jordan represented moderate states from the Arab region whose individual actions were at times constructive. Nonetheless, these two states almost always acted in accordance with, and certainly never opposed the actions of highly unconstructive state actors such as Algeria, Egypt, Pakistan and Saudi Arabia, who acted on behalf of one or both of them for the Arab Group, African Group Asian Group or OIC.

The vast majority of proposals and texts put forward by these states and groups would have significantly weakened the Council. Overall the measures Arab states pushed for, if adopted, would have conditioned the ability of the HRC to take up a particular human right situation or crises on the unqualified acquiescence of any government implicated in any particular examination or action; a situation that would almost inevitably have led to the HRC becoming an irrelevant and discredited institution. While the powers of the Commission (and now the HRC) have always been dependent on a state’s willingness to cooperate, the measures proposed by Arab states during the HRC formation process would have done away with the small amount of independence and freedom secured for the Commission by the tireless efforts of Human Rights advocates since the Commission’s creation in 1946.

Due to the high volume of negative measures being proposed by Arab states and others, during the first year of the HRC’s operation it became apparent rather early on that instead of constituting a “reform” process to improve the Commission, the formation of the HRC had become an urgent effort to defend important preexisting Human Rights protection mechanisms of the Commission from being undermined and discredited.³²⁸

At the beginning of 2007 Egypt became a member state of the HRC and also assumed the role of Coordinator of the African Group. Simultaneously, Morocco and Algeria decided against running for reelection to the Council

³²⁷ For a detailed overview documenting the particular ways in which these states attempted to accomplish these goals through joint and coordinated support of proposals during the Working Groups see: *International Service for Human Rights*, A Stock Taking of the Human Rights Council’s Institutional-Building Processes, Human Rights Monitor (n64/2006), at www.ishr.ch/hrm/council.

³²⁸ *Ibid.* fn. 8, p. 4

and instead became active “Observer states” whose Ambassadors still deeply involve themselves in the process of institutional formation and precedent setting. The high level of engagement these two states have maintained with the Council means that they will almost certainly run for reelection to the Council sometime in the near future. The two most unresolved and important aspects of institutional formation at the HRC during the year 2007 – 2008 was the unfinished business of creating the procedures, working methods and precedents of the UPR process, and the review and rationalization of Special Procedure mandates, including almost all country specific mandates. Arab states once again lead the charge to weaken each of these aspects of the Council. In particular Egypt emerged as perhaps the most visible “spoiler” state at the Council. Moreover, attempts by member states to use the HRC as a means to micromanage and detract from the independence of the Office of the High Commission for Human Rights (OHCHR), a process that began in 2006, has continued unabated, with Arab states once again among the most vocal supporters and determined instigators of this dangerous development.

The Universal Periodic Review³²⁹ and Arab State Involvement:

The first session of the Universal Periodic Review (UPR), held between 7 and 18 April 2008, included four states from the Arab region: Algeria, Bahrain, Morocco and Tunisia. As such, Arab states were in a strong position to contribute to the establishment of procedural and working method precedents of the UPR process. Unfortunately, Arab states under review during the first UPR session, as well as those within the UPR Working Group, instead of setting positive precedents that could have aided and strengthened the UPR process, choose to propose procedural regulations and establish working modalities with the apparent intention of shielding the four Arab states under review from a genuine and open evaluation and recommendation process to improve their Human Rights policies.

Arab States contributed procedural and institutional proposals before and during the first session of the UPR that attempted to weaken the capacity of the UPR process to provide a genuine review of any states Human Rights policy. A non-paper was issued by Egypt (for the African Group), Pakistan (for the OIC) and Palestine (for the Arab Group) on the 4th of April 2008 on

³²⁹ For a general overview of the UPR process see: Ibid. fn. 8, pp. 34 -41 and fn. 27, pp. 4-7. For an assessment of the UPR process during 2007 - 2008 see: Theodor Rathgeber, *The HRC Universal Periodic Review: A Preliminary Assessment*, Briefing Paper 6 (Friedrich Ebert Stiftung), July 2008, and Rachel Brett, *Digging Foundations or Trenches? UN Human Rights Council: Year 2* (Quaker United Nations Office), August 2008, pp. 10-14.

the modalities of the UPR. This non-paper constituted a challenge to the UPR modalities set out in the non-paper issued by the President of the HRC on 27 March, 2008. In this non-paper Egypt (as leader of the African Group), the OIC and the Arab Group proposed several “innovations” to be included in a revised edition of the President’s non-paper. The overall effect of these recommendations would have further restricted the ability of civil society organizations to participate in the UPR effectively, and decreased the transparency of the entire process.

Proposals in Egypt’s non-paper included restrictions on the distribution of information submitted to the OHCHR, limitations on the distribution of the UPR Working Group report, and a complete ban on webcasting of the UPR sessions.³³⁰ Moreover, the non-paper attempted to limit the type of UPR Working Group recommendations subject to follow up actions by the HRC. According to the non-paper, only those recommendations which are explicitly accepted by the state under review can be subject to follow-up procedures.

Throughout the first session of the UPR, Egypt, along with other Arab states, continued their

Efforts to limit the scope and importance of policy recommendations issued by the UPR Working Group. Furthermore, the non-paper was issued to the President on the night directly before the Organizational meeting of 4th April 2008, only three days before the first UPR Session was to begin. Many state delegations and NGOs appropriately denounced the late timing of this intervention, which further detracted from the transparency and fairness of its recommendations, and raised serious questions concerning the intentions of the non-paper’s primary authors. The most damaging recommendations contained in the non-paper submitted by Egypt and others were largely mitigated or not adopted in practice. However, the primary sponsors of this paper may attempt to impose the restrictions included in the non-paper in future sessions of the UPR.

The most damaging precedent propagated by Arab states under review and their allies within the UPR working group, was what appeared to be a pre-negotiated agreement with “friendly” or allied states to conduct the UPR interactive dialogue in an orchestrated manner designed to avoid a genuine review of the states Human Rights policies. In the case of all four Arab states, though most notably with Bahrain and Tunisia, a large amount of

³³⁰ For a more detailed analysis of Egypt’s non-paper refer to “*UPR Alert, 1st session – 4 April 2008*,” *International Service for Human Rights*, at http://www.ishr.ch/hrm/council/upr/upr_1st_session_2008/upr_alert_4_april_2008.pdf

“friendly” governments took the floor during the UPR interactive dialogue to praise the Human Rights accomplishments of the state under review while avoiding giving any critical observations, questions or practical recommendations. Often these “friendly” states came from cross-sections of the groups already mentioned (African Group, OIC and Arab Group), though preponderantly from the Arab Group and OIC.

As a result, the interactive dialogue for the Arab states under review assumed a politicized character of regional and organizational favoritism that lacked an objective and balanced consideration of the Human Rights situation in the country under review. Thus, the discussions, questions, observations and recommendations arrived at through the UPR of Arab states often failed to adequately reflect the actual Human Rights policies of the country under review or the current on-the-ground Human Rights situation. In particular, the government of Tunisia, in direct contradiction with information contained in both the UN and Stakeholder compilation reports issued by the OHCHR, asserted that the press/media, civil society organizations and Human Rights defenders in Tunisia enjoyed full exercise of the rights of expression and association. The limited amount of time left after “friendly” states took the floor to praise Tunisia, meant that this overly positive image of the Human Rights situation in Tunisia was not adequately questioned or examined during the UPR Working Group session.

The practice of friendly and/or allied states using the UPR session in order to paint a favorable picture of the state under review, while at the same time preventing a genuine and substantive examination and recommendation process from occurring presents a fundamental challenge to the UPR process, and currently poses the largest threat to the legitimacy and effectiveness of the process. Unless the HRC is able to mitigate or limit the ability of states under review to make political bargains with “friendly” states in order to create a “friendly” review process then the ability of the UPR to carry out its primary purpose of improving the Human Rights situations in the countries under review will remain highly limited, and the overall legitimacy and relevance of the UPR could rapidly deteriorate.

Also, Arab states under review during the first Working Group session of the UPR severely limited NGO participation in the UPR process in ways that contradict with the established working methods and principles of both the former Commission on Human Rights and the current Human Rights Council. In particular, NGOs were restricted from holding informal consultations with the Troika members (facilitators) of the UPR Working Group unless such consultations were preapproved by the states which the Troika members were to review. In the case of Bahrain, when NGOs attempted to attain this permission the government of Bahrain simply

ignored their requests. This restriction on NGO access to HRC facilitators is unprecedented and contradicts with the regular working methods of the HRC in which NGOs have regular access to HRC officials, including Special Rapporteurs. As pointed out by NGOs at the time, the Troika members fulfill and carry out a Rapporteur role. Moreover, the restriction on NGO contact with Troika members is not contained in the institutional text of the UPR. Instead, this restriction represents a dangerous and novel interpretation on the limits of NGO participation within Human Rights Council mechanisms which could lead to further restrictions of NGO participation in other areas of HRC activities. It should be noted this restriction on NGOs was not created solely by Arab states. However, Arab states and the organizations in which they lead or possess a majority do appear to be the primary force behind its creation.

From the 9th through the 13th of June 2008, the outcome reports for Algeria, Bahrain, Morocco and Tunisia were reviewed and adopted by the HRC within its 8th Session. Throughout the duration of this precedent setting week, Arab states at the HRC, once again lead by Egypt, forcefully attempted to silence NGOs who attempted to deliver critical remarks on the Human Rights violations committed by Arab states and the unprogressive behavior Arab states demonstrated during the UPR process. The main strategy employed by Egypt and other Arab states was to persistently raise points of order against NGOs, and to ask the President of the Council to silence NGOs who attempted to deliver general statements on the Human Rights policies of the state under review during sessions on Algeria, Bahrain, Tunisia and, to a lesser extent, Morocco.

The President of the HRC was thus forced to adopt an approach which restricted NGOs from making “general comments” on the UPR outcome report, an ability unambiguously granted to NGOs within the UPR institutional text, and instead required NGOs to always refer to specific parts of the UPR report and to refrain from offering any further recommendations not provided for in the report. In practice, this restrictive standard was only applied to NGOs when they attempted to speak about the outcome reports of Arab states or their close allies, such as Pakistan. In effect, Egypt and the Arab states under review had succeeded in creating a system of double standards in order to shield Algeria, Bahrain, Tunisia and, to a lesser extent, Morocco, from a genuine UPR review process, thus undermining the universality of the entire process.

All of the above precedents created within the UPR review of Algeria, Bahrain, Morocco and Tunisia, and the proposals on UPR modalities put forward by Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC) and Palestine (on behalf of the Arab Group) constitute various

threats to the transparency of the UPR, the effective participation of civil society within the UPR, and the ability of the UPR to create genuine assessments and recommendations to improve the Human Rights situation within all UN countries under review. Despite these severe setbacks, the final UPR reports on Arab states adopted by the HRC at its 8th session do contain some notable recommendations to improve their Human Rights policies which should be followed up on by NGOs from these countries as opportunities to lobby the government for positive reform.³³¹ However, unless a genuine review of the Human Rights policies of Arab states occurs during both the UPR Working Group and the adoption of UPR reports at the main HRC sessions, then the UPR will fail to in its primary function as a universal mechanism to generate relevant policy recommendations to improve governmental respect for Human Rights. If this does not occur then the legitimacy and relevance of the UPR and, by extension, the entire HRC will come increasingly into question.

The “Review, Rationalization and Improvement” of Special Procedure Mandates:

The resolution establishing the HRC instructed its member states to carry out a process of “review, rationalization and improvement” of mandates within the Special Procedure mechanism of the HRC. Throughout the year 2007-2008 Egypt, with the support other Arab states, used the process of “review, rationalization and improvement” to launch a sustained campaign to do away with country mandates all together. Country mandates, a long established part of the Special Procedures system, have played an extremely important role at the HRC as the primary tool available to investigate and address persistent and/or extreme cases of Human Rights violations within a particular country. The weakening of the country mandate system has been a priority of Arab states at the HRC since its establishment in 2006.

The Special Rapporteurs of thematic Human Rights mandates (ex: Special Rapporteur on Human Rights Defenders) have become increasingly under attack at the HRC during the year 2007-2008, on both a professional and personnel level. Often such attacks have little factual basis but instead constitute an attempt to censure and intimidate mandate holders from providing an independent critique of the Human Rights policies or situations of member states or their allies. Egypt, Pakistan, Russia and other governments have all shown an increasing lack of respect for mandate

³³¹These reports and recommendations can be accessed at:
<http://www2.ohchr.org/english/bodies/hrcouncil/>

holders in this regard.³³² Confirming earlier NGO fears, states have also begun to use the newly created Code of Conduct as a tool to justify these attacks.

The Code of Conduct for Special Procedure mandate holders (i.e. country and thematic Human Rights Rapporteurs) was a controversial proposal put forth by the African Group, and supported by the Asian Group during the formation of the HRC. The first drafts of the Code of Conduct presented by the Ambassador of Algeria included regulations that would have greatly undermined the independence and working methods of Rapporteurs, and “strongly weaken the...protective capacities of the Special Procedures, if not prevent any effective work, leading to a strong impairment of their basic function.”³³³

HRC Control Over the Office of the High Commissioner for Human Rights (OHCHR):

On the 25th of July and the 24th of August 2007, at two different organizational meetings of the HRC, Egypt (on behalf of the African Group) and Pakistan (on behalf of the OIC), along with China, suggested that the relationship between the OHCHR and the HRC should be further “institutionalized” a disguised attempt to turn the HRC formation process “into an attempt to micromanage...the work of the OHCHR.”³³⁴

In the first half 2008, in response to continued calls for HRC oversight of the OHCHR, the President of the HRC appointed the Moroccan Ambassador to the HRC as Facilitator to produce a working paper on the relationship between the HRC and the OHCHR to guide future discussions. This working paper was issued on the 30th of July 2008, and contained many vague suggestions that provide an oversight role for the HRC over the OHCHR. States at the HRC will again take up this issue within the next couple months. It will be important to mount a strong defense for the independence of the OHCHR when the discussions begin once more.

³³² Ibid fn. 23, Chap 2, p. 41-42

³³³ FIDH, *Draft Code of Conduct for Special Procedures – Strong Protection Setbacks*, 02/06/07.

³³⁴ Ibid fn. 23, Chap. 2, p. 39

B. Substantive Human Rights Issues at the HRC and Arab States

Arab states have been involved in many substantive Human Rights issues at the HRC since its creation. However, the issue of Israel/Palestine, Darfur and Defamation of Religion are highly demonstrative of how Arab states have worked with and through the African Group, OIC and Asian Group to control HRC outcomes and pursue two more identifiable goals of the Arab states: (1) To shield themselves and their allies as much as possible from meaningful HRC review, assessment and/or sanction, and (2) to utilize their influence at the HRC to re-legislate/reformulate certain international Human Rights standards in ways that would weaken these standards.

Sudan/Darfur:

The ongoing Human Rights and humanitarian crises in Darfur has enjoyed an unprecedented amount of attention by NGOs and the press over the last three years, due, in large part, to the sheer immensity and brutality of Human Rights violations that has occurred there. At the end of 2006 the HRC came under very strong pressure by this international movement to take up the issue of Darfur. Facing an emanate threat to its legitimacy if it failed to act, at its 3rd Session the HRC voted to hold a Special Session on Darfur. At this Special Session a High Level Mission to investigate violations of Human Rights and humanitarian law in Darfur was set up. When the Mission attempted to enter Sudan to investigate the situation in Darfur the government denied its members visas to enter the country.

Despite the Sudan government's noncooperation, the Mission was able to gather information from sources inside and outside Sudan, and presented its report at the 4th Session of the HRC. Unsatisfied with the highly critical tone of the report, Arab states and the OIC denounced the Mission and called for the report to be stricken from the record of the HRC on procedural grounds (i.e. Sudan did not allow the mission into its country) that had never been used to disqualify other reports presented to the HRC in the past. An immense effort by some states, most importantly including active and vocal support by several sub-Saharan country delegations, and many NGOs, to ensure this did not occur resulted in a compromise resolution that recognized the Missions report but did not support its findings.

Instead an Experts Group was set up to carry out further inquiries and to provide a set of recommendations to the government of Sudan to improve the Human Rights situation in Darfur. The Expert Group reported back to the Council in two subsequent HRC Sessions. Each time it reported no

improvement in the Human Rights situation in Darfur and minimal efforts by the government of Sudan to carry out UN recommendations. Despite this lack of progress Egypt (on behalf of the African Group), with the support of OIC members, pushed for all Special Procedures on both Sudan and Darfur to be concluded, including the Country Mandate on Sudan. States in favor of continued attention on the Darfur crises were again forced to compromise. Sudan's country mandate was maintained; the Expert Group was disbanded and its duties incorporated into Sudan's country mandate.³³⁵ Arab and OIC member and observer states at the HRC continue to lobby for the end of this mandate. Moreover; these states have ensured that HRC resolutions on Sudan/Darfur have praised the government of Sudan for its efforts to improve human right in Darfur and its cooperation with the HRC, despite its dismal record on both accounts.

The issue of Darfur at the HRC, like that of the UPR Review, further demonstrates the determination of the Arab Group and the OIC to shield its members from criticism and review at the HRC. As such, it is expected that only a strong, concerted and sustained effort on the part of both states and NGOs at the HRC will make it possible for critical Human Rights situations in other countries within the Arab Group or OIC to be dealt with by the HRC in the future. In the case of Darfur, the active support of sub-Saharan African countries and their challenge of the "African" position, as formulated by Egypt, were again pivotal to mitigate the negative agenda put forth by the Arab Group and OIC. As with the HRC institutional formation process itself, "after a lot of back and forth, it [the Council's attention to the situation in Darfur] is back to square one."³³⁶

Israel/Palestine:

Arab states and the OIC have succeeded in ensuring that Israel and the Occupied Palestinian Territories have figured prominently in the work of the HRC. This has included three Special Sessions out of a total of five, and the transformation of the long standing Special Procedure mandate on the Occupied Territories into a permanent Agenda Item within the program of each session of the HRC. While many critics have denounced the HRC for spending so much time and effort on Israel, the more constructive way to approach the problem is not to attempt to reduce or attack the Councils efforts to advocate for Palestinian rights but, rather, to advocate for increased attention and action on other large-scale, long term Human Rights

³³⁵ HRC Resolution 6/34

³³⁶ Ibid fn. 23, Chap. 2, p. 44, at www.ishr.org

challenges.No matter how one views the issue of Israel/Palestine at the HRC, its prominence remains a credible indicator of the high level of influence and political power that the Arab Group and OIC wield at the HRC.

Defamation of Religion and Freedom of Expression:

Since 1999 Arab states and the OIC, lead by Pakistan, have introduced and ensured the adoption of a resolution on “combating defamation of religions” at the Commission for Human Rights and now at the HRC.In December of 2007, for the first time since its introduction, this type of resolution was also adopted by the General Assembly.While these resolutions do not, as of now, impose binding standards on states, they do create a framework which justifies and attempts to legitimize the creation and/or existence of “blasphemy” laws that have been used by repressive regimes throughout the world in order to limit freedom of expression and other rights in the name of a state manipulated interpretation of religion and religious protectionism.This is an especially common phenomenon among governments that belong to the League of Arab States.

These resolutions state that freedom of expression can be “subject to limitations as provided by law and necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals and respect for religions and beliefs.”³³⁷Limitation on freedom of expression for reasons of protecting “*reputations*” and to preserve “*respect for* religions and beliefs” goes further than current interpretations of acceptable limitations on freedom of expression which were designed to protect against incitement to violence and violations of an individual’s rights.³³⁸ Instead, this framework and language recreates the type of vague and undefined language and concepts used within the Constitutions and legal systems of all Arab states as a tool carry out highly repressive measures and policies designed to greatly limit basic civil and political rights.

³³⁷ HRC Resolution4/9., Para. 10. The reference to “respect for religions and beliefs” was taken out of a subsequent resolution proposed by Pakistan (HRC Resolution 7/15: Combating defamation of religions) after a high level of criticism by Human Rights experts at the UN.None-the-less, the exclusion of such language in the future is far from guaranteed, and its original inclusion is a strong indicator that Pakistan/OIC and Arab states intend to work toward similar restrictions in the future.

³³⁸ See: A/HRC/2/3: Report of the Special Rapporteur on freedom of religion org belief and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, as well as A/HRC/6/6: Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on defamation of religions.

Since 2006, Pakistan/the OIC and Arab states, most notably Algeria and Egypt, have used the HRC and the process of its formation as a opportunity and a tool to increase and strengthen their efforts to weaken international standards protecting the right to freedom of expression. These states have justified these efforts as a struggle against “defamation of religion” in general, and “Islamophobia” (the increase in discrimination against Muslims and the Islamic religion within Europe, the United States and other “western” countries), in particular. While discrimination and hate crimes against Muslims and religious conflict in general, appear to have increased within Europe and the United States over the last several years and urgently needs to be combated, attempts by Pakistan/OIC and Arab states at the UN to reformulate international standards on the right to freedom of expression in order to limit its application does almost nothing to address the underlying factors that have lead to discrimination and hate crimes against Muslims.³³⁹ These efforts even have the potential to increase hostility toward Muslims and the Islamic religion within these countries. Furthermore, the fact that these states have failed to take significant actions to remedy or even to admit religious discrimination within their own countries, including repression and violence carried out against divergent non-violent Muslim religious and political affiliations by both state and non-state actors, raises profound questions concerning the motivations and good faith of these states.

Over the last two years, Arab states and Pakistan/OIC have submitted more than 13 resolutions on the “defamation of religion” and religious discrimination at the HRC. Following on Pakistan’s/the OIC’s proposal to the HRC in September 2006, to examine the possibility of drafting a convention to combat defamation of religions and promote religious tolerance,³⁴⁰ Algeria (on behalf of the African Group) sponsored resolution A/HRC/3/L.3 which established an Ad Hoc Committee for “the elaboration of complementary standards at combating all forms of contemporary racism, including incitement to racial and religious hatred” within the framework of the Durban Review Conference. In response to an HRC follow up resolution, a year later Pakistan pointed out the great importance of such resolutions in “today’s world where unfortunate attempts have been made to incite racial and religious violence through the misuse of the freedom of expression and opinion.”³⁴¹ While Pakistan/the OIC and Arab states often attempt to place

³³⁹ Discrimination and intolerance are often the produce of or closely associated with the denial of a host of other Human Rights.

³⁴⁰ Statement by Pakistan for the OIC, 21/09/06, Follow up to resolution A/HRC/1/L.16: Incitement to racial and religious hatred and the promotion of tolerance.

³⁴¹ HRC Resolution 6/8

their statements on this issue within current acceptable limitations on freedom of expression (i.e. incitement to violence against others), as pointed out above, the actual language of the resolutions they propose go beyond these current limitations and opens the door for justification of highly repressive policies and actions using undefined and vague extralegal concepts.

In June 2008, Egypt's delegate to the Council repeatedly interrupted an NGO statement on violence against women in Muslim countries which was critical of the failure of Islamic leaders to condemn such violence and which linked Sharia to the stoning of adulteresses and child marriages. The delegate insisted that discussion of Sharia "will not happen" and that Islam "will not be crucified in this council", leading the President of the Council to suspend the session and to instruct the NGO speaker not to mention Sharia. Louise Arbour, former UN High Commissioner for Human Rights, noted in respect of this incident: "It is very concerning in a council which should be the guardian of freedom of expression, to see constraints or taboos, or subjects that become taboo for discussion".

In toto, the efforts of Pakistan/the OIC and Arab states at the HRC and GA to combat "Islamaphobia," have been carried out in a manner that fails to reinforce the Human Rights protections of freedom of religion and belief and prohibitions on discrimination, and instead attempts to reformulate international legal protections on freedom of expression in a manner that could justify highly repressive policies that contradict with the purposes and aims of international Human Rights standards. It can be assumed that the efforts by Arab states and Pakistan/the OIC at the UN, specifically at the HRC, to ensure the weakening of standards of freedom of expression through the creation of international legislative measures in the name of combating "defamation of religion," will continue and likely increase in strength and intensity.

5. Conclusion

The transition from the Commission on Human Rights to the Human Rights Council was supposed to have been a reform process to strengthen and increase the legitimacy of the main Human Rights body of the UN. However, "spoiler" states, most actively lead by members of the Arab Group and OIC, have succeeded in introducing several potential mechanism and processes which could be used or built upon in the future to detract from the independence and credibility of the Council and its ability to carry out its primary functions. Furthermore, highly active states with a "negative agenda" from the Arab Group and OIC have been able to manipulate the

outcomes of processes at the HRC to ensure that their governments and allied governments are largely shielded from genuine review, criticism and/or sanction.

Disturbingly, states that have attempted to weaken the ability of the HRC to investigate and pressure governments to improve their Human Rights policies, are currently attempting to use the HRC as a tool to (1) assert control over and weaken the competencies of other UN Human Rights mechanisms (ex: OHCHR), and (2) to weaken long established Human Rights standards through the reformulation of international law. The scope and aim of these efforts could well increase in the future if successful. As such, these two issues constitute long term threats to the international Human Rights system which are currently being formulated and refined within the processes of the HRC. In light of this, those who place a high level of value on current universal Human Rights standards and mechanisms to promote and protect these standards, cannot afford to ignore or dismiss what is currently occurring at the HRC as temporary or insignificant.

Annex
Second Independence..
Towards an Initiative for
Political Reform in the Arab World

Second Independence Towards an Initiative for Political Reform In the Arab World

The recommendations of the First Civil Forum³⁴² Parallel to the Arab Summit

Beirut, March 19 – 22, 2004

The Civil Forum expresses its extreme disappointment that the reform proposals submitted to the Arab Summit do not provide any serious promise of change. The shortfalls of the reform proposals are a result of the lack of courage to acknowledge the intensity of the crisis.

The apathy of the majority of the Arab states towards the Report on Human Development in the Arab world is a significant indicator of the lack of desire to reform or failure to acknowledge the problems plaguing the Arab world.

³⁴² The first civil society forum was organized by the Cairo Institute for Human Rights Studies in collaboration with Association for Defending Rights and Freedoms (ADL), Palestinian Human Rights Organization (Rights). The forum was attended by 87 persons, including; 74 participants representing 52 NGOs from 13 Arab states, in addition to academic and political figures and 13 observers from 13 institutions from 10 different states. Thus the Cairo Institute, in this report, is re-issuing the recommendations of the forum as after, almost 5 years, since these recommendations were first issued; the human rights conditions and situation in the Arab region continue to be unchanged. In fact, in some countries, the situation has further deteriorated.

The justification for external initiatives to reform the Arab world might be the systematic suppression of internal initiatives for reform for more than half a century. Such suppression has been practiced either through marginalization, blocking out, imprisonment or exile of those who make such initiatives. While the route of the reformists in the Arab world was a bloody one, however, messengers of external initiatives for reform have received red-carpet receptions and enjoyed wide-ranging media coverage – even if their initiatives might have been rejected in the end.

Though the international initiatives might be ascribed to real pressing needs of the Arab societies, acceptance of such initiatives – even if true – implies acceptance of the security interests behind them. It also implies wasting the major sacrifice on the part of the Arab reformists over the years, whether on the level of individuals or political and non-political groups. Moreover, it implies wasting of the programs, initiatives and demands, even with the minimum response on the part of the Arab governments as the Arab world is undergoing deteriorating political, economic, social and cultural conditions.

This is not a justification for the reasons invoked by some of the Arab governments in rejecting the international initiatives. The Arab governments are the last to make distinctions between internal and external initiatives as they have suppressed the internal initiatives for reform and, on the other hand, concluded security agreements with foreign countries without consulting their people. Moreover, such governments should not belittle the Arab cultures and religions by invoking them as grounds to reject reform, implying that these cultures accept torture, collective and individual murder, forging of political will, corruption, extremism, terrorism and other cruelties. Nor is it acceptable to suggest that the Arab cultures reject democratic rule, integrity, transparency and human rights.

Warnings of the chaos that might result from reforming the Arab world ignore the fact that anarchy has already mushroomed in some of the Arab states. The threat of total collapse would be the result of delaying the onset of reform. Extremism has the final say in the political arena in the Arab world - it is coterminous with marginalization or suppression of the other intellectual and political currents and their symbols. This is maintained under hegemony of extremist religious discourse, which is contrary to the interests of the people and the objectives of Islam. Such deterioration per se necessitates urgent response to the calls for reform.

The rejection of some Arab governments of the international initiatives for reform is an extension of their rejection of reform from any source, whether internal or external. Such governments refuse to benefit from the

current few examples of reform in the Arab world, the most important of which is Morocco. This is due to the fact that Morocco's reform is the result of a harmony between the Moroccan political regime and the will of political parties and the civil society institutions. Furthermore, it implies a courageous acknowledgment of the past colossal violations of human rights, and an initiative to apologize for such violations and to support the victims. This is not an indication that the Moroccan example is an ideal one, however, it might be a guide on the route towards reform.

Half a century since they gained independence, the Arab peoples have been suffering from civil wars and widespread brutal suppression. During these years, the Arab region has achieved the lowest level of development and freedom and the highest levels of corruption, unemployment, poverty and despotism all over the world. Now reform ranks high on the agenda, bringing in the phase of "*second independence*",³⁴³ i.e. complementing the right of the peoples to self-determination – self-rule/democracy and respect for human rights - that was not exercised through the "first" independence.

The sound approach towards reform is ensuring freedoms, reconsidering internal initiatives for reform, apologizing for the victims of violations and actually effectuating reform instead of maintaining futile deliberations thereon. This is conditional on the consent of the Arab governments to save the region from the threat of collapse, disintegration, poverty and spread of political, ethical and financial corruption or the threat of foreign occupation.

I. Fundamental Principles for any Initiative for Reform

1- All the Arab peoples are entitled to the right to self-determination. By virtue of such right, they can freely pursue their economic, social and cultural development, and enjoy their natural wealth and resources. This requires the full exercise of the freedoms and rights stipulated in the international instruments on human rights.

2- Human rights values are the fruit of the interaction and communication between civilizations and cultures throughout history, including the Arab and Islamic cultures. They are the product of the struggle by all peoples, including the Arab peoples, against all forms of injustice and oppression, whether internal or external. In this sense, such values belong to humanity at large.

³⁴³ "Second independence", an expression used by some African movements calling for democracy over the late 1980s and early 1990s. Then a Tunisian thinker used it as a title for one of his books on the significance of democracy in the Arab world.

3- Cultural or religious particularities should not be invoked as a pretext to doubt and to question the universality of the principles of human rights. The “particularities” that deserve celebration are those entrenching the citizen’s sense of dignity and equality, which enrich his/her culture and life and enhance his/her participation in their own country’s public affairs. Assuring the tolerant principles of Islam and religions in general should not be placed in a forged contradiction with the principles of human rights. The Forum warned against invoking dated interpretations of Islam, adherence to which – through a human *ijtihad* - is an insult to Islam and Muslims and a violation of human rights. This is particularly the case when it comes to excluding women, confiscating freedoms of conscience, thought, belief, scientific research and artistic and literary creativity.

4- Respect for human rights is a prime interest for every person, group, people and humanity at large. This is considering that the enjoyment of dignity, freedom and equality by all is a crucial factor in flourishing the human person, in advancing nations and developing their material and human wealth and in promoting the sense of citizenship.

5- The manipulation of patriotic feelings and the principle of hegemony in order not to abide by the international human rights standards should be strongly condemned. Moreover, the Palestinian issue and combating terrorism should not be invoked as justifications for undermining freedoms and rejecting democratic transformation and respect for human rights.

6- Peoples of the Arab world have the right to civil representative ruling systems. Every nation should be allowed to create their own legislation according to their contemporary conditions. All citizens have the right to participate in the administration of public affairs. They should be allowed to assume public and political posts on an equal basis irrespective of their national, religious and linguistic inclinations.

7- The public authority should maintain neutrality towards the followers of various religions and sects within the one religion, ensuring the right of all to perform their religious rituals without discrimination as to their public rights.

8- Arab constitutions should ensure the right to intellectual, political and party plurality, provided that parties are to be established on grounds of citizenship. The establishment of parties instigating or practicing violence should be banned.

9- Human rights in all fields, including women’s rights, cannot be divided. Women’s rights to dignity and legal capacity enabling them to determine their fate should be ensured. Moreover, equality between men and

women in rights and duties, whether in family relations or in general affairs, should be guaranteed.

10- Respect for human rights and fundamental freedoms and above all, the absolute equality in dignity and citizenship should be maintained. This should be the sound approach to handle the religious, cultural, linguistic and national groups' problems in the region. Ignoring this fact for several years has led to wasting human resources and depleting material wealth in extremely harmful and needless civil wars. Such negligence has been very harmful and has nurtured separatist tendencies and opened the door for revenge and foreign intervention.

11- The use of violence should be abandoned in politics and all forms of inciting religious and ethnic hatred whether by state or non-state actors. Also, all forms of racial discrimination against certain national or religious groups in the Arab world should be abandoned.

12- It is prohibited to declare a state of emergency except in the time of actual war, or partially in case of a natural disaster, and it should immediately be lifted when the justification of this emergency no longer exists. Furthermore, a state should not manipulate its authority under such emergencies in events that are not relevant to the causes of the emergency imposed. Accordingly, the state has no right to illegally arrest anyone, and everyone has the right to resort to a judge to instantly determine whether or not the arrest is legal.

II. Fundamental Demands in any Initiative for Reform

First - General Demands:

1. Putting an end to martial laws and the state of emergency.
2. Ending the enforcement of exceptional laws, the practice of arbitrary execution and capital punishment.
3. Abolishing exceptional courts, ending referral of civilians to martial courts regardless of their charges and ensuring the independence of natural judiciary.
4. Ending administrative and preventative detention and releasing all prisoners of conscience and those detained without charge or trial. Refraining from pursuing opinion opponents and criminalizing them and allowing those exiled for political reasons to return to their countries without conditions and with legal guarantees.

5. Putting an end to the practice of torture, being a crime against humanity, and pursuing its perpetrators and bringing them to justice and blocking illegal prisons.

6. Reforming Arab legislations, particularly those contradicting the freedom of opinion and expression, the circulation of information and the right to knowledge. Working on ending the state authority over the mass media. Calling upon the Arab governments to codify the right to peaceful assembly and party for all political and intellectual groups in the framework of democratic laws and constitutions.

7. Providing national mechanisms to safeguard human rights through establishing national institutions for such a purpose, enhancing the already existing ones and adapting them to the international standards in this field.

8. Ending all legislative and procedural restrictions on forming and administering professional and labor syndicates and NGOs.

9. Prohibiting religious institutions from monitoring political, intellectual, literary and artistic activities.

10. Taking prompt measures towards administrative and financial reform, combating corruption and abuse of public property and enhancing mechanisms of transparency and accountability.

11. Guaranteeing exercise of economic, social and cultural rights in the framework of the optimal utilization of the national wealth of states. A lack of natural resources should not exempt a state from fulfilling the minimum level of these rights especially for vulnerable populations and areas lacking public services. Ensuring the international labor standards including the right to strike.

12. Granting municipal councils greater authorities and ending the centrality prevailing in the majority of the Arab regimes.

13. Acknowledging the rights of the child related to survival, growth, protection and participation according to the principles of non-discrimination and best interest of the child and according to the Convention on the Rights of the Child and the related protocols that Arab states have ratified.

14. Ensuring individuals' freedom of movement between Arab countries and within each country.

15. Protecting human rights defenders and their rights to receive information, hold meetings, contact all the concerned sides and make use of local and international law to defend human rights. Ensuring their right to receive internal and external funds necessary to perform their duties by

virtue of the Universal Declaration of the Protection of Human Rights Defenders. The Arab governments that made reservations to the Declaration are encouraged to cancel such reservations.

16. Effectuating the necessary constitutional reform wherever the constitution represents an impediment against the exercise of the above-mentioned rights and freedoms.

17. Urging those Arab governments that did not ratify international human rights instruments to do so immediately and without reservations, and urging those that ratified them to lift their reservations, and to comply with the provisions of such instruments regarding the mechanisms of protection.

18. Revising and amending the Arab Convention against Terrorism in the light of the international human rights standards.

19. Accession to the convention of the International Criminal Court (ICC) and abolishing the bilateral agreements concluded between some Arab governments and the United States to protect US soldiers from trial in the ICC due to the war crimes they have committed.

Second - Nationalities and Minorities:

Arab governments failed to solve problems of discrimination against sectional, religious, cultural, linguistic, ethnic, national and racial minorities. Discrimination against minorities has resulted in social, cultural, developmental and economic imbalances between the population inside the same country. Failure to put an end to this problem opened the door for vast violations of human rights, the eruption of acts of internal violence, civil struggles and wars, caused grave damages to the right of development and peace and strengthened tendencies of animosity and hostility. For instance, the people of Southern Sudan, Shiites in Saudi Arabia and the Gulf countries, the Kurds in Iraq and Syria, the Copts in Egypt, the *Amazeeg* in some of the Arab states in North Africa and others.

In this connection, the Forum confirms the following:

1- Respect for human rights, on top of which is full equality and enjoyment of full citizenship rights. Recognition of religious, racial, cultural and political plurality can be an appropriate approach to deal with such issues.

2- Denunciation of all acts of oppression and absolutism and launching wars against some minorities in the Arab world, in particular acts of genocide, forced displacement and slavery since they constitute crimes

against humanity. Condemnation of practices and policies that hinge upon exclusion from political participation on grounds of confession, religion or race, and of all forms of propaganda and incitement that are based on fanaticism, religious or national superiority or the like.

3- Supporting the struggle of minorities to achieve their rights as stipulated in the United Nations Declaration of the Rights of Minorities.

4- Calling upon Arab governments to observe that their sources are directed to all provinces and population in a balanced way, regardless of the size of their available resources, as a prerequisite for enjoyment of social and economic rights and the right of development. The absence of such prerequisite would assist in creating a favorable condition for fanaticism, extremism and violence.

5- The necessity of promoting efforts of disseminating the human rights culture and the respect for, and coexistence with, the Other, to encourage the culture of dialogue and cultural exchange and interaction between different races and ethnicity, on the grounds of respect for cultural specificity of nations and peoples. In addition, a special attention should be made to the situation of women who face double discrimination because of their affiliation to minorities on the one hand, and for being women on the other hand.

6- Providing the democratic atmosphere and the legal framework suitable for the civil society authorities and institutions to allow them to contribute in the development of societal structures and the state institutions. This shall be done in order to eliminate all forms of confessional discrimination and confessional tribalisms while asserting the protection of the right of confessional, sectarian and religious affiliation, respect of beliefs and the freedom of performance of religious rites.

7- Facilitating the return of the refugees and displaced persons due to suppression, civil wars and famines or the recurrent instances of violation of human rights in some of the Arab countries. Providing the infrastructure suitable for stabilizing them, facilitating the necessary works of assistance and compensating them for the damages that befell them.

8- The necessity of recognizing linguistic and cultural rights of the *Amazeeq* in countries of the Arab *Maghreb* (northwest Africa) as constituents of the national culture on the basis of equality, the right of citizenship, respect for human rights and common homeland. The Forum welcomes the progress achieved in this respect in Algeria and Morocco.

9- The necessity of acknowledging the problem of stateless persons or the so-called “Bedouins,” particularly in the Gulf countries. This problem implies denial of an inalienable right of all humans i.e. the right to citizenship. The governments of the countries concerned are encouraged to grant them nationality.

10- The necessity of adopting positive policies towards some marginalized racial categories and the victims of historical deprivation in Saudi Arabia, Sudan and Yemen, in order to eliminate causes of social and economic exclusion based on the cultural heritage, to improve their conditions and to integrate them into society as citizens having equal rights and obligations.

11- The necessity of ensuring cultural rights and equality for the Kurds in Syria, granting nationality to those who are denied it or those who were deprived from it.

12- The right of the Iraqi Kurds to self-determination and to choose the appropriate framework of their relation with the central government.

13- Abolishing the so-called “Hamayonic Line” on the restrictions on the establishment and restoration of Coptic churches in Egypt and issuing one legislation on the religious temples on grounds of equality and full citizenship.

Third - Renewing Religious Discourse:

Renewal of Islamic discourse is of deep, internal necessity (Arab-Islamic) originating from the Arab and Muslim refusal of their deteriorating condition in the world; it is a necessity unrelated to major nations despite some forms of tangency occurring sometimes; it is a task which is not restricted to the efforts of enlightened men of religion. Rather it must be one of the primary tasks of thinkers, intellectuals and human rights NGOs, advancing from the view that regards man as a central higher value; and the importance of arbitrating the mind (Logos) in the issues of life. There is also a necessity to make the distinction between ‘Islam’ and ‘History of the Muslims’. Thereupon, the political history of Muslims is a human history filled with what should be criticized and breached.

The renewal of religious discourse will not bear its desired fruit without cultural, societal reformation which advances from belief in the relativity of knowledge and human beings’ right to speculate, and this entails the creation of comprehensive intellectual, social, and political conditions and to

dissociate the correlation between despotic political powers and haggard, backward and extremist religious thought.

The greatest barrier facing the renewal of religious discourse in the Arab world is the political manipulation of religion by governments, extremist groups and some political parties to serve their own goals. An additional challenge preventing religious discourse is the prevailing claims of clash of civilizations in the Arab and Western worlds. The deep rooted feelings of inequity and insecurity (as a result of the languor of the majority of Western governments to support the just causes of the Arab peoples' while taking hostile positions towards them especially in the Palestinian issue) play a central role in strengthening and confirming the extremist religious discourse and in bestowing popularity upon it, although it opposes the people's interest on the long run.

Accordingly, the Forum calls for the following:

- 1- The governments are to review and develop the contents of religious discourse within religious or non-religious educational curriculums and to reinvigorate the curriculum with the ideas of religious innovators. Equality between all religions and schools in mass media and educational curricula should be ensured.
- 2- The officials who are responsible for audio-visual media – owned by either governments or individuals – are to review the contents of religious discourse and to develop them in order to deal with the dilemmas of the present age and not to obscure the efforts of classical or recent religious innovators.
- 3- Governments, cultural movements, historians and jurists are to restore the democratic heritage and the former liberal period to its rightful place in the Arab world. This was a phase that embraced a better atmosphere for innovative visions in religious thought.
- 4- Islamic scholars (*ulama*) and thinkers should understand the necessity of debating the theological foundations of violence, extremism and terrorism and not restricting themselves to the refutation and condemnation of crimes based upon them.
- 5- Islamic scholars and thinkers are to halt the manipulation of religion's holiness in order to instigate confiscation of thought, literature and exertion of the mind. Religious and moral commitment obliges them to hear the questions raised by the society on the basis of differentiating between Islam as a religion and *fiqh* as information produced by *faqih*s and researchers (essentially human) and what is needed in order to

reconciliate Islamic thought with requisites of physical, societal and moral advancement in the modern age.

6- Thinkers, academia and media reporters are to approach the works of religious innovators with research, discussions and criticism using all means of publication and communications available. Collect and republish innovative religious works, whether historical or modern. Facilitate obtaining current religious information using the Internet, cassettes and videotapes, books and simplified booklets. Work toward using artistic, cultural and mediatic tools in renewing the religious discourse.

7- Organize special training courses on renewing religious discourse for mosque preachers, *imams* and editors of pages featuring religion in newspapers and scriptwriters, with the participation of the religious renewing thinkers and human rights activists.

8- Christian clergymen and intellectuals in some of the Arab countries are to renew religious discourse in a manner enhancing human rights culture, acceptance of the Other and enlightenment. Offering a religious vision enhancing the integration of the Christian citizens in their homelands and their equal contribution with their fellow citizens to the advancement of their societies.

Fourth - Women's Rights:

All Arab constitutions tend to stipulate equality between all citizens and non-discrimination on the basis of gender. However, there is a huge gap between what women face in their daily lives and the recognition of women's rights as an integral part of the universal human rights system. Almost half of the Arab states did not ratify the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Even ratifying states made some reservations that contradict the essence of the convention.

Even worse, conservative currents adopt the narrowest interpretation of jurisprudence (*Fiqh*), employ it against women and consecrate a culture that excludes women and confines them to traditional roles. This is in addition to official policies that are subject to extortion in the name of religion and that reproduce the anti-woman culture whether through laws, in particular the personal status law, or through educational institutions or media platforms.

Real equality between women and men goes beyond legal equality to encompass changing the conceptions of and confronting the stereotypes about women. Thus, it requires not only a comprehensive review of laws, foremost of which are personal status codes, but also the review and upgrading of educational curricula as well as the critical monitoring of the media discourse.

In this respect, the Forum confirms the following:

1- Providing women with equal opportunities in political participation through education and political and economic support. Women should be allocated posts in decision-making institutions or others to guarantee their full and effective participation. Allocating a quota for women in parliaments, representative institutions and public bodies as a temporary measure. This should stand until appropriate frameworks for women's voluntary activity take shape and until the awareness of the necessity of equality increases and all forms of discrimination are eliminated.

2- Repealing the discriminatory references in national legislation and promulgating civil laws on personal status.

Ensuring the right of women to grant their nationality to their children from foreign fathers, as men exercise such rights.

3- Combating all forms of discrimination against women particularly the unheeded ones e.g. family violence, sexual abuse, prostitution, etc. The governments should assume their responsibility regarding these issues through developing the legal mechanisms and necessary services to provide protection and treatment for the victims of violence.

4- The necessity of engaging women's and human rights NGOs in the process of reviewing current legislation and in upgrading civil and criminal laws, with a view to resolutely confront all forms of violence and discrimination against women.

5- Calling upon Arab governments that did not ratify the Convention on the Elimination of all Forms of Discrimination Against women (CEDAW) to ratify the convention with no reservations and calling upon ratifying states to lift their reservations. All Arab states should amend their institutional, legislative and constitutional systems to be consistent with the CEDAW and should establish mechanisms of implementation and supervise the modified systems.

Fifth - The Rights of Migrant workers and Refugees:

Migrant workers, particularly women, lack full legal protection in Arab countries where they work. Different forms of discrimination prevail not only against migrant workers in favor of the citizens of the hosting states, but between migrant workers themselves according to their countries of origin. Migrant workers in the Gulf countries suffer from the sponsorship system, *Al Kafil*, and are deprived of their fundamental rights.

In this connection, the Forum calls for the following:

- 1- The necessity of respecting basic human rights of all categories of migrants in receiving states, including those compulsory residing therein in an illegal way. All states are called upon to review their domestic laws and make them consistent with international standards. States are called upon in particular to ratify the International Convention on the Protection of Migrant Workers and Members of their Families of 1990.
- 2- The League of Arab States should draft an Arab Agreement on the Protection of the Rights of Migrant Workers and members of their families and should also call upon Arab governments to conduct bilateral and multilateral agreements between exporting and receiving states of workers to safeguard the protection of migrant workers and criminalize the phenomenon of mass lay-off.
- 3- Annuling the sponsorship system, *Al Kafil* enforced in the Gulf States.
- 4- Protecting foreign female migrant workers against sexual exploitation and slavery and safeguarding their social and economic rights.

Moreover, the Forum calls for safeguarding the rights of refugees and asylum seekers and ensuring their ability to exercise civil, economic, social and cultural rights. It urges the Arab states to sign and ratify the Geneva Convention of 1951 on Refugees and the Complementary Protocol of 1967.

Sixth - Reform Priorities in States in Transition:

1-The Sudanese Issue:

The Forum welcomes the progress achieved in the peace process in Sudan and calls upon the parties currently negotiating in Nifasha to act promptly. Understanding other points of view in this process is imperative to achieve sustainable peace in a democratic pluralistic and voluntarily unified Sudan. The new Sudan will be based on balanced human development and respect for pluralities and human rights.

The Forum hails the international and regional efforts as well as the efforts of the League of Arab States in proceeding with the peace process in Sudan through constructing and developing the war-stricken and marginalized areas. However, it underlines the fact that respect for human rights should be at the core of the moves of the Arab League. The administration of assistance and resources mobilized by the Arab League should enjoy a high rate of transparency. In this regard, the Forum emphasizes the following:

1- The coming constitution should be drafted through vast consultations conducted by a constitutional committee celebrating neutrality and balanced representation. Such would be in effect through establishing suitable channels enabling all social and political powers to convey their point of view to the committee. A national democratic Forum should be held and attended by representatives of political powers and civil society or delegates elected for such purpose.

2- Any future constitutional arrangements in Sudan should be based on real democratic transformation ensuring plurality, fundamental rights and freedoms and the rule of law. Transformation should be based on national consensus, democracy and large-scale participation.

The necessity of entrenching the principle of accountability for all violations of human rights committed either by governmental entities or non-state actors and the values of justice and citizenship. The foundations of the rule of law and the constitutional and legal regulations should be drafted to prevent future violations of human rights.

3- Any peace agreement without peaceful settlement of the current conflict in Dar Furr and the tension in the East of Sudan would merely be a temporary solution for the crisis of establishing the state in Sudan and the problems of stability, development and respect for human rights. The main lesson to be learnt from the long war in South Sudan, which is about to come to an end, is the impossibility of solving problems stemming from national injustices and the deterioration of development through war. The Forum regretfully takes note of the continuing deterioration of the situation in the region of Dar Furr. Tens of thousands of innocent citizens die daily in the confrontations between the government forces and the opposition and other militant groups. Citizens have forcibly become refugees, displaced and migrants. Moreover, those who remained in their villages suffer from shortage in security, food and services.

Accordingly, the Forum calls for:

a- The Sudanese government should undertake full responsibility to protect the civilians in Dar Furr from the pre-meditated and haphazard attacks. It should ensure freedom of the flow of human relief for those who need it without any kind of discrimination and ban the access of the proponent paramilitary groups to arms. The armed forces should abide by the relevant international humanitarian laws. The government should promptly release all the intellectuals and activists detained during the war or bring them to fair trial with definite charges.

b- The government and the opposition militant groups in the East of Sudan, particularly in Dar Furr, should respect the International Humanitarian Law and the Human Rights Law. They should not jeopardize the lives of civilians under whatsoever circumstances and should safeguard the freedom of the works of relief in the areas under their control.

c- The League of Arab States, the African Union, the United Nations, the European Union, the United States and all the parties mediating in the conflict should work for ensuring cease-fire. Respect for Human Rights should be the basis of any potential peace process, including judgment of the perpetrators of violations during the conflict and compensating the victims. The calls of human rights NGOs to form a team to observe the situation in Dar Furr should be backed, allowing the freedom of collecting information, interviewing victims and officials and proclaiming the outcomes to the Sudanese and international public opinion.

d- The League of Arab States should publicly condemn all violations of human rights in the areas of conflict regardless of the perpetrators.

2- The Iraqi Issue:

The Forum expresses its deep concern regarding the ongoing occupation of Iraq and the deterioration of security conditions and the intensified pressures to retreat from the legal privileges given to women.

In this respect, the Forum urges for:

1- Assisting the Iraqi people to achieve self-determination and to end the occupation as soon as possible and regain its sovereignty and independence. Moreover, it calls upon the interim coalition authority to abide by the agreement of November 15, 2003 on transferring the authority to the Iraqis by the end of June 2004. The Forum calls upon the United Nations to monitor and observe the process of transferring power until the end of the

transition period, which will come to an end by issuing the permanent constitution and handing over the authority to an elected government.

2- The necessity of adopting permanent constitutional measures in the coming period in Iraq on real democratic bases. Such bases are not gender-biased and they ensure plurality, fundamental rights and freedoms and the rule of law. Underlining the necessity to entrench the principles of transition on the basis of national consensus, democracy, vast popular participation and respect for the ethnic, religious, cultural and linguistic plurality in Iraq. Thus, it would help avoiding the rejection of some of the provisions of the transitional Law on Administering the Iraqi State.

3- The occupation forces should abide by the provisions of the Fourth Geneva Convention of 1949 and the human rights instruments and ensure security for the Iraqi people. The Forum condemns all forms of suppression by the occupation forces; acts of violence and terrorism against the Iraqi citizens, the cadres of the new Iraqi state and the leaders of the political sects. It also condemns the sabotage against fortunes, establishments and service entities obstructing the establishment of a democratic state in Iraq.

4- Reconstructing the Iraqi judiciary on bases ensuring its independence. Working on revealing the truth of the past and bringing the perpetrators of huge violations of human rights in Iraq to justice, compensating the victims, providing the bases of fair transfer and preparation for comprehensive national ground for national reconciliation.

5- The international community and the neighboring states to provide real assistance to the Iraqi people and not to interfere in its internal affairs.

6- The Arab and international civil society institutions should provide all forms of assistance to establish the infrastructure of the civil society in Iraq. Providing them with experience, advice and the necessary training to ensure building well-founded organizations and to protect democratic transformation.

3- The Palestinian Issue:

The Forum emphasizes the right of the Palestinian people to self-determination, to end the occupation and to demolish the Israeli settlements. Inducing just peace necessitates Israel's prompt unconditioned withdrawal from the Golan and the remainder of the Lebanese territories.

Hence, the Forum calls upon the Arab governments to:

1- Invite the Security Council to fully undertake its responsibility to stop the Israeli war crimes and the damages suffered by the civilians, as per the sixth and seventh chapters of the Charter of the United Nations including:

a- Forming an international force to protect the Palestinian people and properties against the Israeli army and enabling the Palestinian people to achieve self-determination.

b- Providing the protection required for the Palestinian refugees as per Article 1, paragraph d. of the International Convention on Refugees. It is the only group of refugees that is not safeguarded by international mechanisms of protection and the supervision of the UNHCR as noted by the UN fact-finding mission in its report (E/CN.4/2001/121).

2- Calling the High Parties to the Fourth Geneva Convention to undertake their responsibilities defined by the first article common among the four conventions. This is with a view to take the appropriate measure to ensure the implementation of the provisions of the Convention inside the Palestinian Occupied Territories and bringing to trial those who violate the Convention.

3- Calling the UN General Assembly to assume its legal responsibility towards the Palestinian people invoking its Resolution No. 377 of 1950, "Union for Peace" under which it has the right to interfere in the issues affecting international peace and security. Its interference is imperative in cases of the failure of the Security Council to meet its legal obligations. It is most imperative due to the fact that the General Assembly was behind dividing Palestine and made it conditional that Israel be a member state of the United Nations as per Res. 273 of 1949 and obliged Israel to implement GA Res. 181 and 194.

4- Pending the implementation of the Palestinian refugees' right of return, they must enjoy their human rights to the full, namely their civil, social, economic and cultural rights, in the (temporary) Arab host countries. The Forum further reaffirms that safeguarding these rights is not the same as permanent settlement in host countries, which is rejected by Palestinians and Arabs in general. Nor does it mean relinquishing the right of return. Rather, it helps support the refugees' resistance to attempts to eliminate this right.

5- Enforcement of the relevant Arab League resolutions, conventions and recommendations. Putting an end to the gross infringements of the international and regional resolutions on the rights of Palestinian refugees in a number of host Arab countries.

6- Resuming mobilization of the international community to follow up the ruling of the International Court of Justice (ICJ) on the issue of the apartheid separation barrier. Calling for compensating the Palestinians for the consequences of such barrier.

Finally, the Forum urges the Palestinian authority to promptly affect reforming policy enhancing the unity of the Palestinians on grounds of democracy, intellectual, political and cultural plurality and the principle of separating authorities, the rule of law, independence of the judiciary, transparency and respect for human rights.

III. Which Charter on Human and Peoples' Rights in the Arab World?

The bill of the Arab Charter on Human Rights is a real test of political will of the Arab governments towards reform. However, the Charter in its present condition to be submitted to the Arab summit is an evidence of the lack of a real tendency towards reform. This is manifested in the following:

1- In its current version, the Charter does not include any serious mechanism to safeguard human rights in the Arab world (through receiving individual or court complaints). Handling complaints is the main target behind the Charter and any other document on human rights adopted in other regions.

2- Not guaranteeing the right to political participation through free and integral elections by public poll and secret ballot.

3- Not providing firm guarantees to criminalize torture, allowing the evasion of the perpetrators from punishment.

4- Fully ignoring of the role of the Non-Governmental Organizations.

5- Not ensuring women's rights.

6- The Charter elevates the national laws of the Arab states with respect to the right to movement, freedom of thought, belief and religion, the rights of expatriate laborers and the right to strike by referring them to the laws enforced in the Arab states.

7- Not banning capital punishment in political crimes and allowing execution of persons under the age of 18.

8- The instability of the stance of the Charter regarding the right to form political parties and labor syndicates.

9- Discrimination against the non-nationals in violation of the International Law.

However, the Forum is cognizant of the progress achieved in the bill of the Charter adopted by the Permanent Committee on Human Rights in the League of Arab States in January 2004 as compared to the original charter passed in September 1994 and the updated version in October 2003. The Forum reaffirms the necessity of passing a final version of the Charter fully complying with the international instruments on human rights.

Accordingly, the Forum calls upon the Arab kings and presidents to amend the Charter in the light of the following:

1- The draft of the Charter prepared by the experts of the United Nations High Commissioner on Human Rights (UNHCHR) and delivered to the League of Arab States on January 14, 2004.

2- The memorandum of UNHCHR submitted to the League of Arab States on January 30, 2004 on its reservations on the Charter.

3- The memorandum submitted by 36 Arab human rights NGOs to the League of Arab States and UNHCHR on December 21, 2003.

4- The comments submitted by Amnesty International and the International Commission of Jurists (ICJ) to UNHCHR and the League of Arab States on the Arab Charter on Human Rights.

5- The reservations of the chair of the Permanent Committee on Human Rights in the League of Arab States on the Charter. Such reservations are included in his message to the UNHCHR on February 10, 2004. He sent a copy of the message to the League of Arab States and informed the Secretary General of it in a special meeting on February 19, 2004.

Finally, the Forum emphasizes that each regional instrument should honestly reflect the reality of ethnic, religious, cultural and linguistic plurality in the region. The Arab peoples are not Arabs only, or Muslims only and not all the Muslim are Sunni. It has several races, religions, sects, cultures and languages that should enjoy respect and equality and should be ensured in the regional document, including its name. Hence, the Forum proposes the following title “Charter/Convention on Human Rights and Peoples in the Arab World”.

IV. The Civil Society and Reforming the Arab Regional Regime

There is a dire need to have a new regional regime in the Arab world based on modern states. Such states would be based on justice, law, democracy and human rights and utilize the potentials to meet the common interests. Restructuring this regional regime is a must in order to cope with the new situations imposed by the geo-strategic givens in the region. Such givens pose great challenges to the political future and status of the Arab world. Hence, reforming the League of Arab States and effectuating its role is even a more dire need and one of the fundamentals of developing the regional regime of the Arab world. In this regard, the Forum calls for the following:

- Restructuring the League of Arab States in order to be a rostrum for peoples and not governments only, and for the civil societies in all fields. This would help to enhance the bilateral and multilateral relations between the similar political parties, syndicates, NGOs and human relief organizations. Public representation should be allowed through a civil forum parallel to the principle meetings of the League, including the summit Forums. This would allow opening channels for dialogue and cooperation between the representatives of the governments and NGOs in the manner adopted in different regions in the world including Africa.

- Connecting the specialized organizations in the League and the General Assembly, on the one hand, and the civil society institutions in the Arab world, on the other hand.

V. New Responsibilities for the Human Rights Movement

Over the last two decades, the Arab human rights NGOs have been the first to call for democratizing the Arab world and for comprehensive reform. Such organizations reaffirm their pledge to continue the struggle for the same objectives. Moreover, they pledge to always reconsider their mechanisms and structures in order to be more democratic and relevant to the other major objectives.

Five years ago, the human rights movement in the Arab world placed the struggle for democracy as a priority in the Casablanca Declaration of the

conference held in April 1999.³⁴⁴ The declaration tackled the relation between the human rights NGOs, political parties and groups in the Arab region. A major response is noticeable in this respect e.g. in Morocco, Egypt, Bahrain, Sudan and recently in Syria.

The current developments in the Arab world, placing comprehensive reform on top of the priorities of democracy, urge the human rights NGOs to proceed forward with other moves.

The Forum recommends the following:

1- That it turns into a permanent annual forum to be convened parallel to the meetings of the Arab summit. Moreover, it is desirable to hold it in the state hosting the Arab summit and to enlarge its scale in order to better represent the civil society in the Arab world. The civil society should be represented in the Arab summits as an observer so that it can directly present the recommendations of the forum to the Arab leaders.

2- The role of the human rights NGOs should not be limited to maintaining human rights in any program for reform. However, being separate from political and authority aspirations, they should, whenever necessary or viable, play a mediating role in order to coordinate the work of reform powers inside and outside the governing regimes. Such includes forming committees and coalitions for reform wherever possible.

3- The reservations of the human rights NGOs on the international initiatives for reform should not hinder positive and constructive interaction with those who make such initiatives. This would be affected through participation in discussion and evaluation in order to achieve positive impacts on the final content of such initiatives that will be concluded, probably in one joint initiative, during the coming three months. In this respect, it is imperative for the civil society institutions in the Arab world to study the possibility of holding meetings parallel to the three international summits to be held next June in the United States, Ireland and Turkey successively to adopt a potential US-European initiative.

Human rights NGOs should promote their occasional work regarding the issues of democratic reform and enhancement of human rights, including reforming the League of Arab States and the Arab Charter on Human Rights. They should adopt institutional work plans, particularly that their relation with the Arab League might be moving to a new phase, in case the modest

³⁴⁴ CIHRS organized the Forum in cooperation with the Moroccan Organization for Human Rights.

bill to reform the Arab League and the Charter in the forthcoming summit is adopted.

Human rights NGOs have exerted concerted efforts to expose the deficiencies of the Arab Charter on Human Rights since its issuance in 1994. Over the past two years, they coordinated their work with the international human rights NGOs and the UNHCHR as they held their Forums in Amman, Sana'a, Cairo, Geneva and Beirut. They managed to push the League of Arab States to seek the assistance of the UNHCHR experts, which lead to making major amendments to the original version of the Charter. Hence, this might allow the discussion of internal human rights issues for the first time in the League of Arab States.

Such development requires planned dedicated work on the part of human rights NGOs in order to safeguard the direct and indirect representation of their point of view inside the League. This might be achieved via holding meetings parallel to the meeting of the Committee on Human Rights at the Arab League and other relevant meetings.

Such an objective should not be left to occasional coordination among the organizations as has been done until now. This might necessitate establishing a special institutional structure for this purpose that might be regarded as an observatory of the League of Arab States with respect to human rights. Such a proposed structure might be a new institution to be established for this purpose, or a coordinating network/federation gathering the NGOs concerned.

The role of such an institution might be expanded to monitor the process of reforming the League itself and to what extent reform might provide room for the civil society. Moreover, it might monitor any new regional conventions to be tabled on the agenda of the Arab League, relevant to human rights and the human rights dimensions in the performance of the agencies, specialized organizations and the other subsidiary committees of the League of Arab States.