



HUMAN RIGHTS IN THE MIDDLE EAST AND NORTH AFRICA

TASK FORCE 2015

UNIVERSITY OF WASHINGTON

JACKSON SCHOOL OF INTERNATIONAL STUDIES

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*To our Professor, Denis Bašić who has taught us,
“Within a system which denies the existence of basic human rights, fear tends to be the order of the day. Fear of imprisonment, fear of torture, fear of death, fear of losing friends, family, property or means of livelihood, fear of poverty, fear of isolation, fear of failure. A most insidious form of fear is that which masquerades as common sense or even wisdom, condemning as foolish, reckless, insignificant or futile the small, daily acts of courage which help to preserve man's self-respect and inherent human dignity. It is not easy for a people conditioned by fear under the iron rule of the principle that might is right to free themselves from the enervating miasma of fear. Yet even under the most crushing state machinery courage rises up again and again, for fear is not the natural state of civilized man.”*

— Aung San Suu Kyi, Freedom from Fear

The members of this Task Force wish to thank Denis Bašić for challenging our own thoughts and advising us to think critically about the deeply embed reasons that are rooted in these human rights concerns.

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EXECUTIVE SUMMARY

Tiffany Butler

Ever since the adoption of the Universal Declaration of Human Rights in 1948, there have been complaints that the Declaration is not culturally sensitive. In 1981, a group of Islamic scholars proposed the Universal Islamic Declaration of Human Rights, and then in 1990, the Cairo Declaration of Human Rights in Islam was adopted by the Organization of Islamic Cooperation (OIC), which is an intergovernmental body made up of fifty-seven member states.¹ In 2004, The Arab League adopted the Arab Charter on Human Rights, which defends the right of national self-determination and the “sovereignty of the law and its contribution to the protection of universal and interrelated human rights.”² In 2008, the OIC established its Independent Permanent Human Rights Commission (IPHRC) with the goal of promoting human rights in member states and upholding the fundamental freedoms for all people without distinction as to race, sex, or religion.³ Nevertheless, many still question the compatibility between the Islamic and Western visions of human rights.

In June of 2011, the decision making arm of the OIC adopted the Statute of the IPHRC.⁴ There is a balance inherent in the Statute that affects the nature of the OIC human rights documents in two ways: First, in the framework, there is a shift away from the universal exclusivity of Shari’a towards the so-called “appreciation doctrine,” which allows for a context-sensitive application of international human rights standards.⁵ In other words, a “margin of appreciation” gives room within the many Islamic states to apply Shari’a according to the different interpretations of different Islamic denominations. Second, the paramount task of the interpretation of Islamic law was given to the IPHRC. The previous provisions were based on the views of a great many Islamic scholars who point out that Shari’a is not technically a divine law, as if spoken directly from God to the Prophet Muhammad, but that it is rather drawn from the Qur’an and Sunna by jurists who constructed the law from those sources.⁶ Therefore, “The constructionist feature of sharia thus empowers the Commission to seek interpretations of Islamic law which promote human rights and uphold the existing international obligations of the OIC Member States.”⁷ It is believed that through the application of the Statute, human rights violations can be combated in contextual ways within each Islamic state. This will not be a short, nor an easy, road.

Even though this report focuses on human rights violations in the MENA region, it is important to understand that human rights concerns are not confined to this region. Human rights violations occur around the world daily. Therefore, any discussion about human rights in the MENA region should bring awareness to human rights violations in our own country, and even in our own cities. Therefore, this report should encourage introspection and recommendations for greater human rights within any country that suffers from similar violations found in this report within their own borders. For example, when we speak about the violation of “Freedom from Arbitrary Arrest and Exile and Right to a Fair Public Hearing” in Lebanon, this should create an opportunity of self-evaluation for every government that has been doing the same, and for the government to rehabilitate its own practices. The United States has frequently been criticized concerning the aforementioned right, and its violation, in the operations of Guantanamo Bay Prison. While clearly this is a complicated issue, all necessary measures should be taken to assure the human rights and dignity of those who have been indefinitely detained at Guantanamo Bay, and that the detainees receive fair and impartial representation at trial.⁸

In our research of the various human rights concerns in the MENA region, our team has come to some general conclusions that dispel various common myths about the region and the causes for human rights violations in it. Thus, we have concluded that religion is very often manipulated for political purposes. This is just as true about Islam as it is about Christianity, Judaism, or any other ideology or belief. Therefore, politics rather than religion determines the level of human rights in each country of the region. Further, domestic policies are influenced by the political and economic interests of international state actors in both positive and negative ways.

The MENA region, while predominantly Muslim (primarily of the Sunni and Shia lineages), is a very religiously, ethnically, and culturally diverse region. History teaches us that while sectarian conflicts around the world have been happening for millennia, the juxtaposition of relative spans of the peaceful coexistence of sectarian groups in history should teach us that sectarian conflicts are not inevitable. This same historical lesson can be derived from the MENA region as well. The very fact that so many minorities have survived to this day in the region speaks volumes to the fact that co-existence has been possible, and even cherished, at different points in history.

To be sure, the region has experienced various periods of upheaval and sociopolitical crisis. A lot has happened in the region in the last 100 years. In 1917, Jews made about 40% of Baghdad's population.⁹ After the sociopolitical changes and politically orchestrated migrations of the last 100 years, Jews now make up less than 1% of the population of Iraq.¹⁰ Further, the fact that Israel is responsible for the violation of several human rights, as discussed in this report, reveals that human rights violations are not confined to sectarian Islamic communities within the region, as well as that the violations of the rights of minorities in the MENA region are often political instruments rather than the result of "eternal hatreds."

Our aim in the following chapters is to seek to understand the current crisis in regards to the extensive human rights violations in the region, and how these concerns can be addressed. Our approach to accomplish this is fourfold for each country. First, we will present a historical and contextual background to the current human rights concerns. Second, we will discuss the different human rights concerns and the various actors involved. Third, we will analyze these concerns in light of the current social, and political climates of each country; and we will seek to analyze why these concerns continue to persist, and to discuss how these concerns can be addressed. Finally, each chapter will conclude with a recommendation section. In this section it is our aim to present pragmatic solutions to many of the pressing human rights concerns in each country.

Cumulatively, there are several revelations about the MENA region that we hope the reader can take away from this report:

- 1) The Universal Declaration of Human Rights (UNDHR) and the Cairo Declaration of Human Rights (CDHR) share more similarities than differences. For example, of the 30 articles of the UNDHR, 20 are alluded to in the CDHR.
- 2) Signatory states do not interpret and implement the Cairo Declaration the same way.
- 3) Local human rights organizations do exist in the Middle East and North Africa. These grassroots organizations within the region are not negligible, as they are often perceived to be in the West, and they number upwards of 220 organizations.¹¹
- 4) While there are still many human rights abuses in the region, there are some positive shifts in the regional democratization processes that have been noticeable in recent years.

We have organized the chapters of this report discussing countries from West to East. In this way the reader will see many overlaps between the contiguous countries as he progresses

through chapters. Therefore, first, we will look at human rights concerns in the Maghrib and Libya, followed by the political entities of the Levant including Egypt, and finally by examining human rights concerns in the Arabian Peninsula and the Gulf.

WESTERN SAHARA

Dan Chrisman

Human Rights Concerns:

- Morocco
 - *Right of Peaceful Assembly and Association*
 - *Right to Equality before the Law*
 - *Freedom of Opinion and Information*
 - *Right to Participate in Government and in Free Elections*
 - *Freedom from Torture and Degrading Treatment*
- Sahrawi Arab Democratic Republic
 - *Right to Equality before the Law*
 - *Right to Free Movement In and Out of the Country*
 - *Freedom of Opinion and Information*
 - *Freedom from Slavery*

Background

There are approximately 500,000 people living in Moroccan occupied Western Sahara, which is classified by the UN as a “non-self-governing territory.” While the exact demographic split between the Sahrawi and Moroccan civilian populations is contentious, civilians self-identifying as Moroccan likely outnumber the Sahrawi by more than two to one.¹² As the Polisario controlled east is largely uninhabitable, the area is home to few civilians. For forty years, most Sahrawi not living under Moroccan occupation have remained in refugee camps throughout western Algeria. The camps are named after towns in Western Sahara that many refugees have never seen. With the exception of a few small gardens, they continue to live on basic dry goods supplied by the UN and NGOs. Today, there are approximately 155,000 Sahrawi refugees in Algeria.¹³ The United Nations Mission for the Referendum in Western Sahara (MINURSO) mandate holds a referendum on self-determination for the Sahrawi people which has gone unfulfilled for twenty-four years, and it remains “the only contemporary UN mission without a human rights component.”¹⁴

Looking at a map of the present situation does little to explain the extraordinarily protracted nature of the border dispute - the conflict has complex historical roots that go back centuries. Moroccan kingdoms dating back to the eleventh century Almoravid dynasty have held influence over parts of present day Morocco, Algeria, Western Sahara, Mauritania and Mali. These historical boundaries are central to Morocco’s justification for the occupation of Western Sahara, as well as its conflict with Algeria. The nomadic Sahrawi people moved throughout parts

of today's Western Sahara, Algeria, southern Morocco, and Mauritania. At the Berlin Conference of 1884, European colonial powers drew borders dividing Sahrawi historical lands between Spain and France. From 1884 to its withdrawal in 1976, Spain administered the present day borders of Western Sahara. Throughout the early colonial period, Spain's presence in Western Sahara was limited to a few coastal garrisons and fisheries. In much of the territory, nomadic Sahrawis would have continued to live largely independent of Spanish administrative authority.¹⁵ In the 1940s, large phosphate deposits were discovered further inland, providing Spain with a valuable export commodity and starting a process of connecting Western Sahara to the global economy.¹⁶

In the context of the long history of the region, it is difficult to say exactly where Morocco or any other country begins or ends. Ethnic, cultural, and national identities are not monolithic. However, national identities began to take defined shapes under the pressure of colonial legacies, economic competition, and territorial disputes. Today, many Sahrawi are fluent in Spanish in addition to Arabic and Sahrawi, and many Moroccans speak French in addition to Arabic and Berber dialects. With a nominally shared colonial past under France, Morocco and Algeria experienced very different colonial regimes and took separate paths after independence. Hostility between them broke into war in October 1963 as Morocco attempted to claim Tindouf and Bechar in western Algeria two decades after the area was annexed into French Algeria. This rivalry forms the backdrop of Algerian support for Sahrawi independence from Morocco.¹⁷

In early 1973, a group of Sahrawi college students formed The Polisario Front, a national liberation movement with the stated goal of ending the Spanish colonial presence in Western Sahara; its first armed engagement with Spanish forces came later that year.¹⁸ In 1974, the UN called on Spain to hold a referendum on independence.¹⁹ King Hassan II of Morocco began asserting that the territory of Western Sahara formed part of a "Greater Morocco," based in part on a pledge of allegiance to the Moroccan kingdom by two Sahrawi tribes in the 19th century, and called on Moroccan civilians to march peacefully into Western Sahara to reclaim it for the crown.²⁰ For King Hassan II, annexation of Western Sahara may have represented not only an opportunity to increase his domestic popularity and regional influence, but also to control lucrative fisheries and phosphate mines.²¹ In November 1975, over 300,000 Moroccan civilians crossed the border into Western Sahara, along with around 30,000 Moroccan soldiers.²² Under pressure from France and the US, who viewed Hassan II as a key regional ally, Spain peacefully

ceded control to the Moroccan military.²³ In 1976, Spain officially left administrative control of Western Sahara to Morocco and Mauritania, despite the UN International Court of Justice finding that neither had a legitimate claim to sovereignty, and that independence enjoyed the widespread support of the Sahrawi people.²⁴

In the following weeks and months, thousands of Sahrawi fled as the Moroccan army asserted control. Many civilians died during the fighting, including refugees targeted in bombing raids by the Moroccan air force.²⁵ Algeria, backed by its own relationship with the Soviet Union, began providing military aid to the Polisario.²⁶ The Polisario resisted, but were outmatched by the Moroccan army, with arms supplied by the US.²⁷ Mauritania was ill prepared to compete with Morocco and withdrew all claims to territory in 1978.²⁸

From 1980-1987, Morocco began building over 2000 kilometers of fortified sand berms dividing the more temperate, populous, and Moroccan occupied west from a narrow strip of arid desert controlled by the Polisario.²⁹ The Polisario routinely attacked fortifications along the berm, inflicting damage, but unable to make substantial progress. By 1988, increasing deficits and political realities in Morocco and Algeria led to a resumption of diplomatic relations between them, and Algeria began to draw down its military aid for the Polisario. The war effort had proven extremely costly for Morocco, too, siphoning around \$550 million a year away from an already sluggish economy and adding to a mounting debt crisis.³⁰

American policy on Morocco vis-a-vis Western Sahara is multi-faceted and occasionally contradictory, but has remained generally consistent in supporting Morocco. Like the Ford and Carter administrations, the Reagan administration considered Morocco a guarantor of regional stability and a counterweight to Soviet-backed Algeria.³¹ In 1990, with a stalemate on the ground and the Cold War coming to an end, the calculus changed,³² and the Bush administration supported a UN brokered cease-fire.³³ The United Nations Mission for the Referendum in Western Sahara, known as MINURSO, was formed in 1991 with a mandate to hold a referendum on self-determination. By 1992, Morocco's support of the Gulf War effort and American policy on Israel had led the Bush administration to again view Morocco as an important geopolitical ally. After first supporting the formation of MINURSO, the administration took steps to prevent UN investigation of Morocco's obstruction of the referendum process.³⁴

The main point of contention between the Polisario and Morocco is that Morocco simply does not want to see a referendum on independence,³⁵ preferring the idea of "Moroccan

sovereignty and local autonomy,” while the Polisario “reject any solution that does not include independence as an option.”³⁶ Another main point of contention is whether Moroccans settling in Western Sahara after 1975 (who now outnumber the Sahrawi) would be allowed to vote in the referendum. These issues remain serious obstacles to a peaceful negotiated solution.

The Houston Agreement in 1997, mediated by the UN (as represented by former Reagan Chief of Staff, James Baker), brought Morocco and the Polisario to the table to discuss a way forward. The subsequent “Baker Plans” centered on creating an interim governing authority in Western Sahara for a period of five years, after which a referendum would be held.³⁷ The Polisario reluctantly agreed to terms that limited the election of the interim government to a pre-1975 voter eligibility criteria, but allowing post-1975 Moroccans eligibility in the ultimate referendum on independence.³⁸ Despite apparently gaining favorable terms, Morocco pulled out of the negotiations, rejecting the idea of any referendum on independence.

Sahrawi Arab Democratic Republic

While there is no permanent independent human rights monitor in the Polisario run refugee camps in Algeria or Polisario territory in Western Sahara, the Polisario support extending the MINURSO mandate to human rights monitoring and have permitted NGOs and human rights organizations to conduct surveys and investigations. Sahrawi refugee camps in western Algeria rely on international aid, but they have been under the administration of the Sahrawi Arab Democratic Republic (SADR) and the Polisario since 1975.³⁹ The SADR is a one party government, as the Polisario hold constitutionally mandated control. However, the constitution allows for the formation of other political parties in a future independent Western Sahara.

For the Polisario, maintaining refugee status supports a struggle for independence and implies that the Sahrawi in Algeria have a right to return. Algerian policy prohibits refugees from permanently settling elsewhere in Algeria, outside the camps. While the Polisario and the Algerian government support the right of young Sahrawis to seek an education in Algeria and abroad, refugees are largely left without economic opportunities or prospects. Tensions are slowly rising, especially among the younger generation – many of them are beginning to see the resumption of war as the only way out.⁴⁰

While the camps are often praised as democratic and held up as an example, the Polisario have also come under criticism for harassing critics, prosecuting civilians in military courts, and restricting the ability of Sahrawi refugees to freely leave the camps.⁴¹

Freedom of Opinion and Information

In 2014, Human Rights Watch (HRW) determined that Sahrawi refugees critical of the Polisario were allowed to demonstrate publicly, and none were detained or charged with crimes for voicing opposition.⁴² While criticism of the Polisario among refugees tends to be limited to specific policies, not to the idea of an independent Western Sahara, media and news sources in the camps echo Polisario policy and generally do not provide opposing viewpoints.⁴³

Right to Free Movement In and Out of the Country

An October 2014 HRW report highlighted the case of a woman who attempted to leave for Spain but was detained by her family; the Polisario did not intervene on her behalf until two months later, after coming under international pressure.⁴⁴ However, there was no evidence that the Polisario actively restricted refugees from leaving the camps in 2014.

Right to Equality before the Law

After the kidnapping of three international aid workers from the refugee camp at Rabouni, Algeria, in October 2011, the SADR has targeted drug traffickers with suspected connections to terror organizations. A 2012 law connects people charged with drug crimes to terrorism. Since then, the SADR has tried twelve civilians in military courts.⁴⁵

Freedom from Slavery

Isolated cases of slavery have been found in the Sahrawi refugee camps and Polisario controlled territory. In 2010, the Polisario amended an SADR law in order to clearly define slavery as illegal, and today, slavery has largely been eliminated.⁴⁶ However, interviews with refugees in 2014 indicated that “certain practices of slavery, including enforced domestic servitude, persist among a small minority of the refugees in the Tindouf refugee camps and – perhaps in particular – in the remote areas of Western Sahara under Polisario control.”⁴⁷

Government of Morocco

In 2014, the Moroccan army and security forces continued to crack down on dissent in the occupied territory of Western Sahara, placing restrictions on speech and the right to assemble. The government continued to limit the access of international journalists and NGOs. The Moroccan justice system continued to prosecute Sahrawi civilians with no due process. Detainees have gone on hunger strikes in protest of abuse and poor prison conditions. In recent years, the UN and human rights organizations have investigated cases of the abuse of Sahrawi civilians by Moroccan security forces.

Right of Peaceful Assembly and Association, Freedom of Opinion and Information

Moroccan authorities in Western Sahara prohibit public gatherings deemed to be in support of Western Saharan independence, quickly clamping down on demonstrations with violent tactics.⁴⁸ Under Moroccan law, any speech considered hostile to Moroccan territorial sovereignty (particularly over Western Sahara) is banned.⁴⁹ Association and assembly are similarly restricted under Article Three of Decree 1.02.206, which “prohibits the formation of associations that pursue objectives which are illegal, contrary to good morals, [or which aim] to undermine the Islamic religion, the integrity of the national territory, or the monarchical regime, or call for discrimination.”⁵⁰ In 2011, the Moroccan government amended the constitution in the wake of widespread protests, granting more power to parliament and making the Berber dialect Tamazight an official language, among other changes. However, authorities have not followed through on promises to protect human rights and the freedoms of expression, association, and assembly guaranteed in the constitution.⁵¹

On 15 February 2014, Moroccan security forces clamped down on a planned demonstration by blocking off a large section of a neighborhood in El-Ayoun and forcing a HRW delegation to leave the area.⁵² In 2014, Moroccan authorities similarly shut down planned protests by Sahrawi activists on 15 January, 10 February, 8 March, 15 March, 2 April, and 5 April.⁵³

On 15 July, the Moroccan Interior Minister told the parliament that “some domestic associations and entities work under the cover of defending human rights,” but they are actually

working “to drive some of the international organizations to take hostile positions towards Morocco’s interests.”⁵⁴

On 26 November, documents belonging to the international NGO Euro-Mediterranean Federation Against Enforced Disappearances (FEMED) “were confiscated by Moroccan customs on the basis that the map representing the Western Sahara as a territory without status was a threat to internal security.”⁵⁵

Amnesty International has reported that it faced restrictions on its activities following the announcement of its worldwide campaign against torture. In October an Amnesty International fact finding delegation was ‘denied entry’ by Moroccan authorities.⁵⁶ Between April and October, around forty foreigners were expelled from Western Sahara by Moroccan authorities, the majority of them “were either European supporters of Sahrawi self-determination or freelance journalists or researchers who had not coordinated their visit with authorities.”⁵⁷

On 27 November 2014, Morocco held the “World Human Rights Forum” in Marrakech. After a year with many restrictions and bans on domestic and international NGOs, the forum was widely criticized as a hollow publicity stunt.⁵⁸ Several human rights organizations released a joint statement condemning the Moroccan government’s restrictions and pledging to boycott the forum. According to Amnesty International:

These groups include the Moroccan Association for Human Rights (AMDH), the Moroccan League for the Defense of Human Rights (LMDH), the Amazigh Observatory for Rights and Liberties, the Moroccan branch of the World Water Contract Association, the Moroccan branch of the Association for the Taxation of Financial Transactions and Aid to Citizens (ATTAC-Morocco), the Justice and Charity (Al-Adl Wal Ihsan) movement’s human rights group, Freedom Now, and the Rabat co-ordinating committee of the 20 February movement. Most bans have targeted the AMDH, which has seen many of its activities blocked, including assemblies and ordinary meetings, youth summer camps, in addition to human rights training and higher profile events for the general public.⁵⁹

Restrictions on NGOs inhibit the investigation of human rights abuses and damage the Moroccan government’s credibility.

Freedom from Torture and Degrading Treatment, Right to Equality before the Law

In the late 1970s, after the annexation of Western Sahara, Moroccan security forces subjected hundreds of Sahrawi to enforced disappearance and torture.⁶⁰ Many detainees were extra judicially executed, or died under torture, and many others were left permanently scarred, physically and psychologically. Moroccan security forces employed brutal methods:

Beatings, including blows to the head, genitals, soles of the feet, and other sensitive body parts, sometimes while stripping people naked; Suspending detainees by the wrists or other body parts while beating them;

Forcing detainees' heads down toilet bowls or gagging them with urine-soaked materials; Prolonged solitary confinement which in some circumstances may amount to cruel, inhuman and degrading treatment; Rape with a bottle, threat of rape, and other sexual violence as documented by Amnesty International in a number of instances.⁶¹

In 1992, three hundred Sahrawi detainees were released after being held in secret prisons for as long as eighteen years.⁶² In 2003, Mohammad IV instituted the Equity and Reconciliation Commission, which sought to recognize victims of torture and provide health insurance and compensation, but stopped short of pursuing justice against perpetrators of human rights violations between 1956 and 1999. While reported cases of arbitrary detention, torture, and forced disappearances have decreased since the 1991 cease fire and the secession of Mohammad IV in 1999, human rights organizations continue to receive reports and investigate claims of serious abuses committed by Moroccan security forces, particularly in Western Sahara.⁶³

In December 2013, the United Nations Working Group on Arbitrary Detention (WGAD) found evidence of ongoing and systematic abuses by Moroccan security forces in Western Sahara:

Regarding Laâyoune, Western Sahara, the Working Group received numerous complaints of arbitrary detention, complaints that torture and ill-treatment were used to extract confessions and complaints indicating a pattern of excessive use of force in repressing demonstrations and arresting demonstrators calling for self-determination for the Sahrawi population... the Working Group was informed that 25 Sahrawi civilians had been convicted by a military court for their alleged role in the violent clashes that occurred in Western Sahara. The Working Group met with 22 of those detainees in the Salé prison. It received testimonies of torture and ill-treatment and observed the deteriorating health conditions of some of the detainees due to the prison conditions... Other allegations indicate that Moroccan police forces regularly raid the private homes of alleged or known supporters of independence for Western Sahara, using procedures that include beating and ill-treatment of the inhabitants...⁶⁴

The report refers to the twenty-five Sahrawi civilians detained following the Moroccan security force's violent dispersal of the Gdeim Izik protest camp in October 2010. As many as 20,000 people assembled at the camp outside El-Ayoun in 2010, which has been noted as one of the initial protest movements of the Arab Uprisings. In February 2013, the twenty-five detainees were convicted in the Rabat Military Court and sentenced to terms "...ranging from twenty years to life in prison for their alleged participation" in the clashes between police and protesters at the camp.⁶⁵ Twenty-two of them currently remain in prison at the time of writing.⁶⁶

A twenty-six year-old Sahrawi activist, Abdeslam Loumadi, was arrested on 24 January, 2014. Loumadi was charged with "blocking a public thoroughfare, destroying public property, participating in an armed gathering, [and] incitement."⁶⁷ He denied the charges, claiming he was

tortured by interrogators and that his confession was fabricated. Loumadi and six other Sahrawi detainees were allegedly beaten by prison guards on 17 September 2014.⁶⁸

A fifty-eight year-old Sahrawi man Mbarek Daoudi was arrested in September 2013 on weapons charges, he remains in indefinite detention awaiting trial by a military tribunal.⁶⁹ Daoudi had been a vocal supporter of Sahrawi independence since his retirement from the Moroccan military in 2008. Police raided his home and found ammunition for a hunting rifle, an antique cannon, and a long metal tube. Daoudi has been charged with intent to manufacture a weapon; Daoudi's lawyer claims that his client signed a statement under duress confessing to the possession of the items without knowledge that they would be considered illegal.⁷⁰ Moroccan authorities have pledged to stop prosecuting civilians in military court. Daoudi is one of two civilians currently awaiting trial by military tribunal in Morocco at the time of writing.⁷¹

In 2014, Sahrawi detainees, including Mbarek Daoudi, Abdeslam Loumadi, and the group arrested at the Gdeim Izik protest camp, went on multiple hunger strikes in protest of abuses and poor prison conditions.⁷² While authorities have responded to hunger strikes by pledging to improve conditions, allegations of forced confessions and abuses against the detainees have been ignored.⁷³

Analysis

In a 2013 Joint Statement by the United States of America and the Kingdom of Morocco, the Obama administration articulated a continuation of past US policy on Western Sahara:

The President pledged to continue to support efforts to find a peaceful, sustainable, mutually agreed-upon solution to the Western Sahara question. U.S. policy toward the Western Sahara has remained consistent for many years. The United States has made clear that Morocco's autonomy plan is serious, realistic, and credible, and that it represents a potential approach that could satisfy the aspirations of the people in the Western Sahara to run their own affairs in peace and dignity. We continue to support the negotiations carried out by the United Nations, including the work of the UN Secretary-General's Personal Envoy Ambassador Christopher Ross, and urge the parties to work toward a resolution. The two leaders reaffirmed their shared commitment to the improvement of the lives of the people of the Western Sahara and agreed to work together to continue to protect and promote human rights in the territory.⁷⁴

The 2014 Senate Appropriations bill included funding for development to be sent to Morocco, with language designating it to be used in Western Sahara, apparently as part of an effort to bring about a resolution based on the Moroccan proposal of local autonomy, which would maintain Morocco's sovereignty over Western Sahara but provide some level of self-government to the Sahrawi.⁷⁵ In 2013, the US provided Morocco with a \$697 million economic stimulus grant. In April 2013, the US proposed extending the MINURSO mandate to include

human rights monitoring, but withdrew the proposal after strong opposition from Morocco.⁷⁶ In April 2014, Secretary of State John Kerry avoided any public mention of human rights concerns while visiting Rabat, Morocco.⁷⁷

The French government similarly supports Morocco's claim over Western Sahara and avoids discussion of human rights issues. Morocco received over \$750 million in aid from the EU between 2011 and 2013 as part of the "SPRING" program, which "aids countries judged to be undergoing democratic transitions."⁷⁸ According to the SPRING program Action Fiche: "In Morocco... a strong commitment to reforms has emerged."⁷⁹

Without independent monitoring in Western Sahara, Morocco's pledges to support human rights cannot be considered credible. If Morocco is serious about the autonomy proposal, steps should be taken immediately to improve the human rights situation in Western Sahara and guarantee rights to freedom of association, assembly, and political speech. How can there be any measure of true autonomy as long as Sahrawi civilians are denied equal rights and protection under the law? The United States and the EU should end unconditional support for Morocco. Before providing additional aid, the Moroccan government must show a concerted commitment to protect human rights.

Recommendations

To the Moroccan Government

- Morocco should make no efforts to block the extension of the MINURSO mandate to human rights monitoring.
- Article 3 of Decree 1.02.206 should be amended to allow for the formation of independent domestic human rights organizations. International NGOs should be allowed to conduct surveys and investigations.
- Protect the freedom of expression guaranteed in Article 10 of the Moroccan constitution.
- End the use of military tribunals to prosecute civilians and follow due process.
- Allegations of the abuse of detainees held at Sale prison should be investigated.

To the United States and France

- Support extending the MINURSO mandate to human rights.
- Put diplomatic pressure on the Moroccan government to protect the rights guaranteed in the 2011 constitution. Future aid should be conditional on reform of Article 3 of Decree 1.02.206 of the Moroccan Penal Code.

To the Polisario and SADR

- End the use of Military tribunals to prosecute civilians.
- Sahrawi refugees' right to freedom of movement in and out of the camps must be protected.
- Charges of forced labor should be investigated and anti-slavery laws strongly enforced.

MOROCCO

Kristine Krebsbach

Human Rights Concerns:

- Freedom from Slavery
 - *Child Labor Violations*
- Freedom from Torture and Degrading Treatment
 - *Prison and Detention Center Abuses*
- Freedom of Opinion and Information
 - *Political Freedoms*
- Right to Adequate Living Standard
 - *Drug Trafficking*
- Right to Equality
 - *Women's Rights*
- Right to Free Movement In and Out of the Country
 - *Migrants, Refugees and Asylum Seekers to Ceuta and Melilla*
- Right to Life, Liberty and Personal Security
 - *Civil Rights*
- Right to Recognition as a Person before the Law
 - *Sahrawi Refugees*

Background

Morocco's ruling dynasty has deeply embedded roots in its pre-colonial past. The Moroccan government considers their state a democratic constitutional monarchy built on Islamic traditions.⁸⁰ The Alawite monarchy, which came to power in 1666, remains one of the oldest regimes in the world.⁸¹ Morocco is a monarchy with a constitution under which ultimate authority rests with King Mohammed VI who presides over the Council of Ministers. The king may dismiss ministers, dissolve parliament, and call for new elections. International and domestic observers judged the 2011 parliamentary elections credible and relatively free from irregularities, which may have been Morocco's saving grace amidst its neighboring countries uprisings. The Islamist Party of Justice and Development (PJD), formed in 1998 by King Hassan II who convinced Abderrahman Youssoufi, leader of the largest opposition party, the Socialist Union of Popular Forces (USFP), to lead a new governance of reformation, where they would no longer be excluded but instead enter into a new era of convivial relations with the monarchy.⁸² This novice incumbent offered to stave off revolts from disgruntled left-wing parties while introducing ambitious social, political and economic reforms. The popularity of such rhetoric won the PJD a plurality of seats in the 2011 elections. As mandated by the constitution, the king chooses the party to lead the governing coalition, and King Hassan II selected the PJD.⁸³

Monarchical rule has acted as the impetus for violations of civil liberties. Many Moroccans feel that their political freedoms have been sacrificed for the benefit of the Alawite monarchy that came to power upon decolonization in 1956. The Monarchy espouses the custom of maintaining loyalty and respect to the *bay'a*, the oath of allegiance to the ruler, which historically has secured the political authority of the Alawite dynasty. This tradition of compliance to the monarchy, as the descendants of Mohammed, contrasting with contemporary beliefs of democratic representation and growing demands for reform. There is a vast disparity between the minority elites, including the monarchy, and average civilians in Morocco. This imbalance contributes to civil unrest, often resulting in human rights abuses by appointed authorities. Many people in Morocco lack political representation or equitable state services.

Living standards in Morocco are considered low by international standards. After several decades of progress they have declined continually since the early 1990s. As a result, the number of Moroccans living below the state delineated poverty line has risen sharply in the last decade. Even though poverty levels dropped to 13% in 1991, some 19% of the population lived below the poverty line in 2000.⁸⁴ On a positive note, the proportion of the population living at extreme poverty levels, living on less than \$1 per day, decreased to less than 1% from 2% a decade ago. The proportion of individuals living on less than \$2 per day dropped from 20% to 8% at the national level and from 34% to 14% in rural areas.⁸⁵ In spite of mainstream poverty, disproportionate political and economic development has led to the emergence of an affluent class, whose top 20% control 47% of the country's wealth, while the bottom 20% control 6%.⁸⁶ Poverty is more widespread in rural areas than in urban areas. Historically, the Casablanca-Rabat axis has been more prosperous, and is also the capital as well as a major tourist destination, thus receiving more government attention than the predominantly mountainous Northern provinces and the Western Sahara region. The rocky mountainous regions, though not ideally habitable, offer prosperous growing conditions for cannabis cultivation, which has become an economic means for various Berber communities seeking individual forms of pecuniary resolution.

Freedom from Slavery

Child Labor Violations

The overarching state of dissatisfaction and denial of a feasible means of existence has led to other insults, such as child labor law violations, gender inequities and the emerging drug trafficking business on the Strait of Gibraltar. Families lacking security often resort to unfavorable options, such as child labor, drug trafficking and emigration endeavors. Tens of thousands (13,500 in the greater Casablanca area alone) of girls, under the age of fifteen, work as domestic aids, in direct violation of Moroccan and International law which prohibits employing children under the age of fifteen.⁸⁷ Some documented cases report girls as young as five years old working for four cents an hour.⁸⁸ Many girls claim that their employers beat and verbally abuse them, deny them education, and refuse them adequate food and medical care. Most victims come from poor rural regions, where their families have limited options and lack the economic means and resources necessary to prosecute the perpetrators.⁸⁹

Freedom from Torture and Degrading Treatment

Prison and Detention Center Abuses

In an October 2012 report, the Conseil National des Droits de l'Homme (CNDH) noted that it had observed a “persistence of abuses in visited prisons by the staff against inmates.” The CNDH further indicated that prison staff beat prisoners with sticks and hoses, hung them on doors with handcuffs, beat the soles of their feet, slapped them, pricked them with needles, burned them, kicked them, forced them to undress in view of other prisoners, and used insults and malicious language against them.⁹⁰ The CNDH noted that abuses persisted in most of the prisons it visited, except for Inezgane and Dakhla, “where only isolated cases were witnessed.”⁹¹ Numerous NGO reports and media articles reinforced these accusations with accounts of members of security forces torturing and abusing individuals in their custody, particularly during pretrial detention. The government did not respond publicly to the CNDH or initiate implementation of their recommendations.⁹²

The 2011 elections empowered the newly formed constitutional court to block legislation which defies the constitution, including human rights provisions. As civilians await the decision from parliament of a proposed law rebuking military jurisdiction over civil offenses, Mbarek Daoudi, a Sahrawi activist held since September 2013, detained on weapons charges, remains

incarcerated by a military court. Twenty-one other Sahrawis convicted in a military court are serving long sentences for their alleged involvement in the violence that erupted in the Gdeim Izik refugee camps after it was raided by police officers. Authorities reportedly tortured them, or strong-armed them into signing false guilty statements.⁹³ After visiting prisons and detention centers in Morocco and Western Sahara, the United Nations Working Group on Arbitrary Detention (WGAD) concluded:

The Moroccan criminal judicial system relies heavily on confessions as the main evidence to support conviction. Complaints received by the Working Group indicate the use of torture by State officials to obtain evidence or confessions during initial questioning ... Courts and prosecutors do not comply with their obligation to initiate an ex officio investigation whenever there are reasonable grounds to believe that a confession has been obtained through the use of torture and ill-treatment.⁹⁴

The WGAD was allowed by authorities to visit the detention centers as it had requested, as well as interview prisoners in private. Prison conditions were reported as harsh, due to overcrowding (averaging 2 square meters of space per inmate) of which 42% of detainees are being held under court ordered pre-trial detention, before they have even been found guilty.⁹⁵

Freedom of Opinion and Information

Political Freedoms

Political violence and insecurity has weakened the economic potential for Morocco and polarized the populace by increasing minority wealth at the expense of the poor. Political Authority in Morocco is gained via loyalty to the monarchy and to King Mohammed VI. The monarchy's power is solidified through the enforcement of laws by its armed forces, as well as the civilian and military elite, who all benefit from the relationship. Historically the *makhzen*, which is the sultan's court, together with the provincial administration and the army, who have been the enforcers of tax collection, collectively secure the monarchy with their alliances.⁹⁶ Therefore it is unlikely that the administration or armed forces will contradict the authority of the monarchy, or vice versa. This patron-client relationship has long offered economic opportunities, social hierarchy and political protection as a tradeoff for a loyalist regime. However, with a widening gap between rural and urban populations, along with increased poverty, many Moroccan citizens find themselves disenfranchised and yearning for reform in this new age where they can coalesce with neighboring regions, united by communal grit.

Political authority in Morocco is the result of pre-colonial forms of partisan structure and also of colonial administration and military operations under the French. Since independence it

has been important for the regime to exhibit some display of democratic rule. The first constitution of 1962 legitimized democracy for the monarchy by establishing a multi-party system and ensuring individual liberties for its citizens. However, this feigned impression of a republic that has not agreed well with average citizens who still see the king and his puppets as the elite *immobilisme*.⁹⁷ The monarchy has adjusted, with increased tolerance for moderate Islamists in the political arena, such as the PJD party which formed in the late nineties. This strategy of trying to contain challengers to the regime only by increasing the inner circle has resulted in civil unrest and public protest.

Morocco was one of the first countries in the MENA region to implement modern political institutions, such as the parliament; though it is devoid of pragmatic power, it holds an important role as representing democracy while buffering the monarchy from real disappointment. Throughout various legislatures, constitutional reforms and failed negotiations between the monarchy and opposition parties, the Moroccan parliament remains weak and ineffective at producing legislation and controlling King Mohammed VI, who continues to yield the ultimate executive power. The states enfeebled capacity to generate jobs and secure services for its citizens while acknowledging their appeals, has left one in five citizens unemployed and unable to support themselves or their families.⁹⁸ This growing dissatisfaction with the state and its discredited political parties has created a new active civil society in Morocco, backed by international NGOs, fighting for the rising number of marginalized peoples unable to procure reform on their own. The 20 February uprising in 2011 is the culmination of decades of sought-after political restructuring.

Since most public demonstrations are held in front of the parliament in Rabat, the parliament tends to tolerate some degree of protests except when accusations are thrown at other Arab countries' governments. In 2009 journalists from various newspapers were prosecuted for criticizing Libya's ex-ruler Muammar Gaddafi, and in 2005 a Moroccan court convicted a news source for insulting Algerian President Abdelaziz Bouteflika.⁹⁹ Prior to President Zine el-Abidine Ben Ali being ousted in 2011, Moroccan authorities prohibited human rights activists more than once from protesting his repressive rule in front of the Tunisian embassy.¹⁰⁰ Morocco's press code does not allow for criticism of foreign heads of state or senior officials, as well as any "person of dignity." Punishment for this offense includes fines and prison terms. So when a small rally formed in Rabat to protest Saudi Arabia's ten year sentencing (accompanied

by 1,000 lashes) of blogger Raif Badawi, who insulted Islam by setting up an online forum to discuss religious reforms and for criticizing authorities in Facebook posts, Moroccan authorities intervened. Although Morocco claims to promote religious tolerance under the leadership of King Mohammed VI, its constitution enshrines the king as “Commander of the Faithful,” justifying government defense of Islam. Unlike Saudi Arabia, Morocco does not mandate corporal punishment for criminal offenses, but it does appear to be motivated to silence domestic criticism of its Arab allies and their policies, to protect its despotic interest.

Right to Adequate Living Standard

Drug Trafficking

Morocco’s drug problem has been indiscriminately flying below the radar, while civil discontent, increasing poverty and perceived monarchical sovereignty sustain political opposition. Morocco is the world’s largest hashish exporter, supplying 70% of the European market. The Middle East Research Project estimates hashish production at 2,000 metric tons per year, utilizing 85,000 hectares and garnering \$2 billion annually.¹⁰¹ Tangier, the capital for drug trade, offers jobs to those unable to find work within the states lopsided infrastructure. The Northern Morocco geography challenges the state, offering the advantage of European proximity to drug barons, whose privileged position in the Moroccan political system compromises the states motivation to prosecute them. Despite the government’s anti-drug trafficking campaigns of the 1990’s, the drug trade continues to flourish.

Right to Equality

Women’s Rights

Although some reports hold Morocco as an example of progressiveness with women’s rights, its judicial system is based on Islamic Law (Shari’a) whose *conditionality* does not hold women as equals to men. Moroccan law allows a rapist to marry their victim, to avoid prosecution, without regard to the amenability of the victim. The 2013 case of sixteen year old Amini Filali made international news when she committed suicide after she was forced to marry her abuser. According to Article 475 in Moroccan Law, a rapist can avoid prison through marriage, undermining the worth of the victim who is deemed unmarriageable after her virginity is lost.¹⁰² This case riled protesters to demand the repeal of Article 475 while coming at a time

when King Mohammed VI was scheduled to meet with President Obama, the first high level meeting between the two countries in 11 years. In spite of objections by human rights activists, the US maintains strong diplomatic ties with Morocco, perhaps based on US incentive for Moroccan cooperation in combatting North African armed militia groups.¹⁰³

Mudawwana, shari'a based law explains gender inequalities through high patriarchal interpretation of Islamic legal code, which since the 1980's has acted as the benchmark for women's rights movements in many Arab states.¹⁰⁴ Feminist reform came to fruition in 1999 when the government proposed the NPA (National Plan for Action to integrate women into state-run operations), which promised to remove inequalities from the existing law.¹⁰⁵ The NPA drew heavily on the United Nations Code: Convention for the Elimination of Discrimination Against Women (CEDAW), as well as the Beijing platform of 1999.¹⁰⁶ This movement polarized Moroccans between those who believed that Islamic law had been adulterated with the enabling leadership of the then considered, socialist government. Secular feminists who supported the reform were pitted against pro-shari'a Islamists, in opposition of the reform, resulting in the globally viewed street demonstrations of 2000. The Rabat protest drew over 60 feminist groups: international funding groups and women's rights groups, parliamentary deputies, as well as men, some wanting their own daughters out of bad marriages. The rally of over 400,000 was just one aspect of the women's mobilization where women wanted shari'a law rethought, analyzing the discrepancies between women's subordination and their contributions to their country.

Right to Free Movement In and Out of the Country

Migrants, Refugees and Asylum Seekers to Ceuta and Melilla

Morocco's geographic location offers an ideal springboard for discouraged civilians from Africa, to migrate to Europe. The Strait of Gibraltar is the passageway from Morocco to Spain. Ceuta and Melilla are enclaves of Spain which many immigrants hope to reach in order to gain European residency. No international policy exists to deal with the ongoing struggle of immigrants traveling to Melilla in hopes of gaining European residency. The current de facto arrangement is unsatisfactory to both Morocco and Spain, as well as the many sub-Saharan refugees caught in the middle. Morocco is responsible for prison abuses of refugees captured and Spain is culpable for chronically expelling refugees seeking asylum. The issue will likely continue since the situation in their home country is often worse than the abuses refugees

withstand. Moroccan security forces commonly beat and abuse sub-Saharan refugees seeking asylum, while attempting to reach Melilla, despite the new Moroccan migration policy of 2013.¹⁰⁷ Since that time, the practice of summarily expelling migrants at the border of Algeria appears to have stopped. Spain often forcibly returns these refugees to Morocco where they are routinely imprisoned. Nevertheless, police are still conducting raids in the Nador area. Migrants described raids that occurred as recently as 29 January 2014, when police destroyed makeshift migrant encampments and arrested and beat individuals trying to reach Melilla.¹⁰⁸ Police impunity, which leaves victims without recourse, further perpetuates abuses against refugees.

Right to Life, Liberty and Personal Security

Civil Rights

The most significant continuing human rights issues are the lack of citizens' ability to change the constitutional provisions which have established the country's monarchical regime, corruption in all branches of government, and widespread disregard for the rule of law by sanctioned constabularies. State authorities often fail at maintaining effective control over designated security forces, with multiple documented cases of government appointed agencies having committed human rights abuses.¹⁰⁹ Moroccan citizens critical of the monarchy face restrictions on speech, with protests often met by excessive force from armed officers. Amnesty International reports human rights abuses against Moroccan citizens who speak out against the monarchy. Morocco's interior minister, Taieb Cherqaoui, who oversees the Royal Moroccan Gendarmerie (the Moroccan police under jurisdiction of the king), says five people were killed during demonstrations on 20 February 2011, in which protesters took to the streets demanding that King Mohammed VI give up some of his powers, dismiss the government, and clamp down on corruption. This protest, upwards of 3,000 people, marked Morocco's entry into the Arab Uprising.¹¹⁰ A variety of sources reported other civil rights abuses, such as police use of excessive force to quell peaceful protests, resulting in hundreds of injuries, as well as torture and other abuses by the security forces.¹¹¹

Right to Recognition as a Person before the Law

Sahrawi Refugees

The Sahrawi people suffer from decades of inhumane living conditions, human rights abuses and discrimination in their homeland, occupied by Morocco for 39 years. The involuntary displacement of Sahrawis to camps in Algeria has resulted in deaths, injuries, imprisonments and forced disappearances. Many are taken to the infamous Sale prison in Rabat to further suffer prison abuses by Moroccan authorities. In Western Sahara, authorities prohibited all public gatherings deemed hostile to Morocco's contested rule over that territory.¹¹²

**** See Western Sahara for additional information and recommendations***

Analysis

In spite of the monarchy's claims of operating under a democratic constitution, ultimate authority rests with its King, Mohammed VI, who has power over the Council of Ministers allowing him to cherry pick state officials as well as dissolve parliament via new elections. The PJD which formed in 1998 by King Hassan II, has effectively partnered with the monarchy, strengthening selective power within a minority elite. The disparity between the impoverished majority and the politicized coterie has induced citizens to seek reform and publicly challenge the monarchy. Morocco, being an Arab state has a tradition of allegiance to its ruler, the *bay'a*, which has stirred controversy between Islamist obligation and desires for a modern democracy. This conflict is often at the nucleus of human rights abuses, such as rights to equality, adequate living standard as well as rights to life, liberty and personal security. Yet the monarchy continues to increase its authority within the constitution, despite civil riots demanding representation of popular consent. Ultimately as monarchical and elitist power rise while poverty and lack of opportunity encumber the masses, human rights violations will remain an issue in Morocco. Desperation breeds defiance as a means to attaining justice when people's needs are callously left unmet.

Recommendations

- The monarchy, in alliance with Parliament, requires constitutional reform integrating representation of the people versus increasing executive power.
- Legislative change to include freedom of assembly and speech, without the use of excessive force by armed officials is needed.
- Real democratic institutions under the rule of law with a representative bicameral political structure (versus protection of minority interests), supported by the PJD party, offer the framework for this process.
- Women's role, defined under the *Moudawana* requires revision to promote gender equality. Support of the NPA as well as education amongst older generations and rural populations, through outreach (NGO's) and social media provide the means for this. Article 490 must be repealed.
- The underprivileged need a feasible means of contributing to society in order to move out of poverty. Economic opportunity is available through employment in mining (phosphates), construction, tourism and textiles.
- Employment, combined with viable state services for citizens, encourages a prosperous and stable economy while minimizing the potential for human rights abuses.
- Transparency of governance, political accountability, freedom of information and civil rights are necessary in order to increase the political voice and participation of the poor.
- France, being Morocco's primary trade partner, as well as creditor and foreign investor, can aid in the economic restructuring of business and government to offer job expansion. Morocco's desire for a stronger alliance with the EU should inspire cooperation.
- Standardized international policy with enforceable regulatory agencies based in both Morocco and Spain is needed for the Melila refugee issue. Neutral coast guard monitoring which incorporates NGO recommendations for the management of "*death boats*," offer a solution to the problem.
- Coalescing of parliamentary and judicial power, empowered under the 2011 constitutional court, should be reevaluated to protect civilians who speak out against human right abuses from state officials.
- Parliament must rebuke military jurisdiction over civil offenses to promote their claim of a modern authentic democracy. The proposed reformation of the lower House of Representatives, aligned with the PJD, will mandate this separation.

ALGERIA

Jake Morgen

Human Rights Concerns:

- Freedom of Assembly, Association, and Expression
- Freedom of Movement
- Right to Security

Background

Algeria faces many pressing issues. With a population of 39.2 million people and a landmass that covers almost 80% by the Sahara desert, it is a vast region of the world with many human rights concerns. Algeria was removed from a state of emergency in 2011 that had lasted for two decades. Since then the government has been in the process of rebuilding its legitimacy among the entire population. The most pressing human rights violations continue to be impunity within the government and the role of military officials regarding nearly seven thousand cases of disappearances and approximately one-hundred thousand deaths during the civil war throughout the 1990s, as well as the continued violence into the 2000s.¹¹³ Additionally, Algeria continues to deal with terrorist activity from Al-Qaeda in the Islamic Maghreb (AQIM) and Islamist extremists, which has threatened the country's national security and has been responsible for several violent accounts against foreigners and civilians. In the country's western provinces, Sahrawi refugees of up to 125,000 sit trapped and unable to fend for themselves.¹¹⁴ Scattered around the country, the Berbers of Algeria fight for their right to maintain culture and claim land they inhabited for centuries before the arrival of invaders in the 7th century. Specifically, the Kabyle population are located in coastal mountains of northern Algeria, and are the second largest Berber speaking group in Africa.¹¹⁵ In the last three years the most common violence has originated from a region south of Algiers where Mozabites and Arabs have violently acted out against one another. Lastly, the country of Algeria faces a series of political oppressions and judicial inconsistencies. Outdated amendments justify arrests and prosecution of civilians in the pursuit of freedom of expression, association, assembly, and labor rights, which limits civilians from articulating their concerns to build a more progressive nation.

A multitude of actors, such as the National Liberation Front (FLN), President Bouteflika's party, the military, and the Department of Intelligence and Security (DRS), have

played a large role in the human rights violations against civilians, as well as a lack of care for the greater population.

Since its independence in 1962, Algeria has been plagued with ongoing domestic violence as well as pervasive human rights violations. The current political party in charge, the FLN, began its fight to gain independence from France in 1954, which resulted in the death of more than one million Algerians.¹¹⁶ In the following years the country remained under FLN leadership despite various attempts to gain power by other parties. Algeria was one of the unique Middle Eastern countries close to obtaining a democracy in the early 1990's. The FLN supported this option as an opportunity to legitimize their current rule. The municipal rounds of the elections occurred in 1992 and, to the surprise of many, were won by the Islamic Salvation Front (FIS). The FLN quickly realized democratic elections would not legitimize their rule, but instead give opportunity for an alternative party to gain leadership. Nonetheless the FLN began postponing the national assembly elections in fear of losing to the FIS. The military did not want another party to gain power therefore solidified the future by staging a coup and removing the president at the time, Chadli Bendjedid.

From 1992 to 1999, Algeria was in a full-scale civil war. The military began leadership and the country lived under various military leaders until the election of Abdelaziz Bouteflika in 1999, when the military allowed for general elections to presume. Violence and human rights violations against civilians and officials occurred normally in the early 2000s.¹¹⁷ As President Bouteflika slowly regained control from the military, the country of Algeria remained under a state of emergency until 2011.

Since 2011, Algeria has remained relatively stable in comparison to the uprising in neighboring countries like Tunisia, Libya and Egypt. Human rights violations that occurred were sporadic despite the international community's anticipation of a situation similar to neighboring countries. Algeria's major concern is the lack of connection between the greater population and the central government. Minority groups such as refugees and Berbers remain unsure of their future in a country with little representation. Majority groups such as everyday citizens continue to raise concerns of limited housing and jobs due to a depleting economy reliable on hydrocarbons, as well as general security for the population because of increased terrorist activity. Additionally, Algeria's recent history of seven thousand civilian disappearances, and one-hundred thousand murders during the 1990s civil war, as well as inconsistent retributions,

has left the population living in a state of uncertainty.¹¹⁸ All groups face the similar oppression for voicing concerns over the government and their leadership, violating the basic human right of assembly, association, and expression.

Recently President Bouteflika has been unable to efficiently lead. In 2014 he experienced a stroke and has been dealing with serious health issues.¹¹⁹ While many wish to voice their concerns with his ability to lead, and support the population with adequate rights and opportunity, laws restricting what the government calls “public interest” remain intact.¹²⁰

International actors such as France have remained the main targets of terrorist organization such as AQIM. A tumultuous relationship of past colonialism has prevailed upon present day issues. As the Economist states:

There is nothing new, of course, about the assertion that the Algerian war is still being played out in the French banlieues. The savagery of both the French forces and the Algerian nationalists during the eight-year conflict that ended in 1962 left deep scars of hate, humiliation and hurt.¹²¹

International actors such as the United States have continued positive relations with Algeria from afar by supporting aid, and condemning the actions of extremist groups through counterterrorism initiatives. Humanitarian organizations, like the United Nations Human Rights Commission (UNHCR), have played a key role in supporting refugees and their survival, specifically by contributing 32 million dollars in 2014 to Tindouf Refugee camps.¹²² Other international organizations such as the EU play a major role, accounting for 53% of Algeria’s total exports in trade in 2013 (consisting solely of oil).¹²³ Additionally, the signing of the EU Neighborhood Policy in 2014 made the EU an even stronger ally with the possibility of them allocating up to 148 million Euros (167 Dollars) to the Algerian government for development between the years 2014-2017.¹²⁴ Extremist groups, such as AQIM who grew larger during the 1990s civil war, are active within Algeria. A recently formed terrorist organization, Jund Al-Khilafa, split from the AQIM organization as of 14 September 2013 and announced their loyalty to the Islamic State and its leader, Abu Bakr al-Baghdadi.¹²⁵

Freedom of Assembly, Association, and Expression

The Algerian government has faced criticism for not allowing citizens to practice many freedoms. Currently, freedom of assembly, association, and expression are components of statehood deemed crucial to the communication and efficiency of citizen-government relationships. The military and government have continued to restrict citizens from organizing in

unions, hosting peaceful protests, and publishing their thoughts in the media.¹²⁶ Algeria continues to face criticism for their inconsistent judicial practices against citizens, as well as for their lack of retribution and acknowledgement for the disappearance of nearly seven thousands of citizens during the civil war in the late 1990s.¹²⁷

Freedom of Assembly

In 2014, repression of assembling continued through police brutality and arresting of civilians involved in gatherings. Specifically, this last year supporters from the Barakat Movement gathered in protest to condemn President Bouteflika's re-election, and demand democratic and fair elections. The group was forcibly broken up and approximately 200 people were arrested.¹²⁸ People were held for various durations, and reasons, further demonstrating Algeria's inconsistent judicial practices. A man named Mohand Kadi who is a youth activist, and Moez Bennecir, who is a Tunisian citizen living in Algeria, were arrested under Articles 97 and 98 of the Penal Code and sentenced to six months in prison. Their terms of arrest claimed, "unlawful non-armed gathering harming public order."¹²⁹ The groups of individuals were peacefully voicing their concerns, and while the majority of people walked away with only a four hour prison sentence, some were punished with severe incarceration times up to six months.¹³⁰

This violates the International Covenant on Civil and Political Rights, Article 21 states:

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.¹³¹

Recently, freedom of assembly has been diminished by arresting human rights leaders in the area. On 18 June 2014, the First Instance Court in Laghouat, Algeria gave 26 individuals sentences ranging from six months to two years for "armed gathering" and violence against the police based on police testimonies."¹³² The main issue is that each individual was not given a trial, but instead the group as a whole was convicted. After surrendering to the trial, and demanding greater representation, the majority of individuals were acquitted.¹³³ This raises serious problems, as Algeria in 2013 agreed to the United Nation Human Rights mandate which lasts from 2014-2016:

Algeria has decided to present its candidature to the Human Rights Council for the period 2014-2016, demonstrating the willingness of its Government to continue to advance democratic progress and cooperation with regional and international human rights organizations. Algeria also

seeks to reaffirm its commitment to strengthening the Council's efforts to promote and protect human rights around the world.¹³⁴

This continues to be a violation of basic human rights, specifically on the International Covenant on Civil and Political Rights and the above mandate.

Freedom of Association

Freedom of association remains a serious issue for organizations throughout Algeria due to the government's restrictions and strict oversight. The 12-06 Law of 2012 has remained intact since its creation and requires organization to receive approval from the Ministry of Interior before beginning to function as an organization.¹³⁵ Approval by the ministry is extremely difficult because of various regulations and little oversight. Nonetheless, organizations or unions that operate before ministry approval are in jeopardy of jail time. This additionally restricts organizations from receiving international funding, the lifeline to helping these important movements survive. Gaining approval is limited according to HRW because:

These vague criteria give the authorities broad leeway to deny registration, without which organizations cannot lawfully hold public meetings or accept funds from abroad. Authorities also curtailed activities of some organizations that had obtained registration prior to the 2012 law by administrative means, such as by withholding official receipts for which they had applied and declining to make public venues available for them to hold annual general meetings that they are required by law to hold.¹³⁶

This violation gives the government an absorbent amount of power over independent organizations that should rightfully be able to function in Algeria. For example, the Union of Higher Education Teachers applied for registration in 2012, but it still has not received approval status, or even been recognized as an applicant by the ministry. This shows its legal non-existence, and therefore the group is unable to effectively mobilize in Algeria.¹³⁷

Freedom of Expression

Freedom of speech as well as published media discussing the government continues to be a right that people fear to express. In 2014, the country saw various examples of punishment for people who spoke out against the Algerian government. Specifically, on 1 September 2014 the Court of Appeal in Ghardaia, Algeria gave a two-year sentence in prison as well as a large fine to Youssef Ouled Dada for speaking against the institutions of Algeria and posting material that threatens public interest under Articles 146 and 96.¹³⁸ The material that Dada posted online was a

video on Facebook showing police officers robbing a store in El Guerrara, Algeria during violence that broke out in November 2013.

Nicola Duckworth, a Senior Research Developer at Amnesty International said in April 2014 regarding the silencing of voices during elections:

There appears to be a concerted effort by the Algerian authorities to seize control of the narrative in the run-up to the elections by tightening their stranglehold on freedom of expression. A lack of open debate and restrictions on the right to criticize or protest to express social grievances or political demands cast doubt over the upcoming elections.¹³⁹

His research supports the issue of continuing human rights violations against citizens. The government uses strict monitoring to ensure the elections go as planned, albeit at the cost of restricting the freedom of expression for citizens. Additionally, the country continues to limit outside news flow by withholding foreign visas from foreign journalists. For example, many Amnesty International reporters have been restricted visas to enter, as well as certain news stations like Al Jazeera.¹⁴⁰

Refugee Rights in the Tindouf Refugee Camps

Located on the western border of Algeria, the Tindouf Refugee camp spans an area known for harsh conditions and holds a population anywhere between 90,000-125,000 refugees.¹⁴¹ The camp is run by the Polisario Front, which is a group searching for independence from Western Sahara, a region that Morocco has controlled since 1975. Tense relationships between Algeria and Morocco over territories are a result of Algeria's dismissal to integrate refugees, or grant proper integration opportunities, as according to international amnesty laws.¹⁴²

Freedom of Movement

The Sahrawi refugees of the camp are held in a state of limbo, as they are not allowed to join the Algerian society, and are restricted from accessing adequate food and health facilities. Moreover, they are not able to find employment, leaving them to live highly impoverished lifestyles in the confines of a large population. The United Nations Declaration on Human Rights states, "Everyone has the right to freedom of movement and residence within the borders of each state."¹⁴³ The inability to integrate into Algerian society is an infringement of freedom of movement, because nobody is allowed to leave the Tindouf camps without all the proper

paperwork, which few have. Additionally, hopes for Western Sahara, occupied by Morocco, to recognize the Sahrawi people are dismal. The HRW suggest Algeria take:

Its legal responsibility for ensuring respect for the rights of everyone on its territory, including residents of the Polisario-run refugee camps.”¹⁴⁴

In 2014 when people came to visit family in the refugee camps they were often unable to return to their country of citizenship, exemplifying the issue with freedom of movement. Specifically, Mahdjouba Mohamed Hamdidaf, a woman who had immigrated to Spain and lived there for several years returned to Algeria to visit her family in the Tindouf Camps. After spending nearly two weeks, she was confined by her family and not allowed to depart. Polisario officials knew of this case, and failed to protect her freedom of movement until pressure from the international community and Spain brought her home.¹⁴⁵

Positively, the camps also saw a large number of peaceful protests in 2014, most of which were allowed to occur without problems. They consisted mainly of people demanding rights and increased opportunity to be self-sustainable. In 2014 Algeria continued to allow the flow of health and food supplies into the camps from international organizations, although corruption from the aid delivered remained in question.¹⁴⁶ The Tindouf camps have received aid from prominent international organizations since as early as 1975. Groups like the European Union (EU) and Red Cross have questioned their lack of oversight when donating resources and funds to Algeria, but it has not stopped them. The EU donates 10 million Euros annually, and it is said that a series of actors including the DRS and high ranked Polisario officials play a large role in redirecting some of the goods delivered to benefit themselves, according to the European Union’s Anti-Fraud Office (OLAF).¹⁴⁷ Often time the food delivered is of high quality, and then replaced with a lower quality so a profit can be made off of selling it. This is a violation against the rights of refugees when the total aid they are given is withheld. This remains possible with Algeria’s restriction of UN humanitarian organizations in the country, such as the UN Mission on the Referendum for Western Sahara (MINURSO), which suffers from a lack of oversight for the large population of refugees.¹⁴⁸

Right to Security

Arab Berber Conflict

Berbers have inhabited the region of Algeria for thousands of years, deriving from the pre-Arab communities west of the Nile. Prior to the spread of Islam in the mid-seventh century, the majority of Berbers were nominally Christian under the persecution of neighboring empires. While many migrated into cities to assimilate, other ethnic groups of the Berber population remained outside of the urban areas and further divided. Therefore, the Kabyle people still live in the mountainous region of Algeria, the nomadic Tuaregs live in the Sahara desert, and the Mozabites live primarily near the city of Ghardaia.¹⁴⁹

When Algeria won the War of Independence, the Berber population was stripped of their rights. Initially, it was illegal to recognize the Berber language in media, schools, government offices, and even for names of children.¹⁵⁰ Many Berbers were killed, and many were forced to seek refuge in other countries. In the early 2000s some rights and recognition were restored among the Berber populations, such as laws allowing their language to be spoken however there are still social prejudices around their existence in Algeria. According to specialists:

Islamists, who have grown in power, are hostile to the Berber movement's tendency towards secularism or moderate versions of Islam. In Algeria, Arabs have clashed with Mozabites, Berbers who follow the tiny Ibadi sect of Islam, in the province of Ghardaia on the northern fringe of the Sahara.¹⁵¹

Violence between the two groups has continued as competition for jobs has increased along with a competing housing market. In March of 2014 at least three people were killed, 200 were injured, and many community buildings were destroyed.¹⁵² Violence in October similarly left two dead and destruction rampant throughout the city of Ghardaia.¹⁵³ Most recently, fighting in Ghardaia in mid-January left ten people injured.¹⁵⁴ The continuous ethnic tension has left many wondering when they can return to everyday life without the fear of violence.

Terrorism

AQIM, or Al-Qaeda in the Islamic Maghreb, is an Islamist militant organization that was established during the fighting of the civil war in the 1990s which has had a growing presence throughout Algeria. Until the mid-2000s, AQIM operated under different aliases and made the choice to align with the greater organization of Al-Qaeda in 2006 as a way to increase their recruitment and power.¹⁵⁵ Their purpose as cited by the Council on Foreign Relations is:

AQIM's objectives include ridding North Africa of Western influence; overthrowing governments deemed apostate, including those of Algeria, Libya, Mali, Mauritania, Morocco, and Tunisia; and

installing fundamentalist regimes based on sharia. Analysts say AQIM's ideology blends global Salafi-jihadist dogma with regionally resonant elements, including references to the early Islamic conquest of the Maghreb and the Iberian Peninsula.¹⁵⁶

The presence of this organization in the region over the years has led to continuous violence, and a state of fear among most civilians. Clashes between the government and this organization have led to the death, kidnapping, and dismantling of many civilian communities throughout Algeria. Most recently, the Amenas hostage crisis in January of 2013 where more than 800 people were held hostage for nearly four days.¹⁵⁷ The result was the death of 39 foreigners, including three Americans, as well as 30 Algerian forces.¹⁵⁸ The presence of the radical group AQIM continues to be a threat against economic initiatives that affect not only innocent Algerians, but international workers as well.

In 2014, Algeria saw the split of some of AQIM's followers and the emergence of Jund Al-Khilafa, a terrorist organization loyal to the Islamic State of Iraq and the Levant (ISIL). Emerging into the same mountainous region of the Kabyle people, the Al-Khilafa has caused various cases of violent assaults. The most serious case of terrorism took place on 19 April 2014. According to Al Jazeera:

Insurgents ambushed an Algerian military convoy in the mountainous Kabylie region, killing 14 soldiers, the state news agency reported Sunday. The attack came two days after Algeria's presidential election.¹⁵⁹

The soldiers killed in the attack were returning to their base after guarding poll stations. This displays the continuing violence that risks the livelihood of everyday citizens to be safe, a basic human right, but also shows the growing discontent of parts of the population with the system.

A paramount concern of 2014 has been the random kidnappings by the Jund Al-Khilafa group. In mid-September of 2014, the group kidnapped a French hiker after ISIL called on all followers to take revenge on Westerners involved in the air strikes against Iraq. His plea to the French government to end the airstrikes was forced by members in the group and several days later his recorded beheading became public. According to BBC News,

He is allowed briefly to express his love for his family before one of the militants reads out a speech in which he denounces the actions of the 'French criminal crusaders' against Muslims in Algeria, Mali and Iraq.¹⁶⁰

The continued violence against innocent civilians, as well as state organization, perpetuates the human rights concern of security for all individuals. Algeria faces an unsure

future concerning security as tensions increase between the government and terrorist organizations, and their committed allies in the Levant.

Analysis

Algeria's role in the Maghreb region of North Africa is interesting primarily due to its resistance to a revolution despite occurrences in neighboring countries. With a similar history of colonization and independence, many would expect the people to demand the same changes. A history of violent civil wars both during their fight for independence in the 1950s, and recently throughout the 1990s, is the reason uprising did not ensue despite the many calls for change by the citizens of Algeria. The death of approximately 100,000 people, as well as nearly ten years of violence until the mid-2000s, is enough to remind the citizens that things could be worse, instituting a state of fear among civilians for government and military capabilities.¹⁶¹ While Bouteflika made a small attempt to repay families affected by the violence, his protection of military generals from persecution for their actions through a 2006 Amendment to the Penal Code shows the remaining integration of the military in government rule. It is claimed that the country serves as a duopoly, with both the Bouteflika party operating in accordance with the military and the DRS, depending on the year.¹⁶² The DRS has remained a skeptical actor to most Algerians due to its large role in the civil war with insurgent groups, as well as unlawful actions persecuting individuals without trial, further distancing connection to central authority.¹⁶³

It was the military that took control of the government during the civil war, and additionally who allowed elections to occur with Bouteflika running as a forefront candidate for the National Liberation Front. The military's level of authority has varied with Bouteflika attempting to remove power from the military and redistribute it to his senior intelligence and security service, the DRS, however with recent elections being the focus the military has remained a powerhouse in maintaining civil obedience by instituting the same oppressive laws.

A major indicator of disconnection between the government and population is the continuing drop in voting participation. A specialist on the region, Dario Christiani says:

The turnout was 51.7 percent, down from the 75 percent turnout in 2009 (*El Watan* [Algiers], April 18). In Algiers, turnout was at 37 percent, while in some areas historically resistant to central control – for instance Tizi Ouzou in Kabylia – four out of five citizens did not vote. This is significant, as it shows the increasing apathy of many Algerians toward the system.¹⁶⁴

This raises concerns, as the country lives with little opportunity to voice their concerns, and additionally, have lost interest in the power of their voting rights. Bordering countries have served as examples for how authoritarian governments can benefit the ruling class while fueling the middle and lower classes to demand more rights. Algeria restricts these actions, which in the eyes of the military and FLN, is helping to maintain control and order. This highlights the politically fueled human rights concerns, where Penal Codes and Amendments from the state of emergency still remain active despite its end in 2011.

Much of the unrest in Algeria comes from the president's inability to serve the greater population. Rising unemployment, food security, and a growing housing crisis has left everyday citizens worried. Economics play a major role in the violence and anger that has ensued. While Algeria improved its unemployment rate in 2013 to 9.3% from nearly 30% in 2000, it began increasing again in 2014 to 10.6%.¹⁶⁵ Citizens complain of the clientele relationships between the ruling class of Algeria, leaving highly capable and willing people unable to secure employment. In part this is because of Algeria's heavy reliance on hydrocarbons and oil. In 2011, hydrocarbons were 97% of Algeria's total GDP.¹⁶⁶ While goals to lower this reliance occurred in 2012 and 2013, reliance on oil continued in 2014, aiding the growing issue of unemployment. African Economic Outlook specialists say:

Despite the efforts made, Algeria's integration into world trade has been a slow process, and negotiations for accession to the World Trade Organization are still ongoing. However, the expected recovery in oil and gas output in 2014 thanks to the exploitation of new deposits and the new long-term prospects for unconventional oil and gas (Algeria is estimated to have the world's third largest reserves) suggest oil and gas income will continue.¹⁶⁷

Now in 2014, the majority of these jobs land into the hands of Bouteflika's closest associates, friends, and family. Tensions persist as the working class has a lack of opportunity, as well as resources to survive. The population of Algeria is growing restless. For this reason the formation of unions is a right, as well as protests to voice these concerns that affect a large portion. However, restrictions made by the government forbids this, and have resulted in violence and unfair arrest. With the hostage situation of 2013 in the Amenas Oil Factory still fresh in investors' minds, it is unreasonable to continue relying on foreign business.¹⁶⁸

Socially, little representation for minority groups is a direct contributor to anger and violence. Sahrawi Refugees lack of integration for nearly 40 years is a result of weak asylum laws and the restriction of UN Refugee Monitoring by Algerian officials, specifically the United Nations Mission for the Referendum in Western Sahara (MINURSO).¹⁶⁹ The Berber populations in Ghardaia (Mozabites) and the Kabylie region (Kabyles) have explicitly shown their discontent in the central government due to little representation in government agendas despite their large population with Algeria. In 2014, the formation of Islamic and secular groups under of Coordination of Liberties and Democratic Transition showcases the growing demand of minorities to be heard as they band together for greater representation.¹⁷⁰ Hopefully, this serves as an indicator to the Algerian government of the need to incorporate all populations within the state to deter violence and human rights violations.

Recommendations

Algerian Government

- Revise the Algerian Penal Code to reflect the International Covenant on Civil and Political Rights, as well as the complete end of the state of emergency.
 - Remove Article 96, which allows for three year sentences and large fines for people distributing leaflets harmful to public interest.
 - Remove Articles 97 and 98 which allows for the imprisonment of up to one year on the basis of “unlawful unarmed gathering harming public order.”
- Revise the Constitution to reflect the ICCPR.
 - Remove Amendment 89-28 allowing the arrest of civilians involved in public meetings and demonstrations.
- Conduct a meeting between Algeria’s Ministry of Interior and The Coordination of Liberties and Democratic Transition (CLDT) to create a better plan of representation for minority groups living in Algeria.
 - Monitored by a third party commission who gives aid to Algeria, such as the EU.
- Allow United Nations to conduct human rights monitoring throughout the country.
 - MINURSO Mandate for Sahrawi Refugees admittance from the Ministry of Interior.
 - UN Organizations for forced disappearances, freedom of expression, association, assembly, and labor rights.

International Actors

United States and France

- Expand counter-terrorism initiative to Algeria to hinder Islamic State and AQIM supporters.
- Extend support for MINURSO mandate to Sahrawi refugees.
- Encourage Algeria’s diversification of economy through lowering trade barriers and increasing imports for markets besides oil.
- Pressure Algerian government to remove amendments and practices not in accordance with ICCPR and leverage with foreign aid and investment.

European Union

- Pressure Algerian government to remove amendments and practices not in accordance with ICCPR and leverage with the aid money in European Neighborhood Policy Action Plan (ENP).
- Encourage Algeria’s diversification of economy through incentives within the European Neighborhood Policy Action Plan and by emphasizing imports from markets besides oil.
- Increase monitoring of aid distribution to ensure proper use among refugees.

TUNISIA

Blanka Bots

Human Rights Concerns:

- Freedom from Degrading Treatment, Torture and Arbitrary Arrest
- Freedom of Expression
- Freedom of Religion
- Freedom for Women from Discrimination
- Right to Fair Public Hearing

Background

The Tunisian Uprisings of December 2011 have brought drastic changes to the country by ousting its autocratic regime, establishing democracy and laying a foundation for a new constitution. After independence from France in 1956, Tunisia was led by only two autocratic presidents, Habib Bourguiba and Zine el Abidine Ben Ali. Currently, Tunisia is breaking away from a five decades old authoritarian past and undergoing democratization. The new constitution was built on democratic principles. It declared Islam as the state religion and separated the branches of government.

Until the late 1970s, the North African country was relatively out of focus of the international sphere due to its stable economic growth and homogenous population that is 98% Sunni Arab and 2% European and Jewish.¹⁷¹ Through institutional development, nationalization and private sector investment, President Boruguiba maintained GDP growth rates of 4.7% in the 1960s and 7.5% in the 1970s.¹⁷² The economy began to decline when the state applied neoliberal policies in response to the 1973 Oil Crisis.

High oil prices caused widespread economic decay in the developed world. This had a direct effect on the Tunisian economy as it heavily relied on exports to Europe and on foreign direct investment. To alleviate economic hardship, the government asked for debt relief for its previously acquired loans from the International Monetary Fund (IMF) and the World Bank. In return for debt relief, the IMF and the World Bank demanded budget cuts, trade liberalization, privatization and deregulation of the market, which did not bring economic reform in Tunisia.¹⁷³ Privatization led to endemic corruption, placing all sectors of the economy into President Zine al-Abidine Ben Ali's and his loyalists' hands. By the 2011 revolution, national unemployment reached 19%, while youth unemployment was close to 40%.¹⁷⁴ In response to the lack of

economic opportunities, high unemployment, and the increasing gap between the poor and the rich, a nationwide discontent began to arise against Ben Ali's corrupt regime

Tunisia became the spark of the Arab Uprisings in 2010, when a young Tunisian vendor, Mohamed Bouazizi, set himself on fire because government officials confiscated his merchandise.¹⁷⁵ Demonstrations spread quickly, fighting against high unemployment, lack of economic opportunities, high level corruption, and the daily practice of repression that took place since Ben Ali rose to power in 1987. The army backed down, refusing upper level orders, and helped the civil uprising to oust the government. In October 2011, Tunisia held its first democratic elections to establish the National Constituent Assembly, which implemented the new Constitution on January 2014, as well as a new Transitional Justice law.¹⁷⁶ Following the approval of the constitution, President Beji Caïd Essebsi won the first free presidential election in December 2014, with 55.6% of the vote.¹⁷⁷ Essebsi held various high ranking posts under the previous regimes. After his inauguration, Essebsi "promised to foster inclusive politics," responding to fears that he would revive autocratic rule.¹⁷⁸

The recent progression earned Tunisia a great amount of international support from the United States and the European Union (EU). To promote the transition process and economic development, the European Commission of the EU signed a loan agreement with Tunisia of €300 million in 2014,¹⁷⁹ and the United States agreed on a loan guarantee of \$500 million.¹⁸⁰ Furthermore, President Obama requested a \$30 million in economic assistance that will go to the Tunisian-American Enterprise fund to support small and medium size businesses.¹⁸¹ Difficult economic conditions played a crucial role in the outbreak of the revolution, therefore international assistance is essential to build strong economic foundations and prevent a downturn in the democratic transition process.

Since 2011, non-governmental organizations (NGOs) have gained permission to enter the country. Compared to 2014, there has been a significant improvement in providing key human rights, but there are still some outstanding violations. The new constitution guarantees the most important civil, political, social, economic and cultural rights. However, a number of legislations and laws need modification.¹⁸² Manipulative laws were included in the new legal system from the previous regime, disproving the democratic nature of the jurisdiction. As a result, deficiencies give ground to ground to human rights violations such as restriction on speech and religion, imprisonment of journalists and NGO workers for defamation, unlawful

detention, torture and ill-treatment of prisoners, arbitrary arrests and political barriers for women to become an integral part of society.¹⁸³ Furthermore, the government fails to conduct fair and effective trials of those who committed unlawful killings during the 2011 revolt. Human Rights Watch (HRW) and Amnesty International agree that human rights abuses are an integral problem because of the controversial legal system, which halts the process of establishing a true democracy.

Freedom from Torture, Degrading Treatment and Arbitrary Arrest

The Tunisian Penal Code states that any public official is guilty of acts that cause severe pain and suffering both physically and mentally for the purpose of gathering information or punishment is illegal; however, it is not in conformity with the United Nations Convention, which also criminalizes commanders for acts of torture committed by their subordinates.¹⁸⁴ The Tunisian Constitution guarantees detainees to be entitled a legal counselor, prohibits torture, requires to be informed of rights upon arrest and ensures the presumption of innocence.¹⁸⁵ Nonetheless, the Tunisian Code of Criminal Procedure (CCP) does not have strict regulations on carrying out acts of torture, arbitrary arrest, as well as inhumane detention conditions and it allows legal consultation only at the time of the court hearing.¹⁸⁶

HRW personnel visited four detention centers controlled by the Ministry of the Interior to investigate the condition of imprisonment. The report concluded overcrowded cells, lack of heating during wintertime, no access to showers, not enough or no food at all, poor sanitary conditions, no access to medical facilities and most prisons did not have an outdoor courtyard for prisoners.¹⁸⁷ Moreover, a number of detainees do not have access to legal counseling and most of the time they do not know the reason for their arrest. The Ministry of the Interior violates international law by holding a person in custody for up to 6 days (instead of 48 hours), and by issuing detainees to an investigative judge without giving the chance to consult with a legal representative during custody. Since such procedure is consistent with the Tunisian CCP, authorities do not prohibit such detention procedures. According to international human right law, detention facilities are required to separate adults and minors, but the HRW found that minors were placed in the same detention center as adults because of the lack of space.¹⁸⁸

Tunisia is the first country in the Middle East and North Africa to ratify the United Nations Optional Protocol to the Convention against Torture and to adopt a law in 2013, “to

create a National Authority for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.”¹⁸⁹ The National Authority gives chance to repeal various physical or mental abuses and provides an opportunity for detainees to report abuses. Positive steps have decreased the number of tortured in comparison to previous years. Out of the four investigated detention facilities, only Nabeul Jail detainees reported physical mistreatment. One detainee said:

On Friday, the night shift guards came, they heard one of the inmates curse, they became aggressive, and they forced us outside the cell. They made us kneel down on the corridor, and they started to beat us. One of the guards was using a wooden stick, he beat us with it, he beat me on my back - the piece broke from the beating. All this lasted for 15 to 20 minutes. Then they ordered us to go back to the cell.¹⁹⁰

After Human Right Watch reported this incident to the Ministry of Justice, the ministry investigated the case and decided to change the detention facility staff. Pre-charged detention conditions have improved since the Red Cross and the Ministry of Interior set up a project in 2012, to improve the treatment of detainees. However, HRW still found loopholes that require serious revision.¹⁹¹

Freedom of Expression

Although the new constitution assures the freedom of expression in both verbal and written form, there has been continual restriction on speech and articles critical of the government that have resulted in a number of arrests and prosecutions of journalists. The judicial system still applies the Penal Code to criminalize speech (originating from the Ben Ali era), rather than 2011 decree-law 115 and 116.¹⁹² Decree-law 115 was designed to avoid the imprisonment of journalist for criminal defamation or other speech offenses, while 116 gives sole regulatory authority over the media to the High Independent Authority for Audiovisual Communications.¹⁹³ One criminalized under the Penal Code can spend up to five years in prison, severely restricting the freedom of expression, press and online publication that are protected in the constitution. According to The Penal Code article 245, speech offensive to the government, speech that disturbs public order or morale and articles offensive to current politics are treated as a crime.¹⁹⁴

Journalists, intellectuals and bloggers can easily find themselves trapped into the contradictory system of regulations, criminalized for acts that are in fact lawful based on decree law 115 and 116. On 19 December 2014, film director Ines Ben Othman went to a police station

to complain about months of harassment on Facebook by the deputy head of the station, and she found herself arrested and sentenced to two months in prison for “verbally insulting a public official while carrying out their duties under Article 125 of the Tunisian Penal Code”.¹⁹⁵

Othman’s lawyer claims that the allegations were disproportionate restriction on freedom of expression, and her case should have been treated under civil litigation. One week later, the Ariana Court of Appeal suspended her sentence and she was released the same day.¹⁹⁶ A relevant case occurred when the government violated decree-law 116 when it shut down two radio stations for broadcasting political criticism.¹⁹⁷ Government restriction on the freedom of expression is still a problem in Tunisia, but there were fewer prosecutions in 2014 based on defamation compared to previous years.

Freedom of Religion

In the *World Policy Blog* a Tunisian specialist of HRW highlights an important restriction on religious freedom in the Tunisian Constitution. Although Tunisia is signatory member of The Universal Declaration of Human Rights, Article 6 of the Tunisian Constitution contradicts the United Nations Human Rights Council Resolution 16/18, which eliminates “any idea that accusations of defamation of religion could be used to limit freedom of expression.”¹⁹⁸ Article 6 is as follows:

The State is the guardian of religion. It guarantees liberty of conscience and of belief, the free exercise of religious worship and the neutrality of the mosques and of the places of worship from all partisan instrumentalization.

The State commits itself to the dissemination of the values of moderation and tolerance and to the protection of the sacred and the prohibition of any offense thereto. It commits itself, equally, to the prohibition of, and the fight against, appeals to Takfir [charges of apostasy] and incitement to violence and hatred;¹⁹⁹

Article 6 claims to support religious freedom, yet the Tunisian State remains the guardian of religion. Such contradictory ideas undermine the legitimacy of the recently ratified constitution and it creates an obstacle for future court proceeding related to religious freedom. Religion should be a fundamental freedom, which “It implies the right to change religion or conviction, as well as the freedom to express one’s religion or convictions individually or collectively, in public or in private;” however, the constitution does not integrate this basic freedom and undermines the right of religious choice by the Tunisian state declaring itself as the guardian of religion.²⁰⁰

Freedom for Women from Discrimination

Tunisia is considered to be one of the most advanced Arab countries in ensuring human rights for women. In 1985 Tunisia ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) with specific provisions that allowed the Tunisian government to bypass UN regulations on women's right within the family. In 2014, Tunisia gave up this right and agreed to comply with UN regulations in case it does not conflict with Article 1 of the constitution, which declared Islam as the state religion.²⁰¹ Furthermore, Article 46 of the constitution guarantees the protection of women's rights, equal opportunities between women and men, and assures protection from all sorts of violations against women.²⁰²

There has been a significant improvement in the implementation of advanced laws, but Tunisian women do not experience a big improvement in their daily lives. An *Al Jazeera* article claims that "setting right gender injustices through legislation alone is not enough" because almost 23% of Tunisian women do not finish high school and they are not aware of their rights.²⁰³ Documentation of hundreds of Tunisian women's life shows that their daily lives are not as easy as it is portrayed by the government. They face great burdens such as sexual harassment, discrimination in the workforce and the political sphere, and they have limited access to education compared to man.²⁰⁴

Tunisia has long had its own Code of Personal Status that contradicts with UN provisions. The Personal Status Code has been in effect since 1957 and it applies to Muslim women only. However, it is important to note that it is not equivalent with Islamic law.²⁰⁵ Some parts do reflect traditional Islamic law, but others, like the abolishment of polygamy, indicate a radical diversion. Although the constitution guarantees equality between men and women, the Personal Status Code differs in conditions related to inheritance and child custody because it follows Islamic rules.²⁰⁶ Book IX Part 3 *Inheritance by Prescribed Shares* specifies inheritance for women and men within a family (usually men inherit twice as a women), and parents do not enjoy the same custody if they remarry.²⁰⁷

An article in *The International Journal of Transitional Justice* unfolds a collection of 80 testimonies comprised of reports from conservative Islamist women secretly detained and repressed during the Ben Ali regime.²⁰⁸ They were frequently jailed without trial, tortured and arrested multiple times for being an Ennahda activist or related to someone who was in some kind of contact with the Ennahda party. The women interviewed often described physical torture

as being tied up in the “grilled chicken” or “airplane position,” while others “recounted having a stick tied in between their legs while they were straddling a stool.”²⁰⁹ Since sexual modesty is part of Islam, these women have never reported being sexually assaulted. Statistics collected by the Ministry of Human Rights and Transitional Justice, established after the 2011 revolution, the number of women political prisoners can be anywhere between 300 and 1500.²¹⁰ The numbers are not accurate estimates because female imprisonment was seldom documented. To carry on their experiences without help has enduring consequences for Tunisian families and the society as well, and it minimizes the possibility for them to have confidence in the government.²¹¹

Right to Fair Public Hearing

During the December 2010 uprisings, Tunisian security forces used excessive force, killing 132 protesters and wounding hundreds more all over the country.²¹² While this data indicates cases between 17 December 2010 and 14 January 2011, statistics show that by January 2012 the security forces killed more than 300 protesters and wounded more than 2000 people.²¹³ The transitional government established a fact-finding committee to investigate human rights violations committed by security forces under the command of Ben Ali. For the reason that military and security forces were involved in these crimes, the trials were administered by the military court which brought 53 former government officials, including Ben Ali, to trial.²¹⁴ In 2012, the military court convicted President Ben Ali, his interior minister at the time Rafiq Haj Kacem, and five directors of the Interior Ministry and imposed prison sentences ranging from 15 years to life.²¹⁵ Although the military courts upheld Ben Ali’s imprisonment for life, former government officials got reduced sentences, which led to a HRW investigation of the accountability of the Tunisian jurisdiction. The 2015 Report *Flawed Accountability* concluded that the court proceedings failed to provide full accountability for unlawful killings.

Lack of proper investigation of the actual crime scene undermined the effectiveness of the court proceedings. Most of the investigation took place only after victims or their families brought charges to the civil court. Case transmissions to the military court resulted in procedural delays. By the time the investigative body of the military court began its own work of gathering useful evidence at the crime scenes, most of the evidence was lost. Family members also reported that the tribunal failed to collect important evidence that was easy to access, such as the

register of arms and ammunition from the Ministry of Interior and it failed to interrogate key witnesses.²¹⁶

The Military Court applied the Penal Code and law No. 67-29 of July 1967 in decision-making. According to article 32 of the Penal Code, one can only impose long imprisonment on high-level commanders if the court can present physical evidence of commanding to use excess force. This can only be accomplished by presenting a written command to the armed forces. However, the commands usually took verbal form. In the absence of physical evidence, the 53 government officials can only be held guilty of “unlawful abstention”, meaning they were negligent to prevent the killings.²¹⁷ The Penal Code was formatted during the Ben Ali era to prevent the impeachment of high-ranking commands. International criminal law emphasizes that a high-level commander is liable for any unlawful acts committed by their subordinates. Through Tunisia’s ratification of international law, its judicial system is responsible to conduct trials according to international standards. Tunisian Law No. 67-39, which “determines the rules for the appointment, advancement, dismissal, and discipline of judges” have not been amended since 2005, giving authority to the minister of justice to arbitrarily dismiss judges in ways that are not in accordance with international law and the Tunisian constitution either, which ensures the independence of the judiciary.²¹⁸

Additionally, killings occurred from the unnecessary use of gunfire that was fired without warning. Security forces failed to abide by international law of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Code of Conduct for Law Enforcement Officials, and Tunisian domestic law regulating the use of force and firearms.²¹⁹ All three regulations specify that in case protesters refuse orders and refuse to disperse, only the following methods can be used: water cannons or police clubs, tear gas, firing shots into the air, firing shots above the heads of protesters, firing towards the legs of protesters.²²⁰

In 2014, the National Constituent Assembly enacted a law that qualifies all killings during the uprisings as “gross violations of human rights” under the transitional justice system, administered by the Truth and Dignity Commission.²²¹ International law prohibits the prosecution of a person twice for the same offense. If new evidence was found or if the legal proceedings were found to be demonstrating bias, the Truth and Dignity Commission is allowed reopen cases to serve justice for the killings under proper judicial environment. While the military court respected the rights of defendants during these trials, they came across

shortcomings in the legal system that prevents them to realize full accountability of the killings during the 2011 protests.²²²

Analysis

Tunisia has taken important steps towards democracy since the 2011 Arab Revolution. The current government operates under a democratic constitution, implemented in 2014, that separates the branches of governments and guarantees fundamental human rights. Tunisia also held its first free democratic election in December 2014, where the head of the modernist Nidaa Tounes party, Beji Caid Essebsi, was elected as president. In order to continue the positive path of democratic transition, the government needs to take immediate care of current human rights violations in Tunisia that stem from its controversial legal system.

Although Ben Ali was ousted four years ago, manipulative laws from his regime remained an integral part of the Tunisian legal system. Although Tunisia experiences way less human rights abuses compared to previous years, some areas such as women rights, religious freedom, freedom of expression, as well as detention center conditions and court proceeding remain on the Human Rights Watch Agenda for further improvement. Empty spaces within the Tunisian legal framework need to be filled in to tackle these problems. Since it takes time for any kind of transition to take a final form, it is too early to make any judgments about Tunisia. Both the international sphere and the Tunisian government need to be patient to overcome problems that still lie ahead. The current trend indicates that Tunisia is undergoing a big change and it could be the first country of the 2011 Arab Uprisings to peacefully establish a stable and true democracy.

Recommendations

To the Tunisian Government

- Reform the Penal Code to comply with international criminal law by criminalizing all acts of high-level commanders given to their subordinates. In accordance with international law, the Code of Criminal Procedures (CCP) needs to be reformed by changing the maximum amount of time a person can be held in custody from six days to forty-eight hours. The CCP should also spell out the right to have a legal representative when a person is deprived of liberty and in case one doesn't have a lawyer, ensure to assign one.
- Provide detainees all the necessary material conditions to maintain good physical health and hygiene while during the time of imprisonment.
- All parts of the Penal Code and the Press Code should be repealed that criminalizes non-violent manifestations such as defamation of current politics and disturbing public order or morale. These provisions should be brought in line with Article 31 of Tunisian Constitution and international law to guarantee absolute freedom of opinion, expression, media and publication. To make decision in cases related to freedom of expression, 2011 decree-laws 115 and 116 should be used instead of the Penal Code.
- Change the wording of Article 6 in the constitution to dissolve ambiguous sentences that impose limitation on the freedom of religious choice.
- Abolish the Tunisian Personal Status Code to bring women's rights in line with the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Tunisian government should abolish its declaration that bounds Article 1 of the constitution that limits its compliance with the CEDAW.
- The government should educate women in schools and through campaigns to heighten awareness of their rights. Increasing women's capability of claiming their rights will bring the country closer to promote full emancipation for women.
- Declare an official apology, provide financial compensation and medical assistance for all those women who were sexually assaulted, tortured and suffered systematic human right violations by the two repressive regimes and during the 2011 uprisings to restore faith within society.
- Abolish law No. 67-29 of July 1967 in order to take the power of control over judges from the hands of the Minister of Justice. Form an independent and separate body to manage the dismissal and discipline of judges in an impartial and transparent way to give complete independence of the judiciary from the executive branch.
- Continue with the positive effort of strengthening human rights protections by modifying existing laws and regulations. If necessary, new ones should be adopted that are consistent with democratic governance. Similar practices of the past four years have substantially reduced the number and the extent of human rights violations in Tunisia.

To International Actors

- The United States and the European Union should continue to promote financial assistance to help economic growth that will lead to more jobs and strengthen the private sector. Stable economic foundations will facilitate the democratic transition process.
- The International Committee of the Red Cross should continue the joint effort with the Ministry of Justice to improve detention facility conditions. The collaboration led to improvement in Tunisian prisons and detention facilities.

LIBYA

Lauren Capobianco

Human Rights Concerns:

- Freedom from Degrading Treatment, Torture and Arbitrary Arrests
- Freedom of Belief and Religion
- Freedom of Movement In and Out of the Country
- Freedom of Speech
- Right to Life, Liberty and Personal Security

Background

Libya gained independence through uniting regional provinces in 1949 that were under Italian and British control. In 1959, oil was discovered in Libya and quickly began exporting oil within the next 2 years. Seemingly, overnight, Libya transformed from being one of the poorest nations in the World to one of the richest, when measured based on average GDP per capita. But equality was not growing as well and popular resentment grew as oil exports grew.²²³ After 18 years of King Idris's reign, a group of military officers led by Colonel Muammar Gaddafi were successful in a coup d'état, beginning the Libyan revolution. Under the banner of ending oppression, Gaddafi led Libya through a series of reforms in which politics were separated from the representation of the people. Ultimately, state sponsored violence was a common occurrence as the structure of the revolutionary government was built to eliminate any threat to the regime. Under Gaddafi's rule, human rights were not of importance and criticism towards the government was heavily punished. In the 1990s, the regime faced revolt by an armed Islamist movement, responding by arresting Islamists and Islamist sympathizers and enacting air strikes to bomb the guerilla forces. The result was a system of quadrillage, dividing the territory into sectors and allowing Gaddafi to manipulate regional distrust.²²⁴

In 2011, in the midst of the wave of uprisings throughout the Middle East and the Libyan country, beginning in Benghazi, most of the international community turned against the Gadhafi regime. The UN Security Council authorized North Atlantic Treaty Organization (NATO) air strikes to protect civilians. Gadhafi was killed and a transitional government took charge. The National Transitional Council (NTC) was created as an organized opposition to the Gadhafi regime and facilitated the transitional government after the end of the Gaddafi administration. In 2012, Libya held its first national election in six decades, and the NTC turned over power to the General National Congress (GNC). However, in 2014, new elections were held, and voters chose a new parliament to replace the GNC in June 2014 – the Council of Representatives. Tensions between nationalists and Islamists have stymied attempts to produce a stable government and the

country was riven by fighting between rival militias after the former GNC, dominated by Islamists, reconvened to select its own prime minister, challenging the authority of the Council of Representatives. The central government collapsed and the UN is currently struggling to bring political factions together.

Regional and clan alliances run deeply within the society, allowing Gaddafi to manipulate certain groups against one another in order to prevent a concentrated, organized threat to his regime. The absence of effective institutions and governance under Gaddafi, as well as the history of provincial divisions, creates a society that distrusts the central government, making it difficult for the NTC as well as the GNC to legitimize power. Such a long period of entrenched manipulation by a single person weakened the state and its institutions to a degree unlike other dictatorships in the contemporary Arab world.²²⁵ Libyan institutions rely on international assistance, such as from the United Nations Support Mission in Libya (UNSMIL), which aims to ensure a transition to democracy and protect human rights.²²⁶

Human rights conditions in Libya regressed sharply in 2014, reaching a low point since the end of the uprising that toppled Muammar Gaddafi in 2011, according to Human Rights Watch. Gaddafi-era laws that violate human rights are being propelled into new laws. Currently, Libya is in a state of transition. After the uprising in 2011, the nation was burdened with the task of creating a new government and new institutions. On 23 October 2011, Libya was devoid of the institutional capacities required to operate a functioning state. Libya does not have history as a nation before independence; several groups and tribes form the modern state of Libya.²²⁷ Overthrowing Gaddafi created a power vacuum that has led to civil war. With no authority in full control, armed militia and insurgent create instability. Many human rights violations stem from the fact that there is no law to deter or to punish them. In the absence of law and order, and after over three years of no accountability, individuals, paramilitaries, and militias are imposing self-justice according to their own standards. Transitional authorities have been unwilling or unable to rein in the hundreds of militias formed during and after the 2011 conflict. These authorities are allegedly killing people, making arbitrary arrests, torturing detainees, forcibly displacing persons, and terrorizing entire communities. Numerous militias act above the law, committing crimes without fear of punishment. Researchers have found that 20% of households have a family member who has been disappeared, 11% reported having a household member arrested and 5% reported that one had been killed. Of those arrested, 46% reported beatings, 20%

positional torture or suspensions and 16% suffocation. Between 3% and 5% reported having suffered sexual, thermal or electrical torture.²²⁸ Around 400,000 people were internally displaced in Libya, with 100,000 people being from around Tripoli.²²⁹ This paints a devastating picture of the human consequences of the regionalism and factionalism.

Freedom from Degrading Treatment, Torture and Arbitrary Arrests

Since 2011, thousands of civilians have been subjected to arbitrary detention, abuse, and torture. Around 8,000 detainees held in relation to the 2011 armed conflict are still in detention facilities. About 3,000 of these prisoners are held in government custody, and the rest are held by militias.²³⁰ The militias are responsible for continuing abuses and in some cases deaths in custody. Most detainees have no access to lawyers or judicial reviews.²³¹ The Justice Ministry held approximately 6,100 detainees in 26 prisons, mostly under the authority of the Judicial Police. It was found that only 10% of those had been sentenced, and the rest remained in pre-trial detention.²³² The judicial police are ill-equipped to handle the crises within these detention facilities. 2013 saw a large number of prison riots, especially in the largest cities of Tripoli and Benghazi. One of these instances occurred at the al-Roueimy prison in Tripoli in September 2013 in which authorities wounded at least 20 detainees with fire.²³³ Detainees are not effectively transferred into state custody. On October 1 2013, the UN issued a report on the torture and ill-treatment of detainees in Libya. Since late 2011, the report records 27 cases of death in custody where significant information suggests that torture was the cause of death. In some cases, members of the armed brigades freely admitted, and even tried to justify, the physical abuse of detainees.²³⁴

As a State party to the 1966 UN International Covenant on Civil and Political Rights, Libya has an obligation to prevent arbitrary arrest and detention and allow anyone deprived of their liberty an effective opportunity to challenge their detention before a court. Those arrested should be brought before the judicial authorities within a reasonable time. Article Six of the Covenant specifies that “no one shall be arbitrarily deprived of his life.” Article Seven prohibits torture.²³⁵ Militias have subjected judges, prosecutors, lawyers, and witnesses to threats, violence, and even death while authorities have failed to challenge and uphold the law. At least seven judges and prosecutors have been assassinated since the uprisings in 2011.²³⁶ As a result, courts have been suspended to ensure safety, while some former judges who received threats

have fled the country. Without government-provided protection for justice workers, assassination attempts and harassment will likely increase. The transitional governments have not focused on creating accountable institutions, so militias with regional, tribal, religious and financial objectives have gained more control and operated with impunity.²³⁷ New laws allowing human rights violations have been passed, such as TC law 38/2012 passed by the National Transitional Council, which grants widespread immunity from prosecution for acts aimed at “promoting or protecting the 2011 revolution.”²³⁸ Under an umbrella of anti-Gaddafi sentiments, these laws effectively provide a loophole that allows for flagrant human rights violations.

Freedom of Belief and Religion

Issues of religious freedoms have always been complex within Libya. Although 97% of people are Sunni Muslim, religious minorities exist. Before the interim government, there was no explicit legal protection of religious freedom.²³⁹

The rise of radical Islam through the conquest of Libya Dawn has allowed for the rapid growth of ISIL in Libya. As of the summer of 2014, the eastern city of Derna was captured by ISIL and was proclaimed an “Islamic Emirate.”²⁴⁰ In two separate incidents in December and January, an affiliate of ISIL in Libya, Tripolitania Province of the Islamic State, claimed responsibility for the capture of 21 Egyptian Christian migrant workers from around Tripoli. On 16 February 2015, these 21 Egyptians held captive were beheaded for the world to see through a video on social media.

Although violations of freedom of religion have not been at the forefront of human rights issues in Libya, radical Islam is not new to the country. In the 1990s, the main armed resistance to Gaddafi was the Libyan Islamic Fighting Group, whose guerrillas were crushed in a bitter ten-year war in the eastern Green Mountains. Many militants then fled to other countries to assist in fighting elsewhere. The 2011 revolution led these extremists back to Libya.²⁴¹ The radicals were never tied under one consolidated group, but there were groups believed to be more of a threat to the international community, such as the U.S. condemnation of Ansar al Sharia, which took the lead in storming the U.S. consulate in Benghazi and killing Ambassador Chris Stevens. The general lawlessness has been a catalyst for extremist action, providing a breeding ground for ISIL to grow. Extremist groups continue to band together, worsening the country’s ability to uphold the freedom of religion, as evidenced through the murder of 21 Coptic Christians in

February 2015.²⁴² The fall of the Libyan state and the weakness of moderates directly enabled the rise of extremist groups such as ISIL.²⁴³

Freedom of Movement In and Out of the Country

During January 2015, more than 3,500 migrants crossed the Mediterranean, according to the Ministry of the Interior in Italy, a dramatic surge compared with the rate of crossings at this time last year. Most of these journeys originate from Libya.²⁴⁴

Before the conflict in Libya, migrant workers made up almost a third of the population. The conflict provoked a mass exodus of migrants. According to data from the International Organisation for Migration (IOM) published at the end of November 2011, nearly 800,000 migrants fled to neighboring countries during the conflict.²⁴⁵ About 87,000 people were displaced within and around Tripoli and Benghazi as of 10 October 2014 and another 100,000 people fled to neighboring countries.²⁴⁶ Since May 2012, thousands of detainees have been held across Libya on suspicion of having fought for or supported the former government. An estimated 7,000 are detained, although the exact number is unknown. Very few have been charged with any crime. In addition to taking individuals captive, armed militias target entire communities accused of having supported al-Gaddafi forces. Torture and other ill-treatment continue, particularly in detention facilities controlled by armed militias. According to the International Federation for Human Rights, guards in migrant detention centers under Libyan government control have tortured migrants and asylum seekers as well as massive overcrowding, dire sanitation conditions and lack of adequate medical care in 8/9 centers.²⁴⁷ Libya's coast guard, which has received EU and Italian support, intercepts hundreds of migrants and asylum seekers each week as they head to Italy in smugglers' boats, and detains them pending deportation. In 2014 alone, about 60,000 people reached Italy. The Italian navy's rescue operation, Mare Nostrum, rescued around 100,000 from unseaworthy boats, but at least 3,000 still perished at sea. However, In October of 2014, Italy was forced to scale back the Mare Nostrum operation due to lack of funding or aid from other countries within the EU.²⁴⁸ Human traffickers earn huge profits, charging thousands of dollars per person aboard a ship with a European destination. The high risk nature of the journey means a large portion of migrants never reach Europe. There has been a new development in the use of "ghost ships," which are crewless boats, merely drifting. These "ghost ships" are causing more and more people to perish.

The “ghost ships” are an example of the exacerbation of the migration crisis in the absence of national and regional strategies for managing migration movements, and the lack of national asylum systems consistent with international standards.²⁴⁹

Freedom of Speech

Under Gaddafi’s rule, it was nearly impossible for journalists to work and publish outside the state-owned media outlets. At this time, journalists faced harassment, imprisonment, torture and death. During the uprising in 2011, independent media outlets became mostly synonymous with “resistance journalism,” media outlets free from state control or official censorship.²⁵⁰ Armed factions threatened and assaulted dozens of journalists and attacked several media outlets, including private television stations Alassema, Libya Al-Ahrar, and Barqa TV. Several journalists and an activist were abducted or seized. Six journalists were assassinated. Authorities failed to conduct investigations or arrest and prosecute perpetrators.²⁵¹ The GNC failed to amend penal code provisions that breach international law, and instead adopted new repressive measures. On 22 January, it passed a resolution to ban and prevent the transmission of satellite television stations that criticize the government and the 2011 revolution. On 5 February, it made any act deemed as “harming” the February 17 Revolution of 2011 a criminal offense.²⁵²

Right to Life, Liberty and Personal Security

Militias have prevented approximately 40,000 residents from returning to their homes as a collective punishment for crimes allegedly committed in the 2011 revolt.²⁵³ Displaced families continue to seek adequate living situations through camps and other private homes, but are subjected to attack and harassment from the militias.

Numerous attacks by armed militias against civilians and civilian infrastructure have perpetuated human rights violations, with a large concentration in Benghazi. Retaliatory attacks against homes and other property of individuals affiliated with each side of the conflict have been an unfortunate occurrence since October of 2014. Civilians are struggling to cope with a lack of water, rising food prices, severe power cuts and shortages in cooking gas and fuel. The fighting has also caused shortages of medical supplies and staffing in public hospitals. Some hospitals were evacuated after being hit by shelling. All schools have effectively remained closed since May 2014. More than 260 people - civilians and fighters - went missing in Benghazi

between June and November 2014 according to the Libyan Red Crescent Society.²⁵⁴ Many abductions have been carried out by groups affiliated with the Shura Council of Benghazi Revolutionaries (SCBR). In most cases they were seized from their homes or in the streets by masked gunmen. Access to medical care has been greatly disrupted because of the shortage of medical supplies and staff at Benghazi's main medical warehouse, but also due to difficulties faced by Libyan doctors to reach their workplace as well as the departure of foreign medical workers.

Amnesty International reported that the family homes and businesses of suspected Islamists, including current and former members of armed groups affiliated with the SCBR (possibly as many as one hundred in the al-Salmani neighbourhood alone) have been attacked with explosives, ransacked, set on fire, or demolished with bulldozers.²⁵⁵ Although large armed groups like Operation Dignity under the lead of General Khalifa Haftar report that they did not directly order the attacks, no steps have been taken to prevent or stop attacks, and some leaders have condoned violence against civilians. Claims of abductions many times are unable to be investigated because the family members often do not speak out of fear of retaliation.

Under the banner of fighting terrorism and restoring the rule of law in eastern Libya, since mid-May 2014, Operation Dignity forces have captured scores of fighters, including reportedly foreign fighters, and detained civilians accused of supporting SCBR or possessing arms. They have also detained civilians uninvolved in the fighting, merely on account of their political affiliation and opinion, usually in relation to their writings on social media. During house searches or neighborhood searches, they have seized any suspected opponents to Operation Dignity and transferred them to detention facilities for interrogation.²⁵⁶

Analysis

The aforementioned concerns are not an exhaustive list of all of the human rights issues currently faced by the Libyan people, but violations stem from a similar cause. The fractured political landscape of Libya post-Gaddafi has bred a society of continued human rights violations not unlike what was experienced under Gaddafi's leadership. In hindsight, more involvement of the UN after the military intervention in 2011 could have helped the current situation; Nasser Kamel, Egypt's ambassador to the UK, criticized Britain and other countries that intervened militarily in Libya in 2011 for not doing enough to help the country transition from Muammar

Gaddafi's dictatorship to a legitimate state.²⁵⁷ Libya's complex political, social and cultural practices must be taken into account when addressing human rights violations. Overall, many of the flagrant human rights violations in the recent years can be correlated to the lack of accountability, creating a society of lawlessness. The diplomatic approach to Libya is far more than just a two-dimensional issue because of the underlying local, tribal, and militia conflicts that cannot be worked out by the two leading factions. Military intervention was previously recommended because of fears that the war will tip into a wider conflict involving the United Arab Emirates, which supports the nationalists, and Qatar, which backs the Islamists.²⁵⁸ But with the introduction of ISIL, a form of military intervention is more and more necessary. Ultimately, the failure of the reconciliation process resulted in a political vacuum, according to Cambridge University Libyan historian, Professor Jason Pack, who said there was no ISIL in Libya until this process imploded.²⁵⁹ This power vacuum is overall the cause of Libya's civil unrest and the human rights violations in the post-Gaddafi era and because of this, outside intervention is becoming more of a necessity as the days pass. We are seeing the truth in the statement that "a stable Libya has the potential to spur economic development throughout North Africa and reduce migration flows to Europe. If state-building fails, by contrast, the country can act as an agent for instability and violence throughout the region."²⁶⁰ A possibility to reconcile militias and the internationally recognized government is a joint effort to restore oil exports.

The introduction of a common enemy by a majority of the country may allow for a mandate by the Libyan government to connect local councils and civil society to act in the face of this threat. The fissures within Libyan society were created by 42 years of Gaddafi's despotic and psychologically damaging rule.²⁶¹ The links between extreme Islamic groups have a deep-rooted history which muddles the situation. ISIL in Libya expands the needs for action by the international community.²⁶² Unlike Syria and Iraq, Libya and its current hub at Derna has the advantage of access to the sea. This new position poses a pressing threat on the Mediterranean countries in Europe. Furthermore, Libya could serve as a gateway to countries like Tunisia and Algeria. Additionally, the fact that Libya holds Africa's largest oil reserves makes it a lucrative prize for ISIL.²⁶³ The video of the slaughtering of the 21 Egyptians occurred in Sirte, which is over 800 km away from the first stronghold of Derna.²⁶⁴ Derna has long been a center of Libyan militants; fighters from an earlier generation fought an unsuccessful uprising against Muammar

Gaddafi in the 1990s under the umbrella of the Libyan Islamic Fighting Group. Defeated, fighters left for Iraq to battle American-led forces, returning to join Libya's 2011 revolution.²⁶⁵

The international community cannot stand aside as the country as a whole slides into complete chaos. The bombing of the Corinthian hotel was in retaliation for the killing of Libyan Abu Anas Al Libi by the US. Libi was arrested by US special forces in Tripoli in October 2013, and died from an illness before he was due to go on trial in New York for his role in the 1998 bombings of the U.S. embassies in Kenya and Tanzania. The risk is imminent, we cannot wait any longer," Defense Minister Roberta Pinotti told Italian newspaper *Il Messaggero* this week. "Italy has national defense needs and cannot have a caliphate ruling across the shores from us."²⁶⁶ Libya lies just 109 miles south of the Italian island of Lampedusa and 300 miles south of Sicily. The lessons of Iraq and Afghanistan are that the huge neo-colonial task of nation-building is beyond the West's capability and appetite, "But that does not weaken the argument of others that it is a moral imperative to prevent mass murder, and that failed states are a danger to the rest of the world."²⁶⁷

Recommendations

To the Internationally Recognized Government

- Uphold the Code of Criminal Procedure especially keeping in mind Article 33, “the right of detainees to challenge the legality of their detention” and Article 30, “the requirement for security officers to hold a warrant from the competent authority when arresting or detaining a suspect.” For those who are detained, due process is necessary.
- Investigate any and all allegations of the torture of detainees through an independent party such as UNSMIL or HRW, which includes, but is not limited to: the inspection of facilities and providing prompt medical examinations of detainees who claim to have been tortured.

To the Armed militias in Opposition to the Internationally Recognized Government

- Adhere to the Universal Declaration of Human Rights and cease armed warfare on civilian communities, especially in Benghazi.
- Facilitate a cooperative effort with the government situated in Tobruk in order to foster a united governing body.
- Cease the arbitrary detention of citizens deemed a threat to the opposition as well as the forced displacement of communities and release those who are missing or detained without knowledge of whereabouts.

To the International Community

- First, work to contain the movement of ISIL through air strikes, understanding the poor reputation of drones in this area.
- Because the risk of failure of a large-scale military intervention is very high, urge the hesitation to increase military force, especially ground interventions, in order to avoid driving a wedge between the Libyan state and groups opposed to foreign intervention and avoid radical opposition to said intervention.
- Strictly adhere to the International Covenant on Economic, Social, and Cultural Rights in order to grant the right to health and adequate standards of living.
- Strongly urge the International Criminal Court to investigate the crimes against humanity in Libya by armed groups, including armed militias.
- Call on the U.S-led coalition fighting the Islamic state in Iraq and Syria to broaden the scope of the operations to include Libya
- Help facilitate the transitional government and armed militias to cooperate and establish a ceasefire through a unified governmental effort and opening dialogue to end the current civil strife.
- Uphold the UN Arms Embargo while simultaneously allowing the internationally recognized government to support its army and to provide a decisive stance by the international community.

EGYPT

Auric Kaur
Blanka Bots

Human Rights Concerns:

- Freedom from Degrading Treatment, Torture and Arbitrary Arrest
- Freedom of Assembly, Association, and Expression
- Freedom of Religion and Sectarian Violence
- Freedom of Women from Discrimination
- Lesbian, Gay, Bisexual and Transgender Rights
- Right to Fair Public Hearing
- Right to Free Movement in and out of the Country

Background

Despite many strides to democratize the Egyptian government and safeguard freedom for the citizens, the outlook of human rights remained unabated even after the 2011 Egyptian Revolution. After former Defense Minister Abdel Fattah al-Sisi took office in June 2014, he has “overseen a reversal of the human rights gains that followed the 2011 uprising”.²⁶⁸ The ongoing human rights crisis is one of the most serious in the country’s modern history as the Mubarak era human rights abuses remain commonplace. The current government launched an oppressive campaign against its political opponents, including journalists and NGO workers. The security forces and the politicized judiciary silence all sorts of dissent in Egypt and upholds a tight control over the population by limiting basic freedoms. The government does very little to investigate abuses committed by security forces as they can maintain power through different state institutions.²⁶⁹

Amongst many other issues, “growing levels of poverty, inequality, soaring unemployment, endemic corruption, police brutality and other human rights violations”²⁷⁰ encouraged citizens to push for change in 2011. By the time of the revolution, the Arab world’s largest official population of 81 million was suffering from extreme poverty as almost “40% of its population lived on less than two dollars a day.”²⁷¹ The Egyptian population forms a relatively homogenous group. Approximately 90% of its population are Sunni Arabs and 10% are Christians, mainly Coptic Orthodox.²⁷² As discontent and socio-economic problems were widespread in Egypt, the 2011 insurgency spread across the country in eighteen days and led to the resignation of Mubarak, who ruled the country since 1981.

Roots of impoverishment and bad economic conditions date back as far as 1952. Colonel Gamal Abdel Nasser, who became Egypt's president in 1956, overthrew the constitutional monarchy of King Faruq that was under British influence for almost thirty years. Nasser began the widespread nationalization and industrialization of the economy, and set off Arab nationalism and socialism to create a hegemonic state ideology.²⁷³ Nasser's poor economic governance led to extreme poverty in Egypt, which inspired his two successors Anwar al-Sadat and Hosni Mubarak to liberalize the economy. Liberal economic policies coupled with "corruption and sweetheart deals, as regime cronies took advantage of a newly lax economic environment and their proximity to power to earn windfalls", creating a huge divide between the poor and the rich.²⁷⁴ Furthermore, economic growth could not keep pace with rapid population growth, challenging the government to create a sufficient number of jobs and further educate people. The combination of bad governance and demographic expansion divided the population into new social classes: 'the graduates with no future'²⁷⁵ and 'the fat cats'.²⁷⁶ Aggravating the situation, the government decided to float the Egyptian pound to drop its value in 2014, causing 18% increase in prices.²⁷⁷ Four years of political uncertainty after the revolution, the economy is still in bad shape. Egypt heavily relies on foreign aid from the United States and European Union, and on loans from Saudi Arabia, Kuwait and the United Arab Emirates (UAE), which recently pledged \$18 billion to invest in residential and commercial property.²⁷⁸

President Mubarak established a powerful security apparatus to control the population. It comprised of formal and informal security groups, with an estimated 2 million in permanent staff.²⁷⁹ The Egyptian military played a crucial role in Mubarak's resignation by stepping down and facilitating the resignation process. Power was transferred to the Supreme Council of the Armed Forces (SCAF), led by twenty-one senior military leaders. The SCAF soon ceded power to a member of the Muslim Brotherhood party in 2012, Muhammad Morsi, who "claimed all executive and legislative authority to be vested in this person, and who refused oversight by any court."²⁸⁰ As a result of massive protests against Morsi, the Egyptian Armed Forces removed Morsi from power and outlawed the Islamist Muslim Brotherhood from the country in July 2013, replacing him with a transitional president, Adly Mansour. During the transitional period, the military passed a new constitution in January 2014 with 98.1% of the votes, replacing the 2012 Constitution implemented by Morsi.²⁸¹

The new constitution was followed by the Presidential elections that took place in May 2014 and gave power to the head of the army, Abdel Fattah al-Sisi. Under his presidency, Egypt continues to endure severe issues of human rights violations and the lack of security in the country diminishes the chance for a safe environment for all civilians. Members of the Muslim Brotherhood face massive persecution as al-Sisi declared: “there will be nothing called the Muslim Brotherhood during my tenure.”²⁸² Egypt faces a wide range of conflicts and issues, deepening human rights violations and the hope for democratic transition. The following have been found as recurring problems: respect for the freedom of expression, assembly and association, mass killings of protesters, attacks against sectarian and minority groups, discrimination and plight illustrations of homosexuals, as well as sexual violence against women and the torture of detainees in prison.

Even though Egypt holds a climate of political intimidation, the United States welcomed al-Sisi’s election, and the government of Israel, Saudi Arabia and the UAE urged the U.S. to normalize relations with Egypt. Recently, both the U.S. and the EU have become critical of the current Egyptian government, and President Barack Obama set a precedent during the United Nations General Assembly in September when he raised human rights concerns to al-Sisi. In April, Secretary of State John Kerry was unable to verify Egypt’s political affiliations, and he said it was difficult to determine if the country was engaged in “democratic transition” therefore it would not guarantee if additional military aid would be used for counterterrorism.²⁸³ For the interest of national security, the US Congress included new language, which changed law governing military aid to Egypt. The required democracy certification would be waived for Kerry allowing for less loopholes.²⁸⁴ Since 2011, the U.S. provided an annual \$1.5 billion military and economic aid package,²⁸⁵ and The European Union provided €1 billion assistance between 2007 and 2013.²⁸⁶ Both countries suspended military aid for a period of time in 2013 based on concerns of ongoing human right violations; however, Washington sent 10 Apache attack helicopters in September 2014 to fight terrorism and continued the supply of military equipment, strengthening the Egyptian army.²⁸⁷

Freedom from Degrading Treatment, Torture and Arbitrary Arrest

Civilians are subjected to enforced disappearance and held for months in secret detention at police stations and military camps. Many are tortured and ill-treated and made to confess to

crimes. The detainees have not been charged or referred to prosecutors or courts, and have had no access to their lawyers or families. Since the overthrow of Mohamed Morsy, authorities initiated an extensive crackdown on the Muslim Brotherhood. There has been a huge increase in the number of people detained or imprisoned. The Muslim Brotherhood estimates 29,000 missing people of its supporters, while the independent organization of the Egyptian Center for Economic and Social Rights says, there have been more than 41,000 people arrested and detained.²⁸⁸ According to an Egyptian newspaper *Al Watan*, at least 90 detainees died in Cairo and Giza police facilities in 2014, which indicates a 36% increase compared to previous years.²⁸⁹ Research conducted by an Egyptian NGO, Nadeem Center for the Rehabilitation of Victims of Violence, reports 36 deaths in custody during the first 100 day of al-Sisi's presidency.²⁹⁰ A former captive said to Amnesty International that,

The military arrested me in January [2014]...and took me on the same day to Al Azouly prison after they beat me in a military camp in my town for four hours. I was held in Al Azouly prison for 76 days without seeing a judge or a prosecutor, I was not even allowed to talk to my family. They put me on the third floor of the prison in solitary confinement. The authorities there interrogated me six times. They took off my clothes and gave me electric shocks all over my body during the investigations, including on my testicles, and beat me with batons and military shoes.²⁹¹

Repeated offenses and references suggest that a number of civilians do not even survive government custody. They usually die from being tortured, malnourishment or due to illness as they do not receive necessary medical treatment. Their condition often deteriorate from overcrowded cells, which lack ventilation.²⁹² Egypt is not only responsible for providing the necessary care for detainees because it ratified international law, but also because Article 55 of Egypt's constitution prohibits torture and physical violence. Furthermore, it requires authorities to treat detainees with dignity and hold them in facilities where they can provide the same health care as to a person who is free. Violating any of these laws is considered to be a crime.²⁹³

Freedom of Assembly, Association, and Expression

The 2014 Constitution protects the freedom of association, expression and assembly but journalist, NGO workers and even civilians often find themselves criminalized for exercising these rights.²⁹⁴ According to Amnesty International, thousands of people were arrested and imprisoned since the ouster of Mohamed Morsi in 2013.²⁹⁵

Freedom of Assembly

A law passed in November 2013 authorizes the interior Ministry “to ban and forcefully disperse protests and arrest participants on vague grounds such as ‘imped[ing] citizens’ interests.”²⁹⁶ The law is used to suppress government opponents:

On April 7, 2014, a court rejected appeals from April 6 Youth Movement co-founders Ahmed Maher and Mohamed Adel and activist Ahmed Douma against their three-year sentences for breaking the law. Authorities also used the law to detain prominent activist Alaa Abdel Fattah and human rights defenders Mahienour al-Masry and Yara Sallam.²⁹⁷

In 2014, security forces oppressed protests and used excessive force resulting in many killings with impunity. The judiciary jailed a number of peaceful protesters because they did not have authorization to protest.²⁹⁸ At the beginning of January, almost 20 civilians died in clashes with the police and at least 64 demonstrators died for the same reason on the third anniversary of the 2011 uprising. During the transitional period, Adly Mansour established a presidential fact-finding committee “to gather information and evidence for the violent events” that sequentially took place during the June 30 protests and during the July 3 coup, which overthrew Egypt’s first freely elected president, Morsy.²⁹⁹ According to the November 26 executive summary of the commission’s report, charges for the mass killings were excused against any member of the security forces or government. Contradictory to the presidential fact-finding committee, the commission’s report did not identify necessary information such as authorization to subpoena witnesses or documents, establishment of individual criminals’ liability and even to make the findings public in order to hold security forces responsible.³⁰⁰

More than 800 protesters died on 14 August 2013 at dispersals of pro-Morsy sit-ins in Cairo. Based on statistics collected by the Associated Press news agency, along with the activist group Wikithawra, the first estimates show that security forces arrested and detained 16,000 protester, which later grew to 44,000.³⁰¹ Although Mansour asked the Justice Ministry for a judicial investigation, the ministry refused assigning a judge for these events because “this was the prerogative of the prosecutor general, whose office claimed it was already investigating”.³⁰²

Freedom of Association

Domestic and international organizations have expressed their concern recently because in September 2014 President al-Sisi approved to amend the Penal Code to impose life sentences and a “fine of 500,000 Egyptian pounds (US\$69,900) to anyone who uses foreign funding” to

harm the national integrity,³⁰³ and “imposes a five-year prison sentence on those who join such associations or possess some of the data belonging thereto.”³⁰⁴ Four years after the revolution, Egypt treats NGOs with hostility and the freedom of association have deteriorated in the country. The government already cracked down on eight domestic and international NGOs, confiscating equipment and documents, shutting down headquarters and beating up employees. Among these was the April 6 Youth Movement, the Egyptian Center for Economic and Social Rights, General Budget Human Rights Observatory and the Arab Center for the Independence of the Judiciary.³⁰⁵ Besides the NGOs, authorities exiled the Muslim Brotherhood and declared the party as terrorist organization, freezing the all the assets of the associations related to them.³⁰⁶

Freedom of Expression

The Mubarak era Penal Code and the Press Code contains articles that criminalize journalists for defamation of the Egyptian state, individuals and state institutions or for speech disruptive to the public order. The Egyptian court applies these provisions to convict people whose speech they think is “harmful” or “insulting”, “spreads false information”, “harms public morals” or proposes new ideas of change to the government.³⁰⁷ According to numerous NGOs, there may be 67 journalist in Egyptian prisons who have been kept without facing trial. This month (February 2015), Egyptian authorities released three *Al Jazeera* journalists, who have been in prison for two years despite the fact that the prosecutors did not have any evidence of wrongdoing. Egyptian authorities imprison journalists and reporters, who face unfair trials on a daily basis “on charges such as ‘inciting sectarian strife’ and/or ‘defamation of religion’ “. ³⁰⁸ This violates Article 71 of Egypt’s Constitution and international law, which both ban censorship and protect media workers from being prosecuted for doing their jobs.³⁰⁹

Freedom of Religion and Sectarian Violence

Religious and sectarian violence have exacerbated in Egypt in the past four years. The current government continues to control and restrict religious freedom and performs even more aggressive forces to push back any sort of religious movement that is against the government’s will. Article 64 of Egypt’s constitution guarantees religious freedom and the rights of minorities, but it restricts “freedom of practicing” to followers of Islam, Christianity, and Judaism.³¹⁰ Even so, Coptic Christians, Shi’a Muslims, Baha’is and atheists are frequently persecuted. On charges

of “contempt of religion” and “blasphemy”, the government extend persecution on writers and activists as well.³¹¹

In the past few years Coptic Christians have become the number one target of discrimination. There are more than 10 million Coptic Christians in Egypt, making them the biggest minority groups in the country.³¹² After security forces removed Morsi from power, there have been unprecedented wave of sectarian attacks on Coptic Christians committed by supporters of Morsi. The attacks targeted 42 churches, of which 37 burned down or got seriously damaged, resulting in 4 death cases; however, security forces failed to intervene and there have been no investigation conducted.³¹³ Government attacks on atheists have exacerbated as well, who are one of least protected by law. On January 2015, Egyptian forces arrested an atheist student, Karim Ashraf Mohamed al-Banna, for posting insulting comments about Islam on Facebook. The minor offense court sentenced him for three years in prison.³¹⁴ As a member of International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights, Egypt is bound to respect religious rights.³¹⁵

Freedom of Women from Discrimination

Sexual violence against women and girl deeply roots in gender stereotypes and the government’s inability to form an appropriate legal system to protect women. Al-Sisi established a ministerial committee to form a directive for the protection of women; however, it failed to take any substantial steps as neither the promised national strategy nor any laws have been made to tackle the problem.³¹⁶ Since the overthrow of Hosni Mubarak in 2011, mob assaults and harassment against women have increased dramatically. Hania Moheeb is one amongst many victims who was attacked in Tahrir Square on 25 January 2013.³¹⁷ While she was celebrating the second anniversary of Egypt’s revolution by visiting at Cairo’s Tahrir Square, she was brutally attacked by a group of men that surrounded her. The assault took place for over an hour and a half and continued all the way into an ambulance, where they carried on assaulting her. During the Tahrir Square protest, at least 91 women were raped and sexually assaulted with sharp objects, metal chains and sticks that many of them needed immediate medical assistance.³¹⁸

The government barely seeks a remedy for such violations because women have been a tactical tool for political opponents to gain power by blaming one another of neglecting violence against women. Their inability to punish violence against women have led to a “culture of

impunity”, which is the most prominent reason why women do not report abuses.³¹⁹ Statistics released by Egyptian authorities are inaccurate because they lack accurate information.

According to a 2013 UN Women survey, 99% of women and girls who reported experienced some sort of sexual harassment, 47.4% reported domestic violence and 91% claim to have been under female genital mutilation.³²⁰ Violence against women in Egypt has reached epidemic levels on both domestic and state levels.

Lesbian, Gay, Bisexual and Transgender Rights

Although homosexuality is not illegal in Egypt, between July 2013 and December 2014 Egyptian authorities arrested at least 95 lesbian, gay, bisexual, and transgender people.³²¹ Egypt does not have a clear stance on criminalizing sexual activity between same-sex partners and it ratified the International Covenant on Civil and Political Rights, but authorities often persecuted and arrest people engaged in consensual homosexual activity accused of “debauchery.”³²²

A pro-government television in December 2014, collaborating with the Egyptian authorities in a crackdown operation on Egypt’s gay community, aired the arrest of at least 25 customers and employees of a Cairo bathhouse for men.³²³ The men were taken completely undressed while the television company made no effort to hide their identities. Later photos of their naked body were published on Twitter, violating their basic rights to privacy. This case reflects how pro-government Egyptian media institutions practice a “totalitarian method” to suppress homosexuals.³²⁴ Additional crackdown occurred, when authorities jailed eight men for participating in a marriage-like ceremony.³²⁵ To confirm sexual misconduct, the Egyptian authorities often subject arrested men to forensic anal examinations, which is a gross violation of international standards against torture and inhuman and degrading treatment.³²⁶ The brutality of attack of the LGBT community has been increasing in the past few years and the government crackdowns remark the long-strides Egypt has to take in achieving equality.

Right to Fair Public Hearing

Detainees have been deprived of basic due process rights and death penalty have reached unprecedented levels. Egypt’s judiciary exhibits many deficiencies, resulting in unfair trials. Trials have indefinitely violated Egypt’s law and fallen well below international standards. A court in El-Minya sentenced 37 people in April and 183 people in June to death after unfair trials

for accused police station attacks. Furthermore, the criminal court judge recommended 1200 more death penalties for the same charges.³²⁷ These people were not allowed to consult with a lawyer and they were not given the right to defense. Most death penalties were targeted toward Muslim Brotherhood members. Although many of 1200 recommendations were reversed “after consulting the Grand Mufti, a legal process that must take place under Egyptian law before a court formally hands down its sentence,”³²⁸ the judiciary maintained its position in 220 cases.³²⁹ The situation worsened since al-Sisi issued an ordinance on 27 October 2014, transferring the authority of jurisdiction to the military court of any cases that were committed on public or state-owned property.³³⁰

In 2013, demonstrators gathered in crowds in opposition to the military’s decision to oust Mohammed Morsi. The Egyptian police use excessive lethal force and opened fire with live ammunition on demonstrators. The mass protest killings involved 1,150 civilian deaths.³³¹ Considering the size of the army, these were grossly disproportionate and premeditated lethal attacks on peaceful protestors. NGOs have collected government statements with horrifying details indicating the knowledge of high-ranking officials the attacks would result in mass killings. The situation remains far from reaching any justice as “security forces denied any wrongdoing and authorities have failed to hold any single army or police officer accountable for unlawful killings”.³³² There are underlying messages to the mass killings of these protestors as it aligns itself with restriction of freedom of expression, assembly, and association for the citizens of Egypt. Since the Massacre, authorities continue to suppress dissent by any means of force, alarming the international community to intervene.

Right to Free Movement in and out of the Country

The recent armed conflict in Syria has caused a serious humanitarian crisis. In Egypt, there almost 140,000 registered Syrian refugees, who are the largest refugee population on Egyptian soil.³³³ Syrians have found it extremely hard to enter the country because of increased security and visa clearance requirements. According to Amnesty International, Syrians only gain access to public health and education if they pay for these services.³³⁴ Besides Syrians, there are least 6000 Palestinians who are not allowed to register with United Nations High Commissioner for Refugees (UNHCR) or United Nations Relief and Works Agency for Palestine Refugees (UNRW) because of government restriction.³³⁵ To this very day, Egypt has not been

able to develop a national project to administer refugees, asylum seekers and migrants. Therefore, UNHCR operates in Egypt to deal with the “functional responsibilities for all aspects of registration, documentation and refugee status determination (RSD).”³³⁶ Under the 1951 Refugee Convention and its 1967 Protocol, and the 1969 OAU Convention, Egypt is required to provide a safe environment and give the right for people to seek asylum;³³⁷ however, since al-Sisi is in power the government restricted the entrance of certain refugees and steps up with force against them.³³⁸

Many refugee and asylum seekers have been kidnapped in the Sinai region of Egypt. According to their testimonies, many of them have been sold between criminal groups and were only released when their families paid ransom. The most commonly used methods of intimidation include:

Beatings with various objects such as metal chains, sticks and whips; burning with cigarette butts or heated rubber and metal objects; suspension from the ceiling and suspension in contorted positions for prolonged periods of time; pouring gasoline over the body and setting it on fire; and being forced to stand for extended periods of time in desert heat. Some victims have reported that they were given electric shocks, or had seen others held captive with them subjected to electric shocks.” Others reported being urinated on and having fingernails pulled out. Rape of men and women, and other forms of sexual violence have been frequently reported.³³⁹

In the past few years, Egypt continuously violates the rights of those, fleeing from war or persecution in other countries in hope to be given refuge and a better life.

Analysis

The upcoming May 2015 Universal Periodic Review (UPR) of United Nation Human Rights should be enough to build consensus amongst the international community to condemn “the most dramatic reversal of human rights in Egypt’s modern history under President Abdel Fattah al-Sisi.”³⁴⁰ The 2011 led to the resignation of Hosni Mubarak but Egypt’s future remains undetermined. None of the successive governments have brought stability to the country, “where the military as an institution still retains an enormous amount of power, and it will do its best to hold on to it”.³⁴¹ President Abdel Fattah al-Sisi, who has long been a pillar of the military and chief of the Armed Forces, retains the power of control by limiting basic freedoms and repressing opponents of the government.

Imminent threats have been made to shut down the country’s most prominent NGOs in order to hinder day to day activities that could help the country’s transition to democracy. Freedom remains a common human rights violation that is intertwined with the many that are

listed above. The upcoming UPR is a “great potential to promote and protect human rights in the darkest corners of the world,” and member states can strategically press Egypt to consider the terms of the UPR and to comply with The Universal Declaration of Human Rights.³⁴² One of the greatest opportunities for further improvements in Egypt stems from the promotion of an international agenda by the international community, especially the United States and the European Union who are the biggest foreign lenders to the country. Egypt’s transition to democracy has stalled as the power of NGOs and human rights activists have decreased largely, and the current government upholds Mubarak era approaches to restrict basic freedoms. Political pressure from the international community is needed to lay the foundations on which Egypt can build its future.

Recommendations

To the UN Member States, the United States and the European Union

- The United States and the European Union should freeze all military provisions until the Egyptian government takes measures to stop ongoing human rights violations.
- Establish a UN led truth and fact-finding committee to investigate crimes committed by governments against civilians since the 2011 Revolution.
- A unanimous disapproval should be declared against military interference in Egyptian governance and high levels of support should be given to hold military personnel accountable for unlawful actions against civilians.
- Provide assistance to the Egyptian government to investigate enforced disappearance and alleged torture of detainees and prisoners, and ensure to prosecute officers found guilty of misconduct.
- Transfer all sorts of foreign aid to enforce the protection of universal human rights, and to establish an economic development program to fuel economic recovery in collaboration with the Egyptian government and local companies.
- Support the Egyptian government to end violence against religious minorities and to adopt a set of laws and regulations that provides a safe environment for all faiths, free from discrimination.
- Urge the Egyptian government to repeal all provisions that restrict the right of both domestic and international nongovernmental organizations (NGOs) to operate in Egypt.
- Encourage the Egyptian government to bring women's right in line with the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and to establish connections with NGOs specializing in women's right protection to set up a national plan.
- The United Nations High Commissioner for Refugees should encourage Egypt to uphold its international obligation by allowing the entrance of refugees from Syria and to promote a safe environment for them.

To the Egyptian Government

- Comply with Article 71 of the Egyptian Constitution and international law by releasing journalists currently held captive for alleged defamation of the Egyptian state, individuals and state institutions or for speech disruptive to the public order.
- Immediately terminate the excessive use of force by security forces to suppress political dissent, which result in mass unlawful killings.
- Abide the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials to regulate proceeding during demonstrations.
- Ensure the protection of women's right by revising the constitution and abolishing all language that discriminates women in law. Establish a national directive to combat sexual harassment against women.
- Grant equal rights to the Egyptian LGBT community and terminate government crackdowns on them.

ISRAEL/PALESTINE

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Human Rights Concerns:

- Gaza Strip
 - *Right to Life, Liberty, and Personal Security*
 - *Right to Free Movement in and out of the Country*
 - *Right to Life, Liberty, and Personal Security violated by Hamas and Palestinian Armed Groups*
- West Bank
 - *Right to Life, Liberty, and Personal Security*
 - *Right to Own Property*
 - *Freedom of Movement*
 - *Freedom from Torture and Degrading Treatment*
- Israel
 - *Rights of Refugees, Asylum Seekers, and Migrants*
 - *Rights of Minorities*

Background

Jews had lived in relative peace among their Muslim neighbors in the Middle East for centuries, but with the rise of the Nazism and Fascism in Europe, waves of Jews migrating to the British mandated state of Palestine, Palestinians began organized civil and armed resistance against the repressive British land laws and European Jewish colonization in a conflict known as the Arab Revolt in Palestine. Britain eventually handed the fate of its province over to the UN. In 1947, the United Nations (UN) proposed a Partition Plan and voted to allocate 55% of Mandatory Palestine for a Jewish state and 45% for a Palestinian state. At that point, Jews made up one-third of the population of Palestine and owned 7% of the land. When the British withdrew in 1948, the Israelis declared independence, which sparked a region-wide war. Arabs vastly outnumbered Jews, but the Zionists were better armed, better funded, and better organized. When the dust settled, the new state of Israel controlled 78% of historic Palestine, Jordan ruled the West Bank, and Egypt had control over the Gaza Strip. More than 750,000 Palestinians - half the native population of Palestine at the time - fled or were expelled from what became Israel and were prevented from returning home. The refugees now number in the millions and constitute the largest and longest suffering refugee population in the world.

Until the “Six Day War” of 1967, Jerusalem was under international territory, and it wasn’t until this war that Israel took over the remaining 22% of the West Bank, Gaza Strip,

Golan Heights, and the Sinai Peninsula, and claimed their capital as Jerusalem. Since according to international law it is inadmissible to acquire territory by war, these are considered occupied territories. The U.N. Security Council adopted Resolution 242, the “land for peace” formula, which called for Israeli withdrawal “from territories occupied” in 1967 and “the termination of all claims or states of belligerency.” Resolution 242 recognized the right of “every state in the area to live in peace within secure and recognized boundaries free from threats or acts of force.” However, negotiations on how to implement it went nowhere, and the Golan Heights and Palestinian territories remained under occupation, with the Sinai returned to Egypt in a separate 1979 peace deal. In 1974, the Arab League recognized the Palestine Liberation Organization (PLO) as the sole legitimate representative of the Palestinian people and relinquished its role as representative of the West Bank. The PLO gained observer status at the U.N. General Assembly the same year.

In 1987, the Palestinian population collectively rose up against Israel's repressive policies in what is called the first Intifada. In 1988, in order to gain recognition for the PLO, then leader Yasser Arafat agreed to recognize Israel and renounce terrorism. It was a historic compromise. He unilaterally surrendered Palestinian claims to 78% of historic Palestine and agreed to focus aspirations for Palestinian statehood solely on the remaining 22% in the West Bank and Gaza.

Five years later, in 1993, Arafat and Israeli Prime Minister Yitzhak Rabin signed the Oslo Accords, hailed as the first face-to-face agreement between Israel and the PLO. The Accords were intended to provide a framework for future relations between the two parties, including the creation of the Palestinian National Authority and withdrawal of Israeli forces from parts of the Gaza Strip and West Bank. Israel retained control of water, airspace, borders, imports, exports, residency, travel, taxation and currency, among other things. This arrangement was supposed to last for a five-year period, during which Israel and the PA would engage in trust-building measures and negotiate final-status issues such as East Jerusalem, refugees, borders, and settlements. However, implementation of the Oslo Accords suffered a serious setback with the assassination of Yitzhak Rabin in November 1995. Rabin's replacement, Shimon Peres of the Labor Party, was narrowly defeated a year later by Benjamin Netanyahu of the right-wing Likud Party. Netanyahu opposed the Accords, rejected the idea of a Palestinian state, and intensified settlement building in the occupied territories.

Since then several peace summits and proposals, including the Camp David Summit (2000), Taba Summit (2001), the Road Map for Peace (2002), and the Arab Peace Initiative (2002 and 2007), have attempted to broker a solution, with no success. On 29 November 2013, the UN General Assembly granted Palestine non-member observer state status. While the Palestinian Authority was briefly divided between the Fatah government in the West Bank and a Hamas-led government in Gaza, last year the two political factions came to a unity agreement, headed by President Mahmoud Abbas. However, the unification process has stalled and tensions are again rising between the Hamas and Fatah parties in the wake of the severe humanitarian crisis in Gaza.

The 1 January 2015 marked a large step forward for reducing the impunity that has plagued the Israeli-Palestinian conflict. Palestinian authorities submitted an application to join the International Criminal Court (ICC) treaty and accept the court's jurisdiction over crimes committed on or from Palestinian territory since 13 June 2014, which will include the disastrous 50-day Israel-Gaza conflict last summer. The UN Secretary-General accepted the document and announced the treaty would come into effect for Palestine on April 1. Shortly after, the ICC prosecutor decided to open a preliminary examination to determine whether the criteria has been met to pursue an official investigation.³⁴³

Gaza Strip

Right to Life, Liberty, and Personal Security violated by Israel

Israeli forces periodically fired on the Gaza Strip with both aerial and artillery attacks throughout 2014. Particularly, a military operation carried out from July 8 to August 26 against inhabited multi-story family homes killed and injured whole families and caused mass destruction to civilian property and infrastructure.³⁴⁴

These attacks were part of a larger 50-day conflict between Gaza and Israel, leaving over 2,192 Palestinians dead, including 519 children and 1,523 civilians, according to UN estimates.³⁴⁵ When a ceasefire was declared on August 26, there were approximately 110,000 internally displaced persons living in emergency shelters and with host families. Furthermore, the UN estimated that about 18,000 housing units were destroyed or rendered uninhabitable, leaving approximately 108,000 people homeless, while another 37,650 housing units were damaged.³⁴⁶ The attacks also completely destroyed 26 schools, 4 primary health centers and left

350 businesses and 17,000 hectares of agricultural land damaged or destroyed.³⁴⁷ While unemployment was already high in Gaza at 45%, the United Nations Development Programme reported that since the conflict, it has climbed even higher.³⁴⁸

Israeli attacks repeatedly hit Gaza's only power plant, leaving it inoperable from July 2014 to September 2014, making Gaza wholly dependent on electricity purchased from Egypt and Israel and fed through lines that provide almost 300 fewer megawatts than what is necessary to power the region. Despite completion of significant repairs to the Gaza Power Plant in September 2014, operation has been sporadic due to the high cost of fuel and destruction of two large fuel tanks during the July-August conflict.³⁴⁹ Daily scheduled power outages range from 12 to 18 hours, aggravating the humanitarian crisis by disrupting health and water services throughout Gaza. Furthermore, because of the restricted supply of electricity, service providers rely on generators that require an already-scarce supply of fuel to power hospitals, water wells, and wastewater pumping stations, limiting the number of facilities that can be operated.³⁵⁰ Two major sewage treatment plants and 20 to 30% of sewage and water networks were destroyed or damaged during the conflict, "leaving nearly half a million people without running water."³⁵¹

Right to Free Movement in and out of the Country violated by Israel and Egypt

The seven-year blockade imposed by Israel and Egypt on the movement of goods and people within the Gaza strip continued through 2014, crippling the economy with an almost-complete ban on exports by both Israel and Egypt, as well as a ban on the sale of Gaza goods in the West Bank and Israel.³⁵² The blockade also includes a prohibition on residents moving or traveling to the West Bank and regulates a fishing zone of only six nautical miles off Gaza's coast. Over the past 14 years, Israel has only allowed three students from Gaza to study in the West Bank, as well as outright refusing to process all applications from residents of Gaza requesting to join spouses in the West Bank.³⁵³

Since the closure of the Rafah crossing point in Egypt in October 2014, all movement of goods within the Gaza Strip takes place at the Kerem Shalom crossing point into Israel. Israel severely restricts the quantity and types of goods that enter and only allows international organizations to bring in construction materials. Before Rafah was closed, construction materials for projects funded by Qatar and humanitarian deliveries, including medical supplies, were passed through Egypt, but construction materials have had to be rechanneled to Gaza from Egypt

via Israel, creating total dependence on the Kerem Shalom crossing for the movement of goods.³⁵⁴ However, Rafah was opened briefly from January 20-22 in both directions, which included a convoy of medical and food supplies.

While Egypt's crossing into Gaza has been predominantly closed to the transfer of goods, Rafah has been opened to travel periodically for a few days at a time since November, allowing 1,516 people, mainly patients and students, to leave Gaza and 4,078 to return.³⁵⁵ There are still 17,000 people registered with the Border and Crossings Authority in Gaza to exit through Rafa, including medical patients, and an estimated 37,000 who are waiting, particularly for pilgrimage to Saudi Arabia.³⁵⁶ Furthermore, as many as 6,000 Palestinians are stranded in Egypt and other countries and unable to afford living expenses.³⁵⁷ OCHA reports that over 800 stranded Palestinians have received small cash sums from the Palestinian Embassy in Cairo after requesting support.³⁵⁸

OCHA claims that "the greatest humanitarian concern [of the blockade] is deterioration in the medical conditions of patients seeking treatment abroad."³⁵⁹ The Ministry of Health reports that conditions range from renal and heart diseases, and orthopedic and ophthalmological needs to advanced cancer. Additionally, at least three life-saving surgeries per week are postponed in Gaza, while others stranded outside of the region face delays in the continuation of their treatment.³⁶⁰

Right to Life, Liberty, and Personal Security violated by Hamas and Palestinian Armed Groups

During the 50-day conflict, Hamas and other Palestinian armed groups in the Gaza Strip fired 4,800 indiscriminate rockets and 1,700 mortar rounds into civilian areas of Israel, killing five civilians, sixty-six Israeli soldiers, and directly injuring thirty-six civilians from rockets or shrapnel, while thousands of civilians in communities near Gaza temporarily leave their home.³⁶¹ The UN Relief and Works Agency for Palestine Refugees (UNRWA) discovered that Palestinian armed groups were endangering civilians by storing rockets in three vacant schools run by the humanitarian organization. In August, armed groups summarily executed at least 25 Palestinians accused of collaborating with Israel, with no steps taken by Hamas to arrest or prosecute those responsible for the killings.³⁶²

Hamas authorities continued to conduct arbitrary arrests and torture detainees. Those detained include civil society activists, university professors, and members of the rival Fatah

political party. Although they permitted some local human rights organizations to operate, political dissent, freedom of association, and peaceful assembly were all suppressed.³⁶³

West Bank

Right to Life, Liberty, and Personal Security violated by Israel

According to the UN, Israeli forces injured 5,868 Palestinians in clashes across the West Bank and East Jerusalem, and killed another 56, making it one of the most violent years in recent decades.³⁶⁴ Many of these deaths are speculated to be unlawful, including two teenage boys who were killed by Israeli forces in May 2014 during a Palestinian protest near an Israeli military base and prison in the West Bank. According to Human Rights Watch (HRW), that video of the incident showed that neither of the boys posed any imminent threat, and in November, Israeli police arrested a Border Police official suspected of killing one of them.³⁶⁵

Palestinian attacks against Israeli settlers and security forces in 2014 resulted in 250 injuries and 15 deaths (figures include Israeli and Palestinian casualties), a rise from previous years. The Israel Security Agency reported 2,140 violent attacks by Palestinians in the West Bank and East Jerusalem.³⁶⁶

In response to the abduction and killing of three Israeli teenagers by Palestinian suspects in the West Bank in June 2014, the Israeli military launched operations that included more than 1,200 raids on homes, offices and businesses, and arrests of over 500 people. Many of the arrests were allegedly Hamas supporters even though there is “no public evidence that Hamas ordered the killings.”³⁶⁷ While the group condoned the murders, it denied responsibility. Furthermore, Israeli forces demolished the family homes of the three suspects.

Hours after the burial for the Israeli teens, a Palestinian teenager was abducted from an East Jerusalem neighborhood and burned alive by a group of Israelis, widely understood as revenge for the killings.³⁶⁸ Protests by Palestinian residents across East Jerusalem and other majority-Palestinian cities were met by excessive force from Israeli police. Without justification, Israeli security forces arrested the murdered Palestinian’s cousin, a U.S. citizen, and beat him unconscious, later arresting other relatives as well.³⁶⁹

Right to Own Property violated by Israel

During 2014, 590 homes and other buildings were demolished in East Jerusalem and Area C by the Israeli authorities, displacing 1,215 Palestinians, as well as 143 internationally funded structures or items provided by humanitarian organizations.³⁷⁰ Palestinians seeking building permits in East Jerusalem and the 61% of the West Bank under exclusive Israeli control continue to face incredibly difficult circumstances and repeated denial by Israeli authorities, while a separate planning process for Israeli settlers promptly grants new construction permits in those areas. This forces Palestinians to build without permits to meeting their housing needs, risking demolitions. According to the OCHA, “demolitions that result in forced evictions and displacement run counter to Israel’s obligations under international law and create unnecessary suffering and tension.”³⁷¹

In September 2014, Israel declared 400 hectares of the West Bank “state land”, clearing the way for a new settlement south of Jerusalem.³⁷² The land is part of five Palestinian villages and was appropriated by the Israeli cabinet in response to the June kidnapping and killing of three Israeli teenagers, even though Israel had already demolished three family homes of the suspects. Under Israeli military rules, Palestinian landowners can appeal the decision within 45 days if they can prove individual land ownership. However, since Israeli occupation of the West Bank began in 1967, Palestinians have been prohibited from registering land ownership claims in the 62% under exclusive Israeli control, including the recently seized 400 hectares. In 2014, Israeli authorities announced plans to build more than 8,000 settlement housing units in the West Bank, violating international law and the Geneva Conventions that “prohibit an occupying power from expropriating public or private property except as strictly required by military necessity.”³⁷³

Freedom of Movement violated by Israel

In 2014, Israel maintained difficult restrictions on movement of West Bank Palestinians with checkpoints, the separation barrier and settlement-related limitations that restricted their access to agricultural land and forced Palestinians to take time-consuming detours.³⁷⁴

Israel continued construction of the separation barrier around East Jerusalem, with some 85% of its route running inside the West Bank, rather than along the Green Line marking the pre-1967 borders.³⁷⁵ Nearly half of the Israeli settlements in the West Bank and over 85% of the settler population are located in the area between the Green Line and the Barrier. Approximately

150 Palestinian communities have land located behind the Barrier on the Israeli side, forcing residents to seek special permits to access it, while 11,000 Palestinians living in 32 communities located between the Barrier and the Green Line depend on permits granted by Israeli authorities to live in their own homes.³⁷⁶

Freedom from Torture and Degrading Treatment violated by the Palestinian Authority

ICHR reported 108 complaints of torture and ill-treatment by Palestinian security services in the West Bank as of October 31 2014. Furthermore, security forces used aggressive force to break up peaceful protesters in Ramallah and arbitrarily detain them. Like its political rival in Gaza, Palestinian courts in the West Bank did not hold security officers responsible for torture, arbitrary detention or prior cases of unlawful deaths.³⁷⁷

Right to Life, Liberty, and Personal Security violated by Palestinian Militant Groups

Palestinian attacks against Israeli civilians and security forces rose by 53% in 2014 compared to the previous year. The Israel Security Agency recorded a total of 2,140 violent attacks in the West Bank and West Jerusalem, resulting in 15 deaths and 250 injuries. Jerusalem was at the center of the wave of attacks, accounting for 10 of Israeli fatalities and 69% of injuries. The most serious violence included the killing of five worshippers in a synagogue and two incidents of four civilians at light rail train stations being run over with vehicles.³⁷⁸

Israel

Rights of Refugees, Asylum Seekers, and Migrants violated by Israel

From 2006 to the beginning of 2014 Israel has seen a large increase in migrants from Sudan and Eritrea. Of the 65 thousand foreigners who entered Israel between these years, 52,000 of them came from East Africa. By mid-2014, around 44,000 Eritreans and Sudanese remained in the country as a result of Israel's effort to return them to their home countries. However, though many of them claim refugee status and seek asylum, Israel has continued to treat them as "infiltrators."³⁷⁹ Although some do cite economic opportunity as their reason for seeking asylum, the vast majority are fleeing oppressive regimes. According to Human Rights Watch:

Eritreans have sought asylum abroad in large numbers since mid-2004. At least 200,000 fled across the Eritrean border into Ethiopia and eastern Sudan where they registered in refugee camps. Many were escaping widespread human rights violations, including mass long-term or indefinite forced conscription and forced labor, extra-judicial killings, disappearances, torture and inhuman and

degrading treatment, arbitrary arrest and detention, and restrictions on freedom of expression, conscience, and movement.³⁸⁰

Israel is making widespread efforts to remove these populations. Many of the 5,000 plus people removed between January and June of 2014 faced persecution upon returning home, particularly Sudanese asylum seekers. According to HRW,

Seven Sudanese returning from Israel told Human Rights Watch they were detained and interrogated in Sudan's capital, Khartoum with three held for long periods during which time one was tortured, a second was put in solitary confinement, and a third was charged with treason for visiting Israel.³⁸¹

This is a violation under the 1951 Refugee Convention which states that it is necessary to allow the integration of refugees into society until it is safe for them to return to their country of origin.³⁸²

Rights of Minorities violated by Israel

Bedouin people are nomadic herders who have had ancestral ties to the Negev desert for hundreds of years. There are nearly two hundred thousand of them living in Israel, with the majority divided into seven government recognized townships. However, 30 plus unrecognized communities exist, leaving them susceptible to displacement. Since 1948, Bedouins have been moved around to accommodate settlements by Israeli citizens. Between the months of March 2013 and August 2013, Human Rights Watch reported the “demolition of 18 Bedouin homes and 11 other structures, including 8 tents where victims of previous demolitions were living.”³⁸³ As of mid-January 2015, 70 Bedouins were forced out of their homes for Israeli settlements.³⁸⁴ Recent legislation has put more at risk of displacement and removal from their homes:

The experts called for the prosecution of Israeli officials who are responsible for implementing plans to relocate as many as 12,500 Bedouin to a centralised township near Jericho, called Nweima, to make way for new Israeli settlements. It is one of several sites proposed by the Israeli authorities for the relocation of some 30,000 pastoralist Bedouin people.³⁸⁵

With few legal practices protecting the rights of these communities, Bedouin face persecution and little opportunity to maintain their livelihood.

Analysis

Since the devastating 50-day war last year, the international community and human rights organizations have been scrambling for funds to rebuild the Gaza Strip. While pledged donations totaled \$5.4 billion during the October 2014 conference in Cairo, the money has stalled at \$300

hundred million³⁸⁶ due to economic instability in Europe and dropping oil prices, while Israel continues to strengthen their grip on the blockade surrounding the strip, citing security concerns relating to Hamas as reasons to almost fully block the transport of basic construction materials into Gaza.³⁸⁷ The greatest threat to Palestinian cohesion and political progress is the continued suffering of the Gaza population and growing economic crisis. Recently, leading Fatah member Mohammed Shtayyeh stated that the Palestinian Authority (PA) is “on the verge of collapse” due to “Israel’s decision to withhold Palestinian tax revenues” and “a major shortage in the Gaza reconstruction funds.”³⁸⁸ In the aftermath of the war, support of Hamas is growing and the Palestinian Authority has considerably distanced itself from cooperation with the Israeli government. If Israel continues to uphold the Gaza blockade, as well as push forward on Israeli settlements and discriminating policies towards Palestinians in the West Bank, the situation may further deteriorate.

In October of last year, the UN launched the Gaza Reconstruction Mechanism (GRM) “to enable construction and reconstruction work” in the Gaza strip, facilitated jointly by the Government of Palestine, the UN, and the Government of Israel. The GRM was devised to give assurance to international donors that their investments in the rebuilding of Gaza “will be implemented without delay,” while addressing Israeli security concerns pertaining to “construction and other ‘dual use’ materials.”³⁸⁹ The mechanism functions as a monitoring system with new security personnel and video cameras at distribution points, a central database linked to the Palestinian Ministry of Civil Affairs and available to Israeli intelligence agencies “to track materials entering Gaza, and a vetting process for both suppliers and buyers, with Israel overseeing all “project submissions.”³⁹⁰

Critics of the UN mechanism have called it an endorsement of the blockade and the Palestinian Centre for Human Rights stated that the mechanism only “serves to ‘systemize the siege.’”³⁹¹ Furthermore, human rights groups and humanitarian analysts have already deemed it a total failure, citing the record low movement of goods into the region³⁹² and inadequate reconstruction plans that “do not account for Gaza’s acute housing needs that predated the last wave of destruction.”³⁹³ While the UN is admirable in their efforts to keep Israeli fears subdued, the GRM could function more efficiently and effectively if the UN radically reduced Israel’s involvement with construction projects and increased Palestinian participation. It is clear that the Israeli government is not an impartial decision maker and the Palestinian Authority,³⁹⁴ including

representatives from Gaza,³⁹⁵ need to have more direct involvement if there is any hope for swift reconstruction and a resilient unity government between the Palestinian territories.

A united effort to rebuild Gaza in the form of a higher council (see recommendations) could not only bring a faster resolution to the region's most pressing humanitarian needs, but also having the various Palestinian factions and other key stakeholders work around the same table will result in direct dialogue with each other about core issues and hopefully rehabilitate Palestinian unity, laying the groundwork to revive peace negotiations between Israel and Palestine. In order to get such an expensive and time consuming maneuver up and running, the international community would need to come through with their promised donations, especially Palestine's Muslim friends in the Organization of Islamic Cooperation. A specialist trust fund for donations managed by the Islamic Development Bank and overseen by the council could be established, including a separate bank account from the budgetary arrangements of both the PA and Hamas. This fund would serve to ease international concerns regarding the distribution of aid and allow greater transparency for the Palestinian people and Israeli government.

Recently, a surprising and promising set of data emerged from a poll commissioned by the Foundation for Middle East Peace asking Israeli voters about the US-Israel bilateral relationship. Three-quarters of those polled agree that it is important that the party they vote for in the upcoming March election moves forward in Palestinian negotiations, significantly higher than before the 2012 election, and half agreed that building new settlements in the West Bank is "damaging Israel's legitimacy and security."³⁹⁶ Furthermore, of those that hold this view, "a strong majority agreed that if America were to make clear its opposition to settlement expansion, it would make them more critical of Israel, not the United States."³⁹⁷ These polls present an interesting juxtaposition to Israeli Prime Minister Benjamin Netanyahu's flagrant disregard for negotiations and clear disagreement with the US-endorsed two-state solution. With tensions in Washington growing towards Netanyahu, it may be time for the US to take a more stringent stance against the Israeli government as it pursues policies that America opposes.

Recommendations

Israel

- Allow human rights organizations access to Gaza to assess damage and human rights abuses.
- Ensure that the Israeli military comply with the duty not to destroy civilian property in the absence of military necessity in the occupied Palestinian territories in accordance with the Fourth Geneva Convention and customary international law.
- Withdraw Israeli forces from all occupied territories.
- Condemn violence against the Palestinian people and prosecute individuals that harm Palestinian property or persons.
- Officially recognize the Palestinian unity government to allow freedom of movement for its ministers between Ramallah and Gaza.

Palestine

- Increase PA presence in the Gaza Strip, under the support of the “national consensus” joint government agreement.
- Immediately end the torture and mistreatment of detainees.
- Reiterate the condemnation of violence against Israeli people and hold individuals accountable for violent acts through due process of law.

The United Nations

- Engage in direct and genuine consultation with a wide range of stakeholders based in Gaza, including Hamas.
- Establish a collaborative and representative higher council to oversee the GRM.
 - This body should include representatives of the key stakeholders, including the PA (Coalition government), 4 or 5 regional countries (possibly Egypt, Jordan, Saudi Arabia, Qatar and Turkey), the European Union, Norway, the Islamic Development Bank, the World Bank, UNRWA, UNDP, and representatives from each of the main political factions in Gaza, including Hamas.
 - Elect a chairman that is independent, but trusted by all sides (perhaps a delegate from Norway as they have proven vital to many important peace projects).
 - Use the council to facilitate, manage and monitor the import and distribution of building materials.
- Establish a trust fund with the Islamic Development Bank that will be responsible for receiving and managing all donations directed at Gaza reconstruction and overseen by the proposed council. This fund should have a separate bank account outside of PA and Hamas budgetary arrangements.

Regional and International Actors

- Egypt:
 - End support of Israel’s blockade against Gaza.
 - Begin discussions with the PA to coordinate a broader counterterrorism strategy in the Sinai Peninsula.
- Organization of Islamic Cooperation:
 - Reiterate the principles of the OIC Charter to member states in an effort to pressure states to fulfill financial pledges, including the duty “to be guided by the

noble Islamic values of unity and fraternity” and “to support the struggle of the Palestinian people.”

- United States of America:
 - Publically remind the Israeli people the importance it attaches to American interests in the region and allude to potential consequences if Israel fails to pursue U.S.-supported policies.
 - Reduce funding for military support if the Israeli government continues to make it clear they do not want to make progress on an Israeli-Palestinian agreement.

JORDAN

Skye Terebey

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Human Rights Concerns:

- Freedom from Torture and Degrading Treatment
- Freedom from Slavery and Forced Servitude
- Freedom of Expression
- Right to Life
- Rights of Refugees
 - *Right to Asylum in other Countries from Persecution and Right to Adequate Living Standard*
- Women's Rights
 - *Freedom from Discrimination and Right to Life, Liberty, and Personal Security*

Background

The Hashemite Kingdom of Jordan is a constitutional monarchy currently under the rule of King Abdullah II. The state of Jordan was created out of the Transjordan Mandate during the European mandate system in the Middle East post following World War I. Control over the mandate was granted to Emir Abdullah of the Hashemite family and formal independence was declared in 1946. Although Jordan is considered a constitutional monarchy, the King holds a wide array of executive and legislative powers that severely degrade the parliament's authority, including the ability to appoint the prime minister and dissolve parliament at any time. These powers have been enacted several times in the past few years.

The artificial formation of Jordan as a nation-state with European drawn borders has resulted in the necessity of the continual production and strengthening of Jordanian nationalism and identity. Representation in the government has historically been weighted towards native Jordanian tribal leaders, who are considered loyal to the crown, and away from Palestinian-Jordanians. In 1950 the West Bank of Palestine was unified with the "East Bank" of Jordan and integrated into the kingdom until it was annexed by Israel in the 1967 war. The unification process, as well as the initial refugee flight from the 1948 Arab-Israeli war, has left Jordan with a substantial Palestinian population. By some estimates over half of the Jordanian population is of Palestinian origin, including both Palestinian refugees and Palestinian-Jordanians granted citizenship rights during the unification.³⁹⁸

The recent conflict in Syria has placed Jordan in a precarious position, as it remains one of the primary host countries for Syrian refugees fleeing conflict. This has put severe strain on Jordan, both in terms of economic burden and resource drain. The burden of refugees pushed Jordan from being ranked as one of the top ten most water-poor countries into the top two in 2014.³⁹⁹ The resource and economic stress from hosting refugees has alienated segments of the population and created the conditions for rising Islamist sentiment. To combat these movements, the government has increasingly cracked down on dissent and tightened restrictions on the freedom of expression and assembly.

Over 620,000 registered Syrian refugees have fled to Jordan since the beginning of the Syrian Civil War, with 65,000 entering into Jordan in 2014.⁴⁰⁰ Jordan continues to face incredible economic strain under the burden of Syrian refugees fleeing civil war and persecution, and has begun restricting entry along the border. In autumn of 2014, security officers carried out an anti-terrorism crackdown in an attempt to repress growing support for the Islamic State of Iraq and the Levant (ISIL), resulting in increased arrests under Jordan's recently expanded anti-terrorism law.⁴⁰¹ In addition to new anti-terrorism efforts the death penalty was resumed in December with the execution of eleven men, ending the eight year de-facto moratorium on capital punishment.⁴⁰²

Freedom from Torture and Degrading Treatment

As of December 2014, no police or intelligence officer has ever been convicted of torture under Article 208 of the Jordanian penal code.⁴⁰³ This record reveals the atmosphere of impunity within Jordan regarding torture and abuse during detainment, partially due to the judicial arrangement assigning the majority of judges from active police officers.⁴⁰⁴

A prominent Salafi cleric, Omar Uthman (Abu Qatada), was convicted of terrorism for a 1998 plot to bomb several sites in Amman, including an American school.⁴⁰⁵ In June 2014, the State Security court exonerated Mr. Uthman after evidence surfaced of the use of torture to coerce a confession. In September 2014, all charges were deemed inadmissible and dismissed, releasing Mr. Uthman from incarceration.⁴⁰⁶ Despite legislation in 2007 to modify the Jordanian penal code to explicitly ban torture with regards to Article 208, human rights groups have repeatedly found cases in direct violation the law.⁴⁰⁷ One recent case of Sultan al-Khataba, found dead just four days after being imprisoned for alleged drug possession, sparked civil pressure for

justice.⁴⁰⁸ Despite police claims that he fell on his own accord, medical reports reflect that wounds sustained from torture caused his death. In March 2014 a prosecutor bravely brought charges of torture against six members of the Public Security Directorate for directly violating the revised Article 208.⁴⁰⁹ This indictment offers a first attempt at prosecuting a state official and holding offenders accountable for torture, a positive step in breaking down Jordan's culture of impunity.

In Jordan, allegations of the abuse of imprisoned or detained civilians are handled by internal agencies as opposed to an independent civilian court.⁴¹⁰ This quasi-judicial system, far from being independent and impartial, is made up of two police officers and one judge who is appointed by the police director. When penalties are imposed, they are far from proportional to the severity of the torture inflicted upon the victim. Widespread use of torture was documented by the Special Rapporteur on Torture on his visit to Amman in 2006.⁴¹¹ He received consistent and credible information of allegations of torture, most commonly executed during the gap between arrest and pretrial detainment for the purpose of extracting a confession. Impunity for perpetrators of torture continues regardless of Jordan's clearly defined legislation prohibiting torture, which in effect, has proved meaningless.

Freedom from Slavery and Forced Servitude

Within Jordan there are over 70,000 domestic workers from Sri Lanka, Indonesia, and the Philippines. Jordan is one of the few Middle Eastern countries to include domestic workers within its labor laws without the guise of a formalized state sponsorship system. Jordan claims to regulate the rights and duties of migrant workers, as well as their employers and recruiting agencies, within the articulation of the law. However, many migrants who come to Jordan looking for work find a very different situation on the ground than what the state has projected. This in turn promotes an informal sponsorship and places workers in a vulnerable position at the hands of their employers. Those interviewed by NGOs revealed that Jordanian law provided little protection for domestic workers and that they suffered similar conditions as migrant workers in their neighboring countries.⁴¹² These violations include beatings, forced confinement, confiscation of passports, unreasonable work hours without time off, limited food and non-payment of salaries. The situation on the ground does not reflect the legislated rights protection afforded to migrant workers due to a lack of proper enforcement. Human Rights Watch (HRW)

found that “while Jordanian officials now have the tools to prevent and respond to abuses, they have lacked sufficient political will and coordination to use them.”⁴¹³

Freedom of Expression

In Jordan, “freedom of expression is restricted by numerous laws that criminalize defamation, the denigration of government, and the incitement of sectarian strife.”⁴¹⁴ Insulting the king can lead to a three year prison sentence. These laws lead to an environment of self-censorship among Jordanian journalists as well as civil society. The State Security Court (SSC), a quasi-military court with jurisdiction over crimes deemed to harm Jordan’s internal and external security, is typically the forum used to prosecute dissidents. Although “Jordanian lawmakers approved reforms for the State Security Court law in early 2014 to restrict its jurisdiction to terrorism charges and four other crimes,” in the wake of security concerns over rising Islamist sentiment, the definition of terrorism has been broadly expanded in recent anti-terrorism legislation to encompass a variety of speech.⁴¹⁵ In April 2014 the Jordanian parliament approved amendments to the Anti-Terrorism Law, broadening the definition of terrorism and introducing harsher penalties for terrorist acts:

Under the new law, penalties for terrorist acts range from 10 years in prison to the death penalty, and the definition of terrorism has been expanded to include any act meant to create sedition, harm property or jeopardise international relations, or to use the Internet or media outlets to promote ‘terrorist’ thinking.⁴¹⁶

These increased punishments go beyond necessary precautions to suppress terrorist activity and criminalize voicing dissent over foreign political issues. These restrictions on freedoms of expression manifested during the raid of the Al-Abasiya TV station in Amman. Between 12 and 15 staff members and journalists were arrested and held under charges stemming from the new amendments to the Anti-Terrorism Law.⁴¹⁷ Within the environment of the anti-terrorism crackdown, free speech remains limited and the citizenry remains censored. There continue to be arrests for insulting the King, such as in the case of Al-Smadi who was arrested for criticizing the King on Facebook. He is to be prosecuted in the SSC under a terrorism provision for “undermining the political regime”.⁴¹⁸

Right to Life

On 21 December 2014 Jordan resumed its use of the death penalty with the execution of 11 men in Suwaqa prison. There had previously been an eight year de-facto moratorium on the death penalty, with the last executions being carried out in March of 2006. Although there had been a stay on executions, death sentences continued to be handed out and there were a reported 122 inmates on death row prior to the resumption of the death penalty.⁴¹⁹ This indicates a regrettable reversal in Jordan's progressive role in the region with regards to the death penalty. Jordan carried out an additional two executions in February 2015 following the execution of the captive Jordanian pilot, Moaz al-Kasasbeh, by ISIL.⁴²⁰

Rights of Refugees

Right to Asylum in other Countries from Persecution and Right to Adequate Living Standard

Reports of border closures continued in 2014, with humanitarian agencies reporting that starting 1 October there were accounts of refugees from Syria being refused crossing.⁴²¹ The UNHCR reported that the number of refugees entering Jordan dropped substantially from September to October, with 6,000 documented refugees during September and only 500 during October.⁴²² In mid-November the International Organization for Migration estimated that about 4,000 refugees were stuck on the Syrian side of the border, waiting to cross over into Jordan; reports indicate that on 11 December the border was reopened and they were allowed to cross, although it remains unclear how many will be allowed to remain within Jordan.⁴²³ HRW has reported on instances of the deportation of Syrian refugees during 2014, including women and children, violating the international principle of the non-refoulement of refugees.⁴²⁴ Within Jordan, refugees face desperate living conditions with inadequate access to basic necessities and sufficient shelter. The World Food Programme temporarily suspended a crucial food voucher program in December 2014 due to a lack of funds, endangering the two million Syrian refugees who rely on food assistance.⁴²⁵

Women's Rights

Right to Life, Liberty, and Personal Security and Freedom from Discrimination

Honor killings remain prevalent in Jordan with an estimated 15-20 documented cases occurring every year, although these numbers are likely underreported. Although there is no

explicit law that grants a man the right to kill a female relative who is believed to have “dishonored the family,” Jordan does have some of the most aggressive laws in the Middle East “upholding the legitimacy of honor killings”.⁴²⁶ In 2014, there were at least 12 documented cases of honor killings, with three occurring on the same day.⁴²⁷ While the law states that murder is punishable by death, perpetrators of these crimes often go unpunished or are given a lenient sentences. Several articles in Jordan’s penal code allow for reduced sentences on crimes committed with regards to the preservation of honor, resulting in relaxed sentences of six months to one year. Despite continuing activist efforts for the amendment and repeal of these articles, they remain largely unchanged. Additionally, the Crime Prevention Law of 1954 has been used to arbitrarily detain women at risk for domestic violence or honor killing as a form of protective custody.⁴²⁸ These women are placed in detention until there has been assurance from a male family member that they will not harm the woman; if a male family member does not provide such assurance detention can last several years.⁴²⁹ Women also face discrimination under Jordan’s personal status laws, which govern marriage, divorce, and family life. In addition, under Article Nine of Jordan’s nationality law, Jordanian women cannot pass their citizenship along to their children, meaning that children born to foreign spouses are rendered stateless.⁴³⁰ Progress in this area has been made, notably in the passing of a law in 2014 that expanded essential rights for the children of Jordanian women married to non-nationals, such as the ability to own property, obtain a driving license, and enroll in government schools.⁴³¹ This action, however, falls short of providing equal nationality rights to women.

Analysis

Jordan faces a substantial security threat from spillover conflict from the war in Syria and Iraq, two countries sharing borders with Jordan. Increasingly vocal support for ISIL from Jordanian citizens, especially in the towns of Mafrq and Ma’an, prompted an anti-terrorism security crackdown in an attempt to stifle growing Islamist support.⁴³² While Jordan reserves the right to ensure national security, the expansion of anti-terrorism legislation incorporating aspects of free speech important to a diverse civil society indicate that anti-terrorism efforts are eroding human rights protections in Jordan. Additionally, the execution of two prisoners following the death of Jordanian pilot Moaz al-Kasasbeh “suggests that retaliation against third parties is driving policy, rather than justice based solely on fairness and individualized guilt.”⁴³³ Jordan is

encouraged to ensure that national security efforts do not interfere with its human rights obligations.

Jordan does not utilize the sponsorship system prominent in many Middle Eastern countries, but the incorporation of migrant domestic workers under its labor laws has in effect done little to curb human rights abuses. Although Jordan does not have a state recognized sponsorship system, workers are unable to gain work and residency permits on their own, and must instead rely on employers.⁴³⁴ This effectively institutes a *de facto* sponsorship system, where workers must depend on employers to renew work and residency visas in order to retain their legal status within the country. While there are many protections for migrant workers under Jordan's labor law, the lack of proper enforcement means that migrant domestic workers face serious deprivations such as forced confinement, non-payment of salaries, and the confiscation of legal documents. Jordan should make a concentrated effort to bring working conditions for migrant domestic workers in line with the law by investigating allegations of workplace abuse and prosecuting violations.

The Syrian refugee burden has placed significant strain on Jordan's economy and national resources. USAID estimated that Jordan's fiscal cost of hosting Syrian refugees would reach \$871 million and Jordan's National Resilience Plan estimated that it would need about \$1.2 billion to maintain existing levels of basic services.⁴³⁵⁴³⁶ Despite being a non-signatory to the 1951 Refugee Convention, Jordan faces international obligations to maintain an open border and uphold the principle of non-refoulement. As a host country with few natural resources, Jordan is highly dependent on foreign assistance to help address the refugee crisis. Continuing financial support from the international community, specifically the US, and members of the EU and the Arab League is necessary if Jordan is to be able to uphold its duties as a host country to successfully ensure an adequate standard of living for refugees. Jordan is encouraged to extend temporary legal residence to all refugees in order to prevent the forcible repatriation of Syrians, which would violate the principle of non-refoulement considered to be a part of international customary law.

Recommendations

To the Jordanian Government

- Maintain an open border policy along the Syrian border that allows all humanitarian refugees to seek asylum within Jordan.
- Grant temporary legal residence to all refugees registered with the UNHCR.
- Repeal the amendments to the 2006 Anti-Terrorism Law and narrow the definition of terrorism so that it does not impinge on freedom of expression.
- Create an oversight mechanism that investigates allegations of torture and mistreatment of detainees and prosecutes officials found guilty of mistreating detainees.
- Remove reductions in penalties for honor killings by repealing Penal Code No. 240 and Penal Code No. 98.
- Repeal the Crime Prevention Law.
- Amend the Nationality Act to enable Jordanian women married to non-nationals to pass along nationality to their children.
- Enforce Article 208 by removing jurisdiction over complaints involving officers from the Police Court and establishing independent investigations into alleged violations to be brought before an impartial judicial body.
- Strengthen existing labor protections for migrant workers by improving the capacity of labor inspectors to investigate complaints of labor violations and impose fines to the full extent of the law.
- Re-establish the moratorium on capital punishment and reduce the number of crimes for which the death penalty may be imposed.

To the International Community

- Follow through with humanitarian aid assistance to the UNHCR and Jordanian government.
- Expand third country resettlement programs and make Syrian refugees a priority group for resettlement.
- Ensure that Jordan's eligibility for funding and bilateral aid is conditional upon the Jordanian government's continued commitment to improving human rights standards.

LEBANON

Skye Terebey

Human Rights Concerns:

- Freedom from Arbitrary Arrest and Exile and Right to a Fair Public Hearing
- Freedom from Slavery and Forced Servitude
- Freedom from Torture and Degrading Treatment
- Freedom of Expression
- Rights of Refugees
 - *Right to Asylum in other Countries from Persecution and Right to Adequate Living Standard*
- Right to Free and Periodic Elections
- Right to Life, Liberty, and Personal Security
- Women's Rights
 - *Right to Equality before the Law and Right to a Nationality and the Freedom to Change It*

Background

Lebanon has faced a series of political crises since the end of the Lebanese Civil War in 1990. The country continues to be an embattled and deeply divided society split along sectarian lines that have been reinforced by the country's political framework of confessionalism. Political infighting amongst the different religious communities along with periodic assassinations of government officials has contributed to an atmosphere of political paralysis and a perpetually unstable security situation. The persistence of Hezbollah as not only a dominant political party but as an active Shi'a militia functioning outside of the Lebanese Armed Forces is a major force in the continuing split of Lebanese identity.

Lebanon is a parliamentary democratic republic, modeled explicitly along confessional lines, meaning governmental representation is proportionately allocated to representatives of certain religious communities. The National Pact of 1943, one of the founding documents of the Lebanese governmental system, laid out this framework. Percentage wise, Lebanon has the highest Christian population in the Middle East, currently approximately 40% of the population.⁴³⁷ The presidency is reserved for a Maronite Christian while the Speaker of Parliament must be a Shia Muslim and the Prime Minister must be a Sunni Muslim. The proportionality of the allocation of parliamentary seats was based on the 1932 Lebanese census until 1990 when seats were re-allocated to be 50% Christian and 50% Muslim at the conclusion of the Lebanese Civil War.⁴³⁸ Despite this reallocation, the proportionality of government

representation still fails to accurately reflect the current religious demographic of Lebanon. This disproportionality of political rights contributes to the sectarian divisions that have made Lebanon such a deeply divided society.

From the outset of independence in 1943, Lebanon has been one of the most demographically diverse countries in the Middle East. The Constitution recognizes 18 different religious groups, which have been the primary basis for identity formation within Lebanon. Periodic influxes of other populations, notably the Palestinians in 1948, with the addition of the establishment of Lebanon as the base of the Palestinian Liberation Organization's (PLO) operations in 1970 have contributed to this multiplicity of communities within Lebanon that form identity off of attributes other than nationality. The Lebanese Civil War, carried out from 1975 until the implementation of the Taif Agreement in 1990, was a period of generalized violence within Lebanon in which the divided communities mobilized militias to gain political and territorial control. Hezbollah, a key group in modern Lebanese politics and society, emerged as a Shi'a militia during the infighting of the civil war. During the civil war Syria intervened as an occupying force and did not withdraw until 2005, creating another division amongst Lebanese society along pro- and anti-Syrian lines.

Despite Lebanon's turbulent history with internal conflict, it has traditionally celebrated a liberal socio-cultural framework that set it apart from much of the Middle East. Beirut was once described as "the Paris of the East", demonstrating Lebanon's close political and economic ties with the West. Freedom of expression and association are widely celebrated within Lebanon, with a diverse civil society and a relatively free press. These ties with the West explain part of Lebanon's split identity and have been contributing factors to instability, particularly during the Cold War when the Christian community sought closer ties with the United States and the Muslim community looked toward Nasser's campaign for Arab nationalism, promoted by the Soviet Union.

Lebanon continues to face a deteriorating security situation, with increasing instances of violent spillover from the Syrian conflict into Lebanese territory. Sectarian tensions, dampened but unresolved since the civil war, routinely lead to political paralysis. The country currently faces a crisis of leadership, having entered into a presidential vacancy at the end of May that has continued throughout 2014 due to the Parliament failing to choose a successor.⁴³⁹ At the end of November the Parliament voted to extend its mandate through 2017, citing the necessity to

maintain order and stability during the deteriorating security situation.⁴⁴⁰ In addition, Lebanon faces an overwhelming refugee burden from the Syrian Civil War that has exacerbated existing tensions. In 2014 Lebanon passed the threshold of hosting 1 million Syrian refugees, almost a quarter of the Lebanese population.⁴⁴¹ This substantial refugee burden increasingly strains the economic, political, and security situation of Lebanon.

Freedom from Arbitrary Arrest and Exile and Right to a Fair Public Hearing

The Lebanese judicial system falls short of providing fair and speedy access to a trial and ensuring detainee's rights are protected. Arbitrary arrests due to corruption, an inadequate legal framework, and a lack of trained law enforcement officers disproportionately affect vulnerable groups such as migrant workers, homosexuals, drug users, and journalists.⁴⁴² Although Lebanese law dictates that detainees cannot be held for longer than 48 hours without charge, this is routinely disregarded, leading to indefinite detention for weeks and even months.⁴⁴³ In one extreme case, two Lebanese citizens have been detained for over six years. Tariq Mostafa Marei and Abdel Karim Al Mustafa were arrested in 2008 and detained for four years before facing trial; during this period they were tortured to elicit false confessions. In 2013 they were convicted of "involvement in terrorist acts" based on these confessions and sentenced for 15 years in prison. After investigation, the UN Working Group on Arbitrary Detention has declared their detention arbitrary and called for their immediate release.⁴⁴⁴ Legal protections for detained persons are insufficient; detainees are not guaranteed access to a lawyer during interrogation.⁴⁴⁵ Even when the law enshrines necessary rights, they are often disregarded in practice, resulting in an institutional disregard for the basic rights and protections afforded to Lebanese citizens under multiple domestic and international laws. In addition, the Lebanese "Military Court has been used as a political tool... for suppressing the public opinion and promoting a police state".⁴⁴⁶ Civilians, including activists and journalists, are routinely tried in the military court and denied access to legal representation.⁴⁴⁷

Freedom from Slavery and Forced Servitude

Lebanon operates under the *kafala*, or sponsorship, system which requires workers to have an in-country sponsor who assumes responsibility for their visa and legal status. This relationship of dependency upon their employer puts workers at an extreme disadvantage and

places them in a position of increased risk of exploitation and abuse. Approximately 250,000 migrant domestic workers live in Lebanon, but they receive very little protection before the law. They are excluded from Lebanon's labor law and therefore are not guaranteed rights such as a minimum wage, sick leave, or set working hours.⁴⁴⁸ Legal status within Lebanon is directly tied to a migrant worker's employer and they are "dependent on their employers... for their freedom of movement, food, shelter, communication and general treatment," creating opportunities for rampant exploitation such as the confiscation of legal documents and the withholding of salary.⁴⁴⁹ A study by Open Society Foundations (OSF) in February 2014 reported that up to a quarter of domestic workers living with their employers were forbidden from leaving the property and up to 75% of surveyed workers had had their passports confiscated.⁴⁵⁰ A positive development occurred in June, hopefully establishing precedence, when a court ruled in favor of a worker suing her employer for withholding her passport.⁴⁵¹

Freedom from Torture and Degrading Treatment

A report released by the United Nations Committee Against Torture (CAT) revealed that torture is "a pervasive practice that is routinely used by the armed forces and law enforcement agencies" within Lebanon.⁴⁵² Torture can happen at any step of the detention process, from the moment of arrest to police interrogation. Reports of torture have included instances of beating, sexual violence, and the application of electrical currents from car batteries. The report stated that "there were persistent reports of torture and ill-treatment of Syrian nationals, Palestinians, persons with limited financial means who were arrested for minor crimes and others held in police custody for alleged drug use, sex work or homosexuality by ... personnel enforcing "morality-related" laws," and that foreign nationals were often the targets of torture and ill-treatment within detention.⁴⁵³ The Lebanese government rejected the report's findings, stating that "state authorities were doing their utmost ... in the region's highly dangerous and sensitive atmosphere and in the shadow of terrorist threats."⁴⁵⁴

Freedom of Expression

Although freedom of speech is protected under the Lebanese Constitution, vague clauses in the press law such as the "prohibition of publishing material that contradicts public ethics or is inimical to national or religious feelings or national unity," have led to an environment of self-

censorship, particularly among journalists.⁴⁵⁵ In addition, the criminalization of defamation has been used to as a deterrent to journalists for reporting on news such as corruption or embezzlement. The law is routinely used to intimidate journalists and censors the voicing of concerns about public officials. While prison sentences are generally rare in defamation cases, a case in 2014 may set a worrying precedent for the future. In February Jean Assy, a blogger, was sentenced to two months in prison for defaming President Michel Sleiman, although he was later pardoned.⁴⁵⁶

Rights of Refugees

Right to Asylum in other Countries from Persecution and Right to Adequate Living Standard

Approximately 1,170,000 registered Syrian refugees have entered Lebanon since the beginning of the Syrian civil war and now comprise approximately 25% of the Lebanese population.⁴⁵⁷ The unregistered refugee population has been estimated to be as high as 500,000, placing the total number of Syrian refugees at over 1.5 million.⁴⁵⁸ Syrian refugees within Lebanon faced increased movement restrictions during 2014 with the imposition of curfews. There were reports of refugees being banned from leaving the town of Aarsal without express permission from the army.⁴⁵⁹ Over the course of the year border restrictions tightened, culminating in an essentially closed border between Syria and Lebanon. Lebanon has announced that it will impose a visa requirement for Syrians attempting to enter Lebanon.⁴⁶⁰ Lebanon is not a signatory to the 1951 Refugee Convention or the 1967 Optional Protocol, and does not have a domestic asylum system that outlines legal protections for asylum-seekers and refugees. While the UNHCR operates within Lebanon to register refugees, documentation with the UNHCR does not grant them legal status or recognition within Lebanon.⁴⁶¹ This lack of legal status within Lebanon for refugees places them in danger of being deported back to Syria. There have been reports of forcible return of Syrian refugees from Lebanon, violating the international principle of non-refoulement and placing the returned refugees in extreme danger of being detained and tortured. Despite the denial by Lebanese authorities of this practice, there is substantial evidence of several cases of forcible repatriation over the course of 2014.⁴⁶² Refugees within Lebanon continue to face a precarious existence with inadequate legal protections and extremely low standards of living. Their precarious legal status limits access to health services and their freedom of movement within the country, as undocumented refugees are unable to cross

checkpoints. Additionally, there has been an increase of violent attacks against Syrian refugees, seemingly in an attempt to expel them or dissuade them from settling in certain towns and neighborhoods.⁴⁶³

Right to Free and Periodic Elections

Lebanon has been without a president since May 2014, after former President Suleiman's term ended without the election of a successor. The Lebanese Parliament has successively failed to elect a President and subsequently postponed parliamentary elections for the second time, extending the current parliament's term to twice its elected length.⁴⁶⁴ This is a disturbing development in Lebanon's political arena, as parliament has not exceeded its elected mandate of four years since the civil war. Although Lebanon faces significant security threats and economic strain in the face of the Syrian civil war, this should not stand in the way of holding elections. The continued postponement of parliamentary elections violates the Lebanese citizens' right to the opportunity to vote and be elected in genuine periodic elections as outlined in International Covenant on Civil and Political Rights, of which Lebanon is a signatory.⁴⁶⁵

Right to Life, Liberty, and Personal Security

Enforced disappearances remain a lingering legacy of the Lebanese Civil War and subsequent Syrian occupation. The Lebanese government declared in 1992 that over 17,000 civilians were "missing" after the war, although this number is disputed to be overinflated.⁴⁶⁶ Various militias, as well as the occupying forces of both Israel and Syria, routinely used enforced disappearances as a tool of warfare. Following the war, Syrian forces regularly abducted Lebanese citizens who spoke out against the occupation.⁴⁶⁷ While the general amnesty granted in 1991 and again in 2005 has prevented the possibility of criminally prosecuting those responsible, it should not mean that families continue to suffer uncertainty about the fate of their loved ones. A comprehensive draft law was drawn up in 2012 proposing the formation of a national commission to investigate and document the fate of the disappeared, but has since languished in political channels with no action.⁴⁶⁸ While the amnesty-granted impunity prevents the possibility of redress before the law, the establishment of this government mechanism would be a positive step in laying to rest the culture of fear generated by enforced disappearances. Additionally, increasing legal protections of civilians through the ratification of the International Convention

for the Protection of All Persons from Enforced Disappearances will reduce the likelihood of future political violence and strengthen the ability of state institutions to enforce the rule of law within Lebanon.⁴⁶⁹

Women's Rights

Right to Equality before the Law and Right to a Nationality and the Freedom to Change It

While Lebanese law is primarily based off of the French civil code, personal status laws pertaining to marriage, divorce, and inheritance are governed by separate codes designed for the different sectarian communities.⁴⁷⁰ These religion-based personal status codes enforce discrimination against women and unequal treatment of women between and across religious lines. A HRW report on discrimination under the personal status laws found that “across all religions, personal status laws erect greater barriers for women than men who wish to terminate unhappy or abusive marriages, initiate divorce proceedings, ensure their rights concerning their children after divorce, or secure pecuniary rights from a former spouse.”⁴⁷¹ Because personal status laws are grounded within religious law, Lebanese women are not guaranteed a standardized set of rights and protection with regards to personal status. In the absence of a civil law code under which all Lebanese citizens have their basic rights protected, the breadth of their rights are confined to religious restrictions that set high obstacles for women with regards to obtaining a divorce or retaining child custody. While Sunni, Shia, and Druze men can divorce at will, even in the absence of a court, women must petition the court for a severance based on evidence of “hardship and discord”.⁴⁷² Additionally, Lebanese women cannot pass along citizenship to their children and, if divorced, lose custody of their children after the child has reached a certain age. After that, custody is solely granted to the father and is passed along to male relatives in the event of the father’s death, rather than being returned to the mother.⁴⁷³

Analysis

The current Syrian civil war has placed Lebanon in a precarious state of security while simultaneously exacerbating existing sectarian divisions through the introduction of new economic difficulties and rapid demographic changes. As such, Lebanon faces a crisis of national security that has translated into a diminishing standard of recognition for upholding the human rights of vulnerable populations within Lebanon’s border. While this does not excuse

Lebanon from addressing the human rights issues within its borders, it does reflect that ensuring adequate protections will require a nuanced approach addressing the economic, social, and security concerns exacerbating violations. Perennial human rights issues within Lebanon must not be overlooked in the face of Lebanon's growing insecurity.

The attempt to be legally inclusive of Lebanon's 18 religious communities has created institutionalized discrimination along confessional lines. Politicizing religious identities has created a country where sectarian divisions are deeply rooted within society and keep the country divided. The current political stalemate in Lebanon proves to be a major limiting factor in improving the human rights situation within the country. Several important draft laws that create new oversight mechanisms or amend discriminatory penal code language have been put forward but are stalled indefinitely within the political quagmire. This failure of the Lebanese government to push forward reform in a period of insecurity and internal strain has been attributed to the destabilizing effects of serious political reform. Rather than destabilizing Lebanon's already precarious position, reform creates the opportunity to create a more integrated, inclusive society bound together under a Lebanese identity rather than fractured along confessional lines. Adhering to the timeline for parliamentary elections and choosing a president in a timely manner will contribute to Lebanon's stability.

In a comparative case study with other Middle Eastern countries, Lebanon demonstrates a considerably progressive and liberal framework. Human rights violations seem to arise from indifferent governmental oversight and the lack of strong state institutions to enforce and uphold the law rather than a concentrated effort to suppress dissent. This means that the potential for reform is large; instead of an ideological shift the government needs only to take initiative in introducing and implementing reform. This can be achieved by a unified effort between Lebanese civil society pushing forward initiatives to the forefront of dialogue and international society pressuring swift action in addressing pressing issues.

Although Article 8 of the Lebanese Constitution states that "No one may be arrested, imprisoned, or kept in custody except according to the provisions of the Law. No offense may be established or penalty imposed except by Law," Lebanese citizens and foreign nationals are often detained arbitrarily and subjected to lengthy pre-trial detention periods.⁴⁷⁴ This systematic violation of one's right to freedom from arbitrary arrest and detention is often compounded with torture during detention and the lack of access to a fair trial. These violations are a result of

inadequate legal protections for detained persons and a lack of judicial oversight for the correct implementation of procedure and impunity for security officers who abuse their power. The emphasis on confessions as the primary evidence used to convict encourages abuse and torture to elicit confessions from detainees.⁴⁷⁵ The expansion of legal rights for detained persons, including the right to access to a lawyer during detention, as well as training security forces and judges in the correct implementation of proper procedure is necessary to resolve the pervasive problem of arbitrary detention and ill-treatment. Additionally, the investigation into all allegations of torture, amendment of the Penal Code bring Lebanon's definition of torture in line with the CAT definition, and the establishment of a national preventive mechanism as required by the Optional Protocol to the Convention Against Torture will bring Lebanon into line with its international obligations to eliminate torture practices.⁴⁷⁶

Migrant workers within Lebanon receive very little protection due to their exemption from the Lebanese Labor Law. This has led to the exploitation and forced servitude of many domestic migrant workers who suffer both from a lack of protection of their basic rights and a lack of remedy when these rights are violated. As demonstrated by Jordan, merely incorporating them into the labor law will not singlehandedly guarantee the recognition of their rights.⁴⁷⁷ Sufficient enforcement practices and the option of redress before the law must also be enacted in order to eliminate the many abuses migrant workers are subjected to. Strengthening their legal status by removing the mandated sponsorship requirement will also assist in facilitating workers' access to legal remedies for abuse and exploitation.

Lebanon suffers a considerable economic burden from the influx of Syrian refugees. A joint World Bank and UN assessment estimated that Lebanon suffered cumulative economic losses of \$7.5 billion by the end of 2014 and that 170,000 Lebanese citizens were pushed into poverty by the crisis.⁴⁷⁸ Although Lebanon faces international obligations to maintain an open border and conform to the principle on non-refoulement, it is materially incapable of doing so without increased outside assistance. Substantial humanitarian aid from the international community is mandatory to ensure that the refugee crisis does not overwhelm Lebanon. The massive population influx from refugees fleeing the Syrian civil war is unsustainable for the small country of Lebanon; therefore, the expansion of resettlement schemes prioritizing Syrian refugees is necessary to ease Lebanon's burden. To prevent the forcible return of Syrian refugees

to Syria, Lebanon is encouraged to extend temporary residency status to all refugees registered with the UNHCR.

Recommendations

To the Lebanese Government

- Revoke the postponement of parliamentary elections and address potential obstacles so that elections may occur within a reasonable timeframe.
- Grant temporary legal residence to all refugees registered with the UNHCR.
- Maintain an open border policy along the Syrian border that allows all humanitarian refugees to seek asylum within Lebanon.
- Approve the 2012 draft law overseeing the formation of a national commission to document and investigate those forcibly disappeared.
- De-criminalize defamation, libel, and slander by repealing Penal Code No. 384, 386, and Military Legal Code No. 187 and introduce civil defamation laws.
- Abolish the sponsorship system so that a migrant worker's legal status is not directly tied to their employer.
- Expand the labor law to incorporate migrant domestic workers under its protection.
- Establish an independent mechanism to investigate and prosecute reports of abuse or torture of civilians while in custody of police or security officers.
- Approve the 2012 draft law creating a unified civil personal status code that allows Lebanese women to marry and divorce under a framework that recognizes and protects their rights, regardless of religious affiliation.

To the International Community

- Follow through with humanitarian aid assistance to the UNHCR and Lebanese government.
- Expand third country resettlement programs and make Syrian refugees a priority group for resettlement.
- Condition international aid and training for the Internal Security Forces on the elimination of inhumane interrogation practices and the full investigation of complaints brought against officers.

TURKEY

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Human Rights Concerns:

- Freedom from Torture and Degrading Treatment
- Freedom of Expression, Assembly, and Association
- Right to Fair Public Hearing
- Right to Personal Security
- Right to Remedy by Competent Tribunal

Background

Since its election in 2002, the Justice and Development Party's (AKP) popularity and parliamentary majority has been consistent despite being an Islamist party in a state founded on ideals of rigid secularism. In 2014, Recep Tayyip Erdoğan became President after serving as Prime Minister for twelve years, with Ahmet Davutoğlu taking over his previous position. Erdoğan has maintained that his first priority is to further the reforms needed to advance Turkey's European Union candidacy and spent the first decade of his rule reassuring the Turkish people of his commitment to the democratic process by enacting economic reforms, promoting business, curtailing some of the military's powerful constitutional influence and putting in place wide-ranging changes to improve the political condition, especially for minorities. As a result, in 2004 the EU announced that Turkey had become a candidate for membership and in October 2005 officially initiated accession negotiations. Since then the AKP has grown in support with two more major victories in the 2007 and 2010 parliamentary elections.

However, in recent years, Erdoğan and the AKP have pushed forward an agenda that is undermining the progress made in Turkey and infringing on human rights and the rule of law. Since the crackdown on the Gezi anti-government protests in Istanbul and other cities in the spring of 2013 and a major corruption scandal in December 2013, the government has enacted increasingly repressive and restrictive measures regarding freedom of assembly and expression, as well as interference with online media.

In December 2013, news broke of investigations into corruption and bribery involving four cabinet ministers with the arrest of 91 people, including the sons of three ministers, a governing party mayor, business leaders and a bank director.⁴⁷⁹ The inquiry centered on allegations of bribery, corruption, fraud, money laundering and a gold smuggling operation with

Iran. Erdoğan reacted to the scandal by replacing judges, prosecutors and police officers and temporarily blocking access to YouTube and Twitter after alleged wiretapping records from the investigation involving the former Prime Minister were circulated online. Although prosecutors obtained large amounts of incriminating evidence, officials closed the graft probe in May 2014 and in January of this year the parliamentary Corruption Investigation Commission decided to drop the cases against the ex-ministers involved with a money laundering scheme to bypass U.S.-led sanctions on Iran.⁴⁸⁰

The corruption allegations emerged in the midst of a re-igniting of the political rivalry between the Erdoğan-led AKP and their brief ally, the Gülen movement, a globally-active Muslim community group led by U.S.-based cleric Fethullah Gülen, whose followers hold key positions in the Turkish police, judiciary and secret services.⁴⁸¹ These two Muslim groups come from different branches of Islam in Turkey and historically, have had very opposing political orientations. The only time they have cooperated with each other in parliament is during a five-year period in the first term of the AKP (2002-2007), finding common ground in their commitment to a free-market economy and upward socioeconomic mobility. However, this “conditional partnership” has deteriorated since the 2007 and 2010 elections as the AKP grows increasingly authoritarian in the absence of a strong opposition.⁴⁸² Erdoğan’s circle has accused the Gülen movement of “exerting an undue influence in state institutions” and of plotting a coup. Negotiations between the government and imprisoned Kurdistan Workers’ Party leader Abdullah Öcalan remain on track, a genuine opportunity for progressing on the peace process and human rights in the country.

Freedom of Assembly, Association and Expression

During the 2010 United Nations Universal Periodic Review, the Turkish government stated, “the continuation of enhancements on the freedom of speech and the freedom of media is one of the fundamental aspects of Turkey’s human rights reforms.”⁴⁸³ Despite this very public stance, Turkey has created a “restrictive media atmosphere” with taxes and broadcasting fines handed out to selective anti-government media, criminal defamation cases against journalists, pretrial detention of some journalists on terrorism charges, prosecution of journalists for publishing leaked documents and ordered blocks of social media.⁴⁸⁴

In the first half of 2014, court orders were issued that blocked both Twitter and YouTube, along with heavy restrictive revisions to the main law regulating internet content (Law No. 5651) that furthered government control of online media.⁴⁸⁵ Furthermore, in September of 2014, another revision was passed by parliament without consultation that gave the Telecommunications Directorate the power to grant blocking orders of websites and keep data on users' browsing histories for reasons of "national security, the restoration of public order and the prevention of crimes" without a court order.⁴⁸⁶ The Constitutional Court, Turkey's highest court, annulled this revision in October 2014. However, in January of this year a new bill was introduced in parliament that hands the same power to Turkish ministers.⁴⁸⁷ The blackouts of Twitter and YouTube were eventually overturned by the Constitutional Court, finding that they were a "heavy violation" of the right to freedom of expression and "had no legal basis."⁴⁸⁸ Yet Twitter continues to restrict some anti-government accounts because of pressure from Turkish authorities.⁴⁸⁹

On 25 November 2014, Ankara's magistrates' court issued a gag order on media coverage of the investigation by a parliamentary commission into major corruption allegations that broke in December of the previous year. Before the order was issued, authorities dramatically obstructed media coverage of the case by "reducing access to police sources, blocking a news website, firing a leading journalist and resuming aggressive rhetoric with outspoken media."⁴⁹⁰ The ban on media coverage ended with the conclusion of the proceedings on 6 January 2015, but gag orders are becoming more numerous and far-reaching in Turkey. Examples include ones imposed in 2014 on the Islamic State's abduction of 80 Turkish citizens in Iraq, on suspicious trucks traveling to Syria that are allegedly arms convoys organized by Turkish intelligence according to media sources and one issued in 2013 for the bombings on the Syrian border in Reyhanli.⁴⁹¹

Freedom from Torture and Degrading Treatment

Police violence against civilians in Turkey has escalated over the past few years following the Gezi Park protests. The continuing disproportionate use of force by police against protesters and culture of impunity surrounding security forces signifies a regressing human rights atmosphere in Turkey. Renewed protests occurred in March 2014, following the death of Berkin Elvan, who was struck by a teargas cartridge during the protests in 2013 and had been comatose

since.⁴⁹² Riot police used tear gas and physical force to break up protestors showing solidarity for Mr. Elvan. On 1 May 2014 the police indiscriminately dispersed tear gas and deployed water cannons against a peaceful May Day demonstration.⁴⁹³ Later in May two protesters in Istanbul died after sustaining injuries from police tactics. One man was reportedly shot in the head while the other suffered from wounds caused by a fragmentation grenade.⁴⁹⁴ The disproportionate use of force by police officers is equivalent to police brutality and is being utilized to repress freedom of expression and assembly in Turkish civil society. These tactics have been upheld by the government as legitimate reactions to threats to public order, and a new security bill passed in December 2014 has drastically expanded police powers, specifically broadening the scope of the right of police to use firearms against individuals.⁴⁹⁵

Despite harmonization efforts to bring Turkey's human rights environment in line with European standards, torture and ill-treatment remains a pervasive problem in the security forces. While the number of allegations of torture have fallen since the Penal Code was reformed to include a broader definition of torture encompassing psychological suffering and the statute of limitations was increased, the lack of proper judicial practices prosecuting complaints of torture have ensured that it remains a persistent problem.⁴⁹⁶ Torture and ill-treatment within police custody often took place "not in a place of detention, [such as] during demonstrations and during transfers to prisons, where such practices are more difficult to document."⁴⁹⁷ The European Committee for the Prevention of Torture (CPT) released a report on a country visit following the Gezi Park protests. In the report the CPT stated that "the delegation received a number of allegations from detained persons (including juveniles) of recent physical ill-treatment by police officers. Most of these concerned excessive use of force at the time of apprehension or slaps, punches or kicks during police questioning."⁴⁹⁸ The most frequent complaints of mistreatment were excessive force and beatings during apprehension, use of tear gas after apprehension, and verbal abuse. At a site visit to Sincan Juvenile Prison, the delegation received reports of physical ill-treatment of juveniles in the form of "slaps, punches, kicks or blows with a plastic pipe on the hands and/or the soles of the feet, as a form of corporal punishment for misbehaviour."⁴⁹⁹

Right to Personal Security

Although Turkey was the first nation to sign and ratify the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence in 2012 and

subsequently amended its own laws to combat violence against women more effectively, there is still a very clear need to “address the rights deficit for women”.⁵⁰⁰ The criminal justice system fails to hold male perpetrators accountable for violence inflicted against their partners, ex-partners or family members.⁵⁰¹ A women’s organization, *Mor Çati*, running a shelter for domestic abuse victims scrutinized implementation of the new laws for a year and found many serious contradictions. They reported that despite the law not requiring concrete evidence, prosecutors were demanding women submit such evidence when asking for protections order. Furthermore, police failed to seriously consider women’s complaints and often encouraged forgoing them completely, while men infringing on protection orders were given little penalty.⁵⁰² Additionally, there have been reports of “cases of women under judicial protection being killed... thereby [raising questions of] the effectiveness of the relevant legislation and its implementation.”⁵⁰³

Right to Fair Public Hearing

While Turkish authorities have been relentless with cracking down on civilian protest, even peaceful street demonstrations, police remain nearly untouchable for violations against international human rights.⁵⁰⁴ Impunity for Turkish officials continues to be a problem with the human right to peaceful assembly. A year after the 2013 Gezi Park protests, the police approach to demonstrations remains irrationally abusive, imparting a clear message of intolerance in Turkey. In June 2014, on the anniversary of the 2013 Gezi Park protest, which resulted in four deaths and eight thousand injured; police attempted to ban the commemoration by arbitrarily dispersing tear gas and water cannons while beating demonstrators.⁵⁰⁵ Protesters are livid that one year later, investigations into police brutality have conveniently stalled, been obstructed or the case closed. Yet more than 5,500 people face prosecution for their role in the 2013 Gezi Park protests, for basically exercising their right to freedom of assembly.⁵⁰⁶ Turkish officials are alleging protesters were organizing criminal units as well as supporting terrorist activities, in efforts to substantiate their indictments. Even medical professionals have been disciplined and criminally prosecuted for providing makeshift first aid clinics during the Gezi Park protests. Going one step further, the government in January 2014 amended legislation to authorize criminal punishment for the administration of medical aid during public protests.⁵⁰⁷ It appears that the 2013 Gezi Park protests solidified government impunity.

In the aftermath of the crackdown on the Gezi Park protests, the Turkish government has systematically worked to limit the means of dissent while ensuring that its control of state institutions remains unquestioned. Turkey increased control over its judiciary by purging political enemies within state offices and weakening the role of independent institutions, such as the Chambers of Engineers and Urban Planning, who criticized the government's actions during the Gezi protests.⁵⁰⁸

Despite global condemnation, the Turkish government increased restrictions on medical personnel while aggressively moving forward with prosecutions of protesters. To further secure its impunity efforts, the government has limited social media freedoms while passing new internet laws allowing state officials to control and monitor internet traffic, restricting the right of free expression that was implemented in 2007.⁵⁰⁹ First Twitter was banned, then access to YouTube was blocked, finally Google reported that Turkey was blocking its public DNS service.⁵¹⁰ Freedom of expression rights coalesces with government aspirations of imparting impunity upon its officials.

Right to Remedy by Competent Tribunal

A core pillar of human rights and democracy is the separation of governmental powers as well as independence of a state's judicial system. The European Union has accused Turkish Prime Minister Recep Tayyip Erdogan of aligning government-friendly prosecutors within Turkey's judicial system in order to control corruption allegations.⁵¹¹ This attempt of the Prime Minister's Justice and Development Party (AKP) to increase executive power through self-serving appointments is seen as a backwards move for Turkey's legal institution. Historical claims of unfair trials and a lack of due process, combined with a highly politicized judiciary, have compromised Turkey's criminal justice system for years. In a proposed effort to catch anti-government coup plotters, the Turkish government has generated polarity between Kurds, leftists, students, lawyers and activists, which is not boding well in its efforts of attaining membership within the European Union.

The AKP along with Prime Minister Recep Tayyip Erdogan are accused of peddling Turkey off course in the past decade, regressing its reformist stance into partisan objectivity, while eroding its reputation amongst human rights advocates.⁵¹² Still, Turkey continues its attempts to control media and the internet, even after mass public protests in 2013 demanded

transparency. Turkey's judicial system has long been regarded as ineffective for its politically motivated prosecutions, unreasonably lengthy trials and inadequate investigations of abuses by government officials.⁵¹³ Turkey's government has responded that it is merely defending itself against unjust influence from its former long-term ally, the Gulen (or Hizmet) movement, led by U.S. cleric Fethullah Gulen.⁵¹⁴ The AKP party claims that is trapped in a political clash between Prime Minister Erdogan's inner circle and prior alignment with Gulen for control of state institutions, police and the judiciary. The AKP maintains that its efforts are being wrongly interpreted, as it is only trying to preclude a coup against the current leadership and the stability of Turkey.⁵¹⁵

Analysis

The negotiations for Turkey's accession into the European Union provided a promising basis for an improving human rights atmosphere in Turkey during the first decade of the twenty-first century. Turkey's accession negotiations have been influential in catalyzing a comprehensive political and economic transformation of the country focused on bringing the areas of human rights, rule of law, and democracy in line with European standards.⁵¹⁶ In March of 2014 Turkey adopted the Action Plan for Prevention of Violations of the European Convention on Human Rights (ECHR), representing "a significant step towards aligning Turkey's legal framework with ECHR (European Court of Human Rights) case-law."⁵¹⁷ Harmonization reform packages have pushed forward important legislative reform and constitutional amendments in the previous decade, reflecting the willingness of Turkey to align its domestic rule of law with European standards in order to gain entrance to the European Union.

The European Commission's progress report on Turkey in 2014 "expressed serious concerns about developments in the area of the rule of law and fundamental rights."⁵¹⁸ While improvements occurred in several fields, legislation limiting freedom of expression, the handling of corruption allegations, and "legislation adopted in the area of judiciary raised serious concerns as regarding independence and impartiality, separation of powers and rule of law" counteracted positive reform efforts.⁵¹⁹ These developments raise questions of judicial independence and separation of power necessary in a functioning democracy and may impede the accession process into the EU. Turkey is encouraged to reverse the legislation passed that has led to an erosion of

an uncensored civil society in order to realign rights standards with the European community. Emphasis placed by the European Commission on the importance of these issues can serve to remind the Turkish government that these values are important to uphold if Turkey is to achieve membership in the EU.

While the resolve and progress on domestic human rights issues will appease the EU, developments in the wider Middle East region highlight progress in terms of maintaining national security. The success of negotiations with Kurdistan Workers party and their continuation is imperative to securing not only the rights deficit for Turkey's Kurds and other ethnic groups, but also strengthening nationalism in light of the Islamic State of Iraq and the Levant (ISIL). The danger of ISIL became evident in June 2014 when ISIL took hostage of all 40 staff members at Turkey's Mosul Consulate General.⁵²⁰ Furthermore, Turkey hosts over one million Syrian refugees who have fled the violent turmoil of their country and armed conflict in Iraq is only increasing the amount of refugees flowing across the border.⁵²¹ The international community has commended Turkey's generous and efficient provision of camps and aid, but the situation is getting worse in neighboring countries. "Adjusting to a refugee crisis on this scale while avoiding social tensions that can result in the host country requires government policies that promote stability, help integrate refugees, and decrease domestic political polarization."⁵²²

Recommendations

To the Turkish Government

- Continue to implement the Action Plan for Prevention of Violations of the European Convention on Human Rights
- Abolish the Anti-Terror Law, which makes investigations, prosecution and sentencing of crimes involving terrorism fall under a different and draconian legal system.
- Further revise Article 220 of the criminal code concerning “Criminal Organizations,” and narrow the language used within it to define crimes.
- Abolish Article 301 of the criminal code criminalizing “insulting the Turkish nation.”
- End government and other political interference in the criminal justice system and in criminal investigations relating to government-linked corruption.
- Ensure effective implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, including thorough enforcement of Turkey’s Law on the Protection of the Family and Prevention of Violence against Women.
- Repeal new revisions to the Law on the National Intelligence Agency granting intelligence agency officials’ immunity from prosecution.
- Establish an effective independent mechanism to conduct prompt and impartial investigations into allegations of misconduct by members of the security forces and law enforcement officials that is capable of leading to prosecution of offenders.
- Begin accession to the World Trade Organization Government Procurement Agreement in order to improve transparency and accountability in the bidding process and complement EU accession and a TTIP parallel pact with the United States.

To the European Union

- Continue to press for reforms in accordance with EU accession process, while offering economic incentives to help keep those reforms on course.
- The Council of the European Union should begin discussions on Chapter 23 of the EU Acquis (Justice and Fundamental Rights) and communicate the agreement on the conditions that Turkey needs to fulfill this chapter to the Turkish government.
- To create economic incentive, include Turkey in the TTIP deal with the U.S. by adding an article that creates automatic inclusion for countries that already have a Customs Union deal with the EU.
- Maintain emphasis on media freedom as a key barometer of Turkish democracy.
- Complete the visa liberalization protocol that would allow Turkish citizens to travel visa-free to the EU as an incentive for further engagement.

SYRIA

Sasha Hooper

Human Rights Concerns:

- Rights of Refugees
 - *Right to adequate living standard and Freedom from discrimination*
- Violence of Opposition Groups
 - *Right to life, liberty, personal security.*
 - *Freedom from arbitrary arrest and exile, and Freedom from torture and degrading treatment*
- Violence of Extremist Groups
 - *Freedom from torture and degrading treatment, Freedom from arbitrary arrest and exile, Right to life, liberty, personal security.*
 - *Freedom of belief and religion, movement, opinion, and expression*
 - *Rights of women, children, and minority groups*
- State-Sponsored Violence
 - *Freedom from torture and degrading treatment, and Right to equality before the law*
 - *Right to life, liberty, personal security*

Background

Since the beginning of the Syrian uprising in the Southwest region of Deraa in March 2011, Syria has become enveloped in a violent civil war with both the government and opposition groups inflicting massive human rights violations. More than 206,600 people have died as a result of the 4 year war including 17,000 children.⁵²³ At first, the wave of uprisings and regime changes in the Arab world during the winter of 2011 seemed to have passed over Syria, but the imprisonment and alleged torture of 10 school-aged children by Syrian Security Forces initiated a series of protests which were violently repressed by the Assad regime. The once two-sided conflict has transformed into multiple simultaneous clashes involving countless actors including a variety of international actors which vie to secure their interests within the region. The war has spread across borders, fuelling extremism and inflicting grave human rights violations while disrupting the lives of over 17 million Syrians.

Before World War I, Syria was a territory of the Ottoman Empire which collapsed in 1920. Syria then contemplated independence and the Syrian General Congress proposed an independent and unified Syria which included the modern Syria, Lebanon, Israel/Palestine, and Jordan. However, British and French mandates granted administrative control and essentially converted these territories into ‘temporary colonies’. Under the rule of foreign powers, the region was separated into the individual territories which constitute the present-day states.⁵²⁴ Lebanon

and Syria were separated in an attempt to create a 'Christian enclave on the coast' and Syria was divided into 6 mini states based on ethnicities and religious ideologies.⁵²⁵ While the attempted division was soon abandoned, the geographical and political divergences created between populations would remain relevant in the increasing sectarian aspect of the Syrian civil war.

Syria has a heterogeneous religious society, with a Sunni Muslim majority accounting for 74% of the population while Muslim sects such as Shia, and the ruling class, Alawite make up 12%.⁵²⁶ The Alawite community is a branch of Shia Islam and had been historically marginalized and oppressed until French rule, when Alawites began to secure prominent positions in the military.

After independence in 1946, the popular Baath party, a 'secular, socialist and pan-Arab neutralist', ascended to power and continues to rule Syria today. Despite the Baath party's popularity Syria went through multiple military coups, and in 1958, Syria joined Nasser's' Egypt in the United Arab Republic (UAR), which eliminated political parties and aimed to create a unified Arab region. The UAR was soon dissolved, and once again, the military seized control of Syria. In 1967, Syria entered the Six Day War with Israel which resulted in the loss of the Golan Heights, and in 1971, Hafez al-Assad initiated a military coup and was elected president, securing Alawite dominance in both the military and government.⁵²⁷

When Bashar al-Assad ascended to power after his father's death in 2000, there was newfound optimism for reform and democratic policy changes that Bashar announced in his inauguration speech. Even before his rise to power, Bashar was known as 'The Hope' and his plans to bring economic and social reform inspired the Damascus Spring in 2000, which was a political debate that resulted in a series of reforms including: allowance of private newspapers, forums which allowed for open criticism and the release of several political prisoners.⁵²⁸ Despite this progress, almost all of the new policies were reversed after the exponential growth of civil society organizations threatened the regimes powerbase.

Before the start of the civil war, Syria had a unique role in the Middle East which allowed them to 'play both sides,' meaning Syria was a strong supporter of Arab nationalism, and critical of the 'American agenda' in the region while still maintaining relations with the West, including supporting negotiations with Israel and providing troops in the first gulf war against Iraq in 1991.⁵²⁹ Syria also has an incredibly vulnerable location within the Middle East, bordering Lebanon, Iraq, and Israel. Syria has firsthand knowledge of the tragedies created by unstable

political regimes, sectarian warfare, and foreign occupation and intervention. Due to its strategic location, many nations have specific interests involving Syria which have been threatened due to the escalating conflict. Of these nations, Russia, the U.S., Iran, and Turkey have all begun to play significant roles in conflict.

Russia has played an influential role in Syria and the region since the Cold War, with Russia's only naval base outside of the former Soviet zone existing on the Mediterranean coast of Syria.⁵³⁰ Although Russia does not publish arms export information, Amnesty International estimates that 10% of its arms exports go to Syria, making Russia the primary supplier to the Syrian military.⁵³¹ Russia's continued support of the Assad government, both militarily and financially in 2014, has helped to strengthen the regime while preventing international intervention and resolution. Russia, along with China, has vetoed the UN Security Council's resolution which would allow the International Criminal Court to investigate alleged war crimes inflicted by the Syrian government.⁵³² Yet, the Russian-U.S. proposal for the removal and destruction of all chemical weapons in Syria by the end of 2014 resulted in the UN Security Council resolution 2118.⁵³³ This demonstrates the benefits and ability of international bodies to influence dynamics within the Syrian War if cooperation and coordination between Security Council members is increased.

Syria is a critical ally of Iran, as it provides an outlet for Iranian-supplied weapons to reach Hezbollah and strengthens their ability to oppose Israel.⁵³⁴ Iran's Shia-Muslim government also has fears about the rise of a Sunni government which could further restrict Iran's influence in the region. Since the beginning of the civil war, Iran has provided training and financial assistance to the government as well as training and arming of pro-regime Shia militias. The U.S. has placed sanctions on the Iran Intelligence Agency MOIS for their technical assistance to the Syrian government as well as their allowance for the government to purchase oil, food, and goods from Iran on credit.⁵³⁵ The Iranian Revolutionary Guard Corps (IRGC) has continued to provide heavy military support to Assad. It has been estimated that around 1,000 to 15,000 IRGC troops are currently in Syria, providing training and coordination.⁵³⁶

In response to the growing strength of The Islamic State of Iraq and Levant (ISIL), the U.S. has backed a coalition of 60 nations committed to the elimination of ISIL threats. Within the coalition, Saudi Arabia, Bahrain, The United Arab Emirates, Jordan, and the U.S. have all conducted airstrikes against ISIL in Syria.⁵³⁷ The airstrikes have been essential to the

containment of ISIL forces and the recapture of key territories such as Kobane near the Turkish border. Reluctant to call for the overthrow of Assad, the U.S. has continued to promote international conferences and mediation as the main means for resolution. Continued instability or the creation of a radical Sunni government could create several threats to U.S. interests in the region.

One of the most complicated aspects of the Syrian Civil War is the number of factions involved. There are 4 main domestic actors: The Syrian Government, Syrian Rebels, Kurdish Rebels, and ISIL. The Syrian government is supported by the Arab Nationalist Guard, Hezbollah, Russia, Iran, the PLA, and smaller regional and national groups.⁵³⁸ The Syrian Rebels are supported by 17 factions, most importantly the Free Syrian Army, a coalition formed of 11 anti-Assad opposition groups, and the Islamic Front, an Islamist umbrella group which is heavily supported by Saudi Arabia and Qatar.⁵³⁹ The Kurdish Rebels which have often supported the Syrian Rebels in attempts to terminate ISIL violence, are comprised of the provisional Syrian Kurdistan government, the secular-autonomous Iraqi Kurdistan, and the Syriac Union Party. ISIL is a self-declared Salafi Islamist caliphate and emerged in Syria as an opposition jihadist group with estimates between 20,000-30,000 active fighters.⁵⁴⁰

Rights of Refugees

Right to adequate living standard and Freedom from discrimination

Since 2011, 7.6 million people have been displaced within Syria in addition to over 3.8 million people who have fled Syria seeking refuge in neighboring countries, specifically Iraq, Egypt, Jordan, Lebanon, and Turkey.⁵⁴¹ As of January 2015, only 5% of refugees have relocated to countries outside of the region.⁵⁴² These neighboring countries have begun inflicting strict regulations on the number of refugees in order to reduce the strain on their own populations and economies. Refugees lack proper living conditions, food, water, medicine, and other basic survival necessities and have been further threatened by winter storms and increasing destabilization elsewhere in the region. Only 30% of refugees live in camps, with the remainder forced to find private housing often in overcrowded locations in heinous conditions.⁵⁴³ As the number of refugees increased, strains on employment, housing availability, and resource distribution have become enormous burdens on domestic economies and populations. Refugees,

especially children, have been exposed to exploitation, sexual abuse, and discrimination from the domestic population as well as extremist groups.

Lebanon, a country of 4 million, has taken in an estimated 1.5 million Syrian refugees but has recently required that Syrians seeking refuge must obtain either a Lebanese sponsor or one of six types of visas which require proof such as documented hotel bookings or medical appointments.⁵⁴⁴ New fees have also been applied to persons that have already registered for refugee status in Lebanon, requiring a \$200 renewal fee every 6 months. Refugees not able to meet this expense are threatened with deportation, which Amnesty International considers a violation of international law based on the principle of non-refoulement.⁵⁴⁵ Ninety percent of registered refugees are Sunni Muslims which adds to Lebanon's reluctance to continue allowing massive refugee populations for fear of jeopardizing the delicate consociationalist government.⁵⁴⁶ Violence against refugee populations by both domestic citizens and extremist groups, such as ISIL and Jahbat al-Nursa (JAN), has become increasingly prevalent. Human Rights Watch documented 11 violent attacks that occurred between August and September of 2014 in Lebanon, but underreporting of attacks is common due to fear of reprisal and the apparent sanctioning of attacks by security forces which were witness to at least four of the documented attacks.⁵⁴⁷

Nearly 2 million refugees are children with limited access to education.⁵⁴⁸ Poor living conditions have increased susceptibility to malnutrition and diseases, such as measles, due to lack of immunizations. Countries such as Lebanon and Turkey have created education programs for refugee children but due to overcrowding, lack of funds, discrimination, and language barriers, many Syrian refugee children are unable to successfully continue their education. While a U.N. Commissioned study found that 66% of 80 child refugees questioned in Lebanon were not attending school, in reality this number is higher due to the inability to access refugee populations in rural areas.⁵⁴⁹ Within Syria, UNICEF estimates that close to 3 million children have dropped out of school.⁵⁵⁰

Syrian Palestinian refugees face even more significant challenges when attempting to flee Syria. Palestinian refugees face stricter rules, including the inability to leave camps even to visit or stay with relatives in the host country.⁵⁵¹ Distinct visa requirements and increased fines are common for Palestinian refugees and, according to Amnesty International policies in Lebanon,

have deliberately denied entry for Palestinians despite completion of entry requirements.⁵⁵² In addition, Palestinian refugees still require authorization by the Syrian government to leave.⁵⁵³

Violence of Opposition Groups

Right to Life, Liberty, Personal Security.

Armed opposition groups continue to inflict massive human rights violations in their attempt to gain control of territories and populations. Both the state and opposition groups have been accused of purposely targeting locations with a high civilian presence. Opposition groups have continued to turn schools and hospitals into training bases and detention centers which heightens the risk of attacks within high-civilian populated territories.⁵⁵⁴ The use of mortar shells by opposition groups has led to increased civilian casualties, including an attack on the Badr el-Din Hussaini School which resulted in the deaths of 17 children.⁵⁵⁵ The Islamist Front and the Free Syrian Army have also been repeatedly accused of using child soldiers.

Freedom from Arbitrary Arrest and Exile, and Freedom from Torture and Degrading Treatment

Kidnapping of minority populations has been instrumentally used by opposition groups in an attempt to consolidate control and pressure government and other opposition forces. In August 2013, 54 Alawite women were abducted in the Latakia countryside and continue to be held by an unknown opposition group. Opposition groups, mainly the Islamist Front, have been accused of perpetrating mass extrajudicial executions, such as the execution of 190 civilians in the Latakia countryside, of which 57 were women.⁵⁵⁶ Torture of captured government forces has been reported as well as torture of rival opposition group members.

Violence of Extremist Groups

The growth and increasing presence of extremist groups within Syria has been alarming. The two main groups are JAN, the Syrian branch of al-Qaeda, and ISIL, which has used extreme violence in order to accomplish their goal of a transnational Islamic state spanning Syria and Iraq ruled by Sharia law. ISIL and JAN split in 2013, with ISIL prioritizing state creation and Al-Nursa remaining more committed to the overthrow of Assad by partnering with a number of Syrian opposition groups.⁵⁵⁷ ISIL's methods of expansion has led to escalating violence between ISIL and opposition groups as well as with the Kurdish populations of Iraq and Syria. The group

has taken advantage of economically desperate communities and exploited social divergences along religious and tribal lines to secure a wide support base both within and outside Syria. Areas under its control are subject to strict interpretations of Sharia law and religious minorities are often forced to flee due to the mass exploitation and execution throughout ISIL controlled territories.

ISIL originated in Iraq, having formed as Al-Qaeda's Iraq affiliate during the sectarian civil war following the American invasion.⁵⁵⁸ Known first as al-Qaeda in Iraq (AQI) and then Islamic State in Iraq (ISI), ISI allied with Sunni community and tribal leaders in the Sunni Anbar province, fighting both Iraqi government and American forces.⁵⁵⁹ ISI was temporarily defeated in the Awakening movement by Sunni tribesmen, supported by improved relations with the Iraqi government, but was able to rebuild during the growing crisis in Syria and reformed as ISIL.⁵⁶⁰⁵⁶¹ Under the leadership of Abu Bakr al-Baghdadi, ISIL briefly merged with Jabhat al-Nursa in Syria. Despite the relationship's quick termination, ISIL was able to retain control over JAN's territory in Syria and recruit 70% of their fighters.⁵⁶²

ISIL has used explosives in suicide and remote detonated bombs resulting in mass civilian casualties to secure control over local territories.⁵⁶³ Weapons and financial support given to other 'moderate' opposition factions have often ended up in ISIL hands.⁵⁶⁴ In addition, ISIL is well-funded by private financiers across the region and through illegal methods such as extortion, exploitation, and smuggling.

Freedom from Torture and Degrading Treatment, Freedom from Arbitrary Arrest and Exile, Right to Life, Liberty, Personal Security.

_____ Use of public execution and display of bodies as well as frequent attacks on civilian populations in ISIL controlled territories have become a common fear tactic. Amputation, whipping and other brutal punishment has been used against the population for acts forbidden by ISIL such as cigarette smoking.⁵⁶⁵

In response to increasing air strikes, ISIL has begun to keep its supplies and fighters near civilian populations resulting in higher civilian casualties. Humanitarian workers continue to be unable to reach communities under ISIL control and medicine or medical supplies have been strictly regulated.⁵⁶⁶ Capture and execution of journalists and NGO workers have become

common tactics of ISIL to increase international recognition and extort international governments in attempts to influence their policy in Syria and throughout the region.

Freedom of Belief and Religion, Movement, Opinion, and Expression

_____Actions by ISIL continually defy international humanitarian law. Civilian populations under ISIL rule are subject to extreme brutality and lack of the basic freedoms of expression, movement, information, and religion. In addition, OHCHR reports that “ISIS has attacked social and cultural practices— including weddings, musical events, and traditional ceremonies — deemed incompatible with their self-proclaimed beliefs in both urban and rural areas, demonstrating their intent to eradicate these aspects of Syrian culture.”⁵⁶⁷

Rights of Women, Children, and Minority Groups

_____Women and children are exposed to heightened risk under ISIL rule. Women are confined to their houses and ISIL’s interpretation of Sharia law regulates how women are allowed to dress, where they work, and who they communicate with. Unmarried women are at particular risk, with reports of forced marriage, sexual exploitation and slavery of girls over the age of 13.⁵⁶⁸ Children are forced to watch public beatings and executions as well as graphic videos in order to desensitize them to violence. On 29 May 2014, 153 Kurdish boys between 14 and 16 years old were kidnapped in Aleppo and forced to watch videos of violent attacks and were given training on militant ideology. When released after 5 months, parents “described fearing that their sons were deliberately groomed to inject ISIS’s worldview into their Kurdish communities.”⁵⁶⁹ Ideological education, including weapons training, is used to create a new generation of supporters; one example being the Sharea youth camp, where boys under 18 are trained for combat roles. As OHCHR states, “ISIS prioritises children as a vehicle for ensuring long-term loyalty, adherence to their ideology and a cadre of devoted fighters that will see violence as a way of life.”⁵⁷⁰

Through ISIL’s attacks on minority religions, specifically Shiites and Yezidi Kurds, ISIL aims to increase sectarian warfare in an attempt to shift the population’s reliance on states to reliance on militias. Minority communities have had to choose between forced displacement and assimilation into ISIL by converting to Sunni Islam. Attacks on religious and cultural sites have also increased. Forced displacement in ISIL controlled territories such as during ISIL’s march

toward Kobane resulted in the displacement of over 200,000 people, leaving 40 villages abandoned which ISIL soldiers subsequently looted.⁵⁷¹ ISIL operates detention centers in former government prisons, hospitals, schools, and military bases which are overcrowded and utilize widespread torture, denial of medical care, and lack sufficient living conditions.⁵⁷²

State-Sponsored Violence

The state remained a main perpetrator of human rights violations in 2014. Government use of heavy artillery, poison gas, barrel bombs and cluster munitions remains high. Denial of medical care and resources such as food, water, and electricity have been used as state weapons against the population. In 2014, extrajudicial killings sponsored by the Syrian government were estimated at 32,507 with the Syrian Network for Human Rights stating that 75% of the victims were civilians.⁵⁷³

Freedom from Torture and Degrading Treatment, and Right to Equality before the Law

Forced disappearances of civilians, activists, humanitarian workers, journalists, and medical workers remain high with estimates ranging from 10,000-120,000.⁵⁷⁴ The regime has begun using tactics of kidnapping female relatives of wanted men and issuing ultimatums for either their arrest or execution of the women. The government has also led mass arrests of men of ‘fighting age’ which have amounted to enforced disappearances due to the lack of information surrounding whereabouts, reasons for arrests, and lack of trials.⁵⁷⁵ The regime’s block on humanitarian aid and freedom of information has prevented NGOs and human rights monitoring agencies from being able to confirm violations and deaths in rural areas of the country, leading many to believe the death and incarceration rates to be much higher than reported.

The Syrian Network for Human Rights (SNHR) reports that arbitrary arrests by the government in 2014 were estimated to be over 85,000 people with over 9,600 cases of disappeared persons.⁵⁷⁶ Widespread torture and humiliation tactics are used on prisoners kept in overcrowded and unsanitary detention centers run by four main security service branches. Between March 2011 and December 2014, the Syrian Network for Human Rights estimates almost 5,000 detainees have died from torture inflicted by the Syrian government including 37 children.⁵⁷⁷ Sexual assault and rape have also been committed rampantly within these facilities as well as during military raids and at checkpoints located throughout the country. Security forces

have converted military bases, schools, and hospitals into informal detention centers which continue to be overcrowded. Denial of medical attention is regularly used as a form of government violence, leading to widespread disease within prisons. The Syrian Observatory of Human Rights (SOHR) has revealed extreme government violence within the prisons including the use of tear gas, live ammunition, and tasers against inmates.⁵⁷⁸ Human Rights Watch has also documented cases in which family members of a wanted individual have been detained in order to pressure compliance.⁵⁷⁹

Despite Bashar al-Assad's issuing of Legislative Decree No. 22 which grants general amnesty to crimes committed before 9 June 2014, arbitrary arrests and persecution of journalists, humanitarian workers, and medical staff have continued.⁵⁸⁰ Approximately 173 official and citizen journalists have been killed throughout the course of the civil war and an additional 211 medical workers were reported killed by government forces during 2014.^{581 582}

Right to Life, Liberty, Personal Security

_____ Government forces have been implicated in mass killings of civilians through widespread shelling, bombing of civilian inhabited facilities, and unjustified detention. In an attempt to dismantle life in areas out of their control, the Syrian army has targeted public spaces such as hospitals, schools, and places of worship. Government use of external forces such as Hezbollah, a Lebanese based group which is classified as a terrorist organization by the U.S., and the lack of an impartial and effective judicial system has created systematic impunity.

Government inflicted massacres have continued almost daily. There were 28 documented massacres in December 2014 alone which resulted in 306 deaths of which 62 were children.⁵⁸³ Indiscriminate airstrikes and targeting of highly populated areas has led to increased civilian casualties. 650 major impact airstrikes were reported between February and July of 2014 in the Aleppo governorate, with one group attributing 3,557 civilian casualties as a result.⁵⁸⁴

Human Rights Watch has reported 249 cluster munitions attacks between July 2012 and July 2014.⁵⁸⁵ Cluster munitions have been banned in over 100 countries due to "their widespread indiscriminate effect at the time of use, and the long-lasting danger they pose to civilians."⁵⁸⁶ The government has also been implicated in the use of chemical weapons and high barrel bombs which are prohibited under the UN Security Council resolution 2139. Although the Syrian Government agreed to destroy all chemical weapons after an attack in Ghouta in August 2013

which resulted in an estimated 1,429 casualties, the Syrian government continues to use chemical weapons including barrel bombs fixed with chlorine gas.⁵⁸⁷

Sieges remain in place by the government which prevent civilians from having access to food, water, electricity, and medical supplies in an attempt to force civilian populations into compliance with government forces. Human Rights Watch estimates that over 200,000 civilians are in territories affected by government sieges.⁵⁸⁸ Sieges that prevent essential levels of rights, and effectively turn starvation into a form of warfare, are prohibited under the International Covenant on Economic Social and Cultural Rights (ICESCR), to which Syria is party.⁵⁸⁹

Analysis

Although the initial issues and conflicts did not have a religious or ethnic tone, the underlying sectarian conflicts that have arisen to divide opposition groups and the population have become both a driving factor and an expected effect of the Syrian war. The continual erosion of state functionality has allowed local and foreign rule to win the loyalties of small sections of the population which greatly hinders the possibility of a state institution to effectively rule over all of Syria in the near future. The widespread use of indiscriminate violence and persecution of civilian and minority populations along with the rise of ISIL, have created a humanitarian crisis which threatens the stability of the entire region. Efforts of the international community through conflict resolution bodies have proven inadequate in their efforts to present a realistic and applicable solution to the Syrian conflict.

As with other countries in the region which went through revolutionary change in 2011, Syria faced grave economic problems before the conflict broke out. Despite Bashar al-Assad's attempt to liberalize and reform the economy, in 2011, the state sector remained bloated and inefficient while the shift to a market economy led to crony capitalism and growing inequality. This economic vulnerability combined with a rapidly growing youth population has created conditions in which the desire for radical socio-economic change has been manipulated by the violent actions of extremist groups.

Through the inability to provide protection and survival resources to its population, the Syrian state has allowed non-state actors such as ISIL to mimic the state's role to desperate populations, often recruiting vulnerable members to resort to their tactics of violence. The loyalties which are created by dependence on non-state actors further prevents a state institution

from regaining control over their entire population in the near future. The cycle of violence is unlikely to stop without a massive upheaval of all government and opposition rule. While the fall of Bashar al-Assad would appease some opposition groups, the likelihood and the threat of what may follow has led to massive support from Iran, Russia, and other Assad allies while leading to hesitation for any dramatic actions from other international actors. The fall of Bashar al-Assad could lead to heightened instability and violence in Syria and elsewhere.

The number of international actors involved in Syria presents a significant problem in the pathway towards a political solution. Because of Russia and Iran's strong support of the Assad government, it is unlikely that a peaceful transition of governments would occur. If American troops become more involved it could push a number of opposition groups who are against foreign intervention towards more radical extremist groups, furthering the conflict. However foreign intervention will most likely be necessary in order to eliminate ISIL rule. This intervention will need to a coherent and organized regional commitment. In order to be dynamic and observant of the potential human rights violations that can occur with intervention, it will need to be structured and avoid any missions with the possibility of high civilian casualties. In order to appear as objective and unbiased, it will need to include a coalition made up of western nations, regional governments, and international bodies.

In order to successfully eradicate ISILs rule, it is necessary to direct pressure on both their financial means and their continual supply of recruits. It is estimated that with every ISIL casualty, there is a replacement ready. Due to the flow of foreign fighters, impeding the influx of fighters should be a top priority for the international community. Despite U.N. Security Council Resolutions 2170 and 2178 which aim to strengthen international measures against ISIL in regards to foreign recruits, the U.S. has recently estimated that over 20,000 foreign fighters have now joined ISIL.⁵⁹⁰ The indiscriminate outcomes of airstrikes often resulting in civilian casualties in Syria have also secured a continual stream of fighters. In addition, ISIL's declaration as a caliphate has attracted a number of recruits because it now has a tangible entity where its long-term plans are envisioned, offering recruits the ability to participate in the state-building process.⁵⁹¹

What has differentiated this rise of ISIL from past attempts to present a significant threat to the region is their military capability and the power vacuum left by the decline of al-Qaeda and the continual political instability in Iraq and Syria. Their military capability has greatly

increased due to successful raids on Syrian and Iraqi military bases. However, the ability of ISIL to sustain their territories and maintain a constant replenishment of fighters has depended on their financial independence. ISIL has concentrated their efforts on securing territories in the oil-rich region of Syria, primarily in Dayr az Zawr. ISIL is able to use the profits of selling oil to local markets and the international community, despite threatened sanctions on anyone that buys oil from ISIL. The Syrian Government has also been implicated in purchasing ISIL's oil.⁵⁹² Oil is their main source of revenue and is used to finance military attacks, provide their populations with supplies, and pay soldiers salaries. Airstrikes against ISIL have focused on eliminating their profits from oil by targeting refining and storage facilities since countries are reluctant to bomb the actual oil wells for fear of causing irreparable damage to the Syrian population and infrastructure. To date, airstrikes have destroyed almost 200 facilities and have been effective in reducing oil revenue from 'one million a day to several million a week.'⁵⁹³ In addition to oil profits, ISIL is funded by taxes implemented on their populations, and by demanding a percentage of humanitarian and commercial operations.

It may be impractical to believe that ISIL will negotiate or reform their practices, beliefs, or ideologies based on external pressure or debate. However, the Western media and ISIL's successful use of propaganda have begun to influence the perception that ISIL is a paradigm of Islam. In order to prevent intolerance from permeating societies, it is necessary to refute ISIL's actions based on the founding principles of Islam. Recently, over 120 Sunni Islamic scholars and jurists from around the world penned a letter to Abu al-Baghdadi and supporters of ISIL condemning the group's actions and their religious interpretations and reasoning. In the letter, the scholars examine principles of the Quran which directly contradict the practices of ISIL. For example, the Quran specifically prohibits the killing of innocents, and the mistreatment of any "people of the Scripture", which includes both Yezidi Kurds, and Christians.⁵⁹⁴ The Quran also calls for the preservation of life rather than the taking of it, even comparing a single murder to the murder of all of humankind.⁵⁹⁵ By exposing the hypocrisy of the self-declared caliphate, it is possible to both dismantle the legitimacy of their interpretation of Islam and dissuade potential recruits.

The international community has begun to focus on the financial roots of ISIL and many regional governments have implemented policies to restrain funding and foreign fighters from reaching Syria, but often these policies are not strictly enforced. Turkey has ramped up efforts to

contain the influx of foreign fighters to Syria through the porous border, but this at times, has limited the ability of humanitarian aid to enter Syria.⁵⁹⁶ Despite this progress, Turkey still needs to increase security along the border, specifically Road 215 which is regularly used to transport supplies into Syria.⁵⁹⁷ In order for the international community to successfully stop the flow of recruits, it is necessary for regional governments to strictly enforce and revise these policies. Sanctions have also been placed on a select number of individuals affiliated with ISILs command chain, but it has proved difficult to identify which individuals are active in the international financial system.⁵⁹⁸

The U.S., as well as select European countries, have begun supplying the Syrian Kurdish population with light military supplies. Turkey has the potential to play a critical role in the resolution of the Syrian war as well as the elimination of ISIL. Despite this potential, Turkey has been hesitant to fully commit to the U.S. led coalition and to taking a strong stance against the ISIL violence occurring along its border due to their complicated interests involving Syria. Turkey is reluctant to strengthen their Kurdish population, which have been instrumental in the campaign against ISIL, in order to prevent a domestic, nationalist uprising.⁵⁹⁹ European countries are hesitant to become involved in the Syrian conflict, and while a number of European countries such as France, the U.K., and Belgium have conducted airstrikes against ISIL in Iraq, none have taken place in Syria.

The United States has become increasingly involved in the conflict in Syria, especially with the rise of the ISIL. Although the U.S. has been hesitant to provide significant aid to opposition groups due to the constantly shifting alliances and ideologies of the countless groups, it has allocated \$287 million for non-lethal assistance mainly to groups associated with the Syrian Opposition Council (SOC). The U.S. also remains the largest provider of humanitarian aid amounting to \$2.4 billion.⁶⁰⁰ The SOC is recognized as the legitimate representative of the Syrian Opposition but has recently seen fragmentation within its rank and resignation of key leaders. Weapons originating in the U.S. have been repeatedly reported in Syria suggesting that lethal aid to certain opposition groups has occurred.⁶⁰¹

In addition to airstrikes, the U.S. has proposed a series of military training programs for ‘vetted’ Syrian opposition fighters. The programs would involve ‘several hundred’ U.S. military training personnel that would equip and train Syrians in the spring of 2015. Qatar, Saudi Arabia, and Turkey have all volunteered to host the programs which aims to train an initial force of 5,400

Syrians within the first year of the three year program. The Obama Administration has already begun attempting to identify potential recruits, but the standards for who will be approved have not been publicized. This presents a key issue in the Syrian conflict, the inability to identify a strong opposition group which has organization and commitment that could potentially lead a transitional governance in Syria in the case that Assad falls.

In order for opposition groups to be a viable option to lead a transitional governance, they will need to consolidate rule into a hierarchical structure of command which is both representative of a wide array of ideologies and religions and open to foreign aid and influence. Due to the massive scale to which the Syrian war has evolved, it is impractical to believe that any resolution or ceasefire will take place without major foreign guidance. Currently, the lack of organization and structure of opposition groups has hindered their ability to present themselves as formidable players in the conflict.

The Syrian civil war has generated a humanitarian crisis, which in the 21st century has been unmatched in size and scope. Due to the number of actors involved, and the delicate power balance, any solution will require a significant effort and financial commitment most likely spanning a number of years. Currently funding requirements for humanitarian aid for refugee populations are only 61% funded, leaving a gap of \$1,475,430,374 which is critical for the distribution of humanitarian assistance to vulnerable populations.⁶⁰² It will be necessary for any increase in humanitarian intervention to be overseen by a reputable, unbiased international body due to the plethora of interests involving Syria. The main priority for regional governments will need to be the containment of ISIL and the distribution of aid to refugee populations. In order to prevent ISIL from becoming a larger threat to both the region and the international community as a whole, the international community will need to cooperate and create a set of compatible policies and actions to impede ISIL recruitment, and their financial means. Reducing the level of violence is in every actor's best interest; the significant toll that the 4 year war has taken on the economy, infrastructure, relations, and livelihood of the Syrian people is not sustainable.

Despite the likelihood that the conflict will not be resolved in the near future, it is the responsibility of the international community to influence the indiscriminate nature of the Syrian civil war by increasing pressure on those who both directly and indirectly enable the perpetuation of human rights violations.

Recommendations

To the Syrian Government

- Stop all use of illegal weapons in accordance with International Humanitarian Law.
- Immediately remove all sieges on civilian populations in accordance with the International Covenant on Economic, Social, and Cultural Rights (ICESCR).
- Comply with Legislative Decree No. 22, granting amnesty and release of all persons arbitrarily arrested.
- Remove all barriers to humanitarian aid reaching the Syrian population.

To Opposition Groups within Syria

- Create an overarching organization, in which to formally organize the opposition.
 - By consolidating rule and clarifying ideological and military goals, the creation of a body which could lead a transitional government may become possible.
 - The group must be tolerant of all religious and ethnic minorities in Syria.
 - The group should also be tolerant of Western countries.
 - In order to qualify for increased international support, opposition groups must consolidate and organize themselves into transparent, strong actors.
- Release all kidnapped persons in accordance with international humanitarian law.
 - Including all journalists and aid workers in accordance with International Law Article 79 of Additional Protocol I.

To the U.S. Government

- Take every necessary step to prevent civilian deaths during coalition airstrikes on ISIL targets. Consider the policy of Iraqi Prime Minister Abadi of outlawing all airstrikes in civilian areas, even in ISIL controlled towns.
 - Abide by all UN regulations on weapons used.
 - Target high-value persons in the ISIL command chain in order to cause internal disruption.
 - Avoid airstrikes in highly populated zones regardless of potential damage.
- Be hesitant to dramatically increase military activity in order to avoid driving opposition groups, who are opposed to foreign intervention, towards more radical methods.
- Increase pressure on Turkey in order to secure heavier border protection by leveraging financial aid.
- In an attempt to stop the flow of military and financial aid from Iran to Syria, leverage increasing negotiations surrounding the ‘Comprehensive agreement on Iranian nuclear program.’

To the Turkish Government

- Ensure Turkish aid organizations have a secure and open relationship with Syrian partners which are distributing humanitarian aid over the border.
- Continue to work with UNHCR in order to distribute aid to refugee populations, and continue building refugee camps to accommodate the growing number of refugees.
- Strengthen border control policies.
 - Aid for extremist groups, such as ISIL, as well as foreign fighters often cross over into Syria through the porous border with Turkey.

To Regional Governments

- Secure Legal Statuses for all refugees.
- Remove all barriers, quotas, and fines associated with refugees.
- Create education programs specifically for Syrian refugee children.
 - These programs should take into consideration language barriers, discrimination, and overcrowding.
- Strictly implement international policies of U.N. Security Council Resolutions 2170 & 2178 created to stymie ISIL funding and recruits.
- Mimic Turkey's system of aid distribution to refugee populations
- Increase border control, perhaps by utilizing international bodies such as U.N. peacekeepers in order to prevent unauthorized weapons and personnel from reaching Syria.

To International Community

- Secure international funding for humanitarian and refugee aid.
 - Raise \$1,475,430,374 in order to fill the gap in UNHCR's funding requirements.
- Increase number of resettlement offers from countries outside MENA region from 79,180 to the necessary 380,000 in order to ease the strain on regional countries due to overwhelming refugee populations.
- Help to facilitate negotiations between Iran and Russia in order to halt military support for the Assad government:
 - An agreement could be made which allows Iran to have access to the Port of Tartus in exchange for suspension of military aid.
 - Encourage the Russian government to play a larger role in negotiations, modeled after negotiations surrounding U.N. Security Council Resolution 2118 which allowed for major participation from both the U.S. and Russian Federation.
- Place U.N. personnel at Turkish border along Road 215, where most weapons shipments enter Syria, in order to stop flow of weapons and recruits to extremist groups.
- Work to create a buffer zone spanning from northern Syria to the Turkish border in order to better monitor border crossings and staunch the flow of military aid and foreign fighters to Syria.
- Invite the Iranian government to participate in the next round of Geneva talks.
 - In order to ensure the Syrian National Coalition attends, it will be necessary to convince them of the inherent consequences of opening a dialogue without all parties present and open to negotiation.

IRAQ

Robert Adams

Sasha Hooper

Human Rights Concerns:

- Iraqi Government
 - *Freedom from Torture and Degrading Treatment*
 - *Freedom of Opinion and Information*
 - *Right to Life, Liberty, Personal Security*
- International Community/Iraqi Government/Kurdish Regional Government
 - *Right to Adequate Living Standard*
- Islamic State of Iraq and the Levant
 - *Freedom of Belief and Religion*
 - *Freedom from Slavery*
 - *Right to Life, Liberty, Personal Security*

Background

Human rights conditions in Iraq deteriorated severely in 2014. The Islamic State of Iraq and the Levant's (ISIL) continuing military offensive and occupation of seized territories remains the source of Iraq's most heinous crimes against humanity. The government of Iraq and their militia proxies' response to ISIL produces terrible human rights abuses, especially on Sunni civilians. The emergency in Iraq has created one of the world's worst humanitarian crises in recent memory.

Iraq is a Federal Parliamentary Republic, with Prime Minister Haider al-Abadi as the head of government. Al-Abadi recently replaced former Prime Minister Nouri al-Maliki in reaction to widespread domestic and international criticism for Maliki's role in stoking sectarian tensions.⁶⁰³ A former mandate territory of Great Britain, Iraq gained independence in 1932 as a Hashemite ruled kingdom. Decades of political instability between rival pan-Arabists and Iraqi nationalists culminated in victory by the Baath party in 1968, solidifying Arab socialism as the dominant political ideology of Iraq. The regime lasted until the 2003 American invasion and occupation, which resulted in the formation of the contemporary Iraqi democracy.⁶⁰⁴

Iraq's ethnic and more significant religious diversity are the subject of much scrutiny and are substantially important in understanding Iraqi politics. Iraq is 75%-80% Arab, 15%-20% Kurd, and 5% Turkoman, Assyrian, or other.⁶⁰⁵ While 99% Muslim, Islam in Iraq is split 60%-65% Shi'a and 32%-37% Sunni.⁶⁰⁶ The remaining 1% is primarily Christian, but includes other minority religious minorities.⁶⁰⁷ The recent displacement and targeting of these religious

minorities by ISIL is likely to have caused this number to change. Much of the current violence in Iraq is sectarian in nature, pitching ISIL and its Sunni tribal allies against the Shi'a dominated government, its Shi'a militia proxies, and the Kurdish regional government.

However, history shows us sectarianism is not a permanent fixture in Iraqi politics. Arab socialism and the ideology of the Baath party is strictly anti-sectarian and secular.⁶⁰⁸ Sectarian identities are strongly associated with socioeconomic status, education, and political experience.⁶⁰⁹ Sectarianism is not strong among the urban elite and rural peasantry, but rather manifests within the urban lower-middle class, often unemployed and those seeking upward mobility.⁶¹⁰ Today's sectarian tension and violence began in response to economic hardship following Iraq's defeat in the Gulf War. Indebted and suffering from severe UN sanctions, the weakened state turned to traditional support bases, including tribal and religious actors. The American organized government following the 2003 invasion further heightened sectarian tension in creating the Iraqi Governing Council, the first government explicitly organized on sectarian lines in Iraq's history⁶¹¹. As security deteriorated during the American occupation, the military's inability to protect the populace led to the emergence of militias, often openly aligned with sectarian factions.⁶¹² Coupled with former Prime Minister Maliki's openly sectarian policies, Sunni and Kurdish actors felt targeted and marginalized by a Shi'a dominated government. Such marginalization is a major factor in Sunni support for anti-government armed groups and Kurdish sentiments toward independence.

ISIL's history and relationship to its Sunni supporters in Iraq is key to understanding the current movement and possible policies towards removing support for ISIL. The origins of the group begin with Abu Musab al-Zarqawi in 2003.⁶¹³ Ahead of the 2003 invasion, the United States had made the case Zarqawi's group was the link between Iraq and Osama bin Laden.⁶¹⁴ History proved the alleged connection wrong; however, the allegations became self-fulfilling as Zarqawi later established relations with Al-Qaeda and Osama Bin Laden.⁶¹⁵ Zarqawi created Al-Qaeda in Iraq (AQI), which became the Islamic State of Iraq (ISI) under Zarqawi's successor, both of which fought during the height of Iraq's sectarian civil war until the Sahwa, or Sunni Awakening movement, in 2006 and 2007.⁶¹⁶

Changing attitudes and allegiances of Sunni's once supportive of AQI and ISI led to the backlash against these armed groups and their eventual defeat through the Sunni awakening movement. A combination of al-Qaeda's overreach, financial incentive by the United States, and

improved interactions between Sunnis, American soldiers, and the Iraqi government together convinced Sunni community leaders to throw out AQI and ISI from the Anbar region of Iraq.⁶¹⁷

The group's defeat proved temporary, as ISI found refuge in crisis plagued Syria and reformed as ISIL⁶¹⁸. ISIL at the time merged with Jabhat al-Nusra (JAN), an al-Qaeda affiliate, under the leadership of Abu Bakr al-Baghdadi.⁶¹⁹ Al-Qaeda leadership did not approve of the merger and demanded its annulment.⁶²⁰ However, by the time al-Qaeda leadership gave the order, al-Baghdadi had consolidated control of much of JAN's territory in Syria.⁶²¹ ISIL's success brought many recruits, including 70% of JAN's fighters according to one account.⁶²²

Conflict between Sunni communities and the Iraqi government facilitated the return of ISIL to Iraq. The same sectarian divisions and mistrust of the civil war during 2005-2007 gave some Sunni communities reason to ally themselves with ISIL in order to evict Iraqi government forces from control of Sunni majority regions in Iraq.⁶²³ Many see former Prime Minister Maliki's explicit sectarian actions as mainly responsible for the shifted attitudes of Sunni Iraqi leaders.

The Shi'a militias involved in fighting ISIL and terrorizing the Sunni population are officially named the "Popular Mobilization Forces".⁶²⁴ Following the fall of Mosul to ISIL, the supreme Shiite religious authority Ali al-Sistani announced the "righteous jihad" fatwa, bringing together a number of Shiite militias to fight ISIL and defend the Shiite holy sites in Iraq.⁶²⁵

The United States and other coalition members are key supporters of Iraq's military campaign against ISIL, with the United States conducting 160 airstrikes in 2014⁶²⁶ and sending American advisers and trainers to rebuild the Iraqi army.⁶²⁷ The United States is a key supporter of new Prime Minister Abadi, having supported the removal of former Prime Minister Maliki. The United States is in a crucial position to influence Iraq in its resistance against ISIL through the advantage of its direct military support for the Iraqi government.

Iran sent soldiers and advisers in order to aid Iraqi forces in fighting ISIL. Iran traditionally as well as currently commands considerable influence and supports Iraq's Shi'a militias.^{628 629} As the most powerful Shi'a state, Iran holds considerable influence over Iraqi politics and has an opportunity to aid Iraq with a responsible answer to ISIL.

Violations by Iraqi Government

Freedom of Opinion and Information

The Iraqi government threatens the freedom of information in Iraq with a government siege inflicted on media outlets. Raids on newspapers and broadcasting stations by armed men in Iraq continued throughout 2014 including the assassination of at least five journalists between July and September.⁶³⁰ The Committee to Protect Journalists (CPJ) has named Iraq as one of the worst places for journalists due to the documented deaths of at least 188 journalists since March 2003, of which 90 remain unsolved.⁶³¹ Despite the Ministry of Interiors commitment to protect freedom of the press, government forces have continued to oppress programs affiliated with the opposition. According to Human Rights Watch, on April 28, 2014 the Communications and Media Commission of Iraq (CMC) revoked the licenses of 10 pro-Sunni opposition television stations on the basis of “promoting violence and sectarianism” while state-sponsored stations remained unaffected. In addition to the forceful termination of media outlets, security forces have prevented journalists from entering anti-government protests, effectively creating media black zones.⁶³²

In addition, ISIL’s persecution of journalists threatens the ability to access information in ISIL’s controlled territories. Journalists are especially at risk in the provinces of Mosul and Salahuddin, which has seen mass desertion of journalists due to ISIL reign.⁶³³ As ISIL continues to wage a propaganda war, journalists reporting in the ISIL controlled area of Deir Ezzor are forced to comply with their 11 non-negotiable rules which include ISIL approval of all content and complete loyalty to the caliph.⁶³⁴ The continual arrest, persecution, and execution of media workers has led to the creation of immense black zones in areas such as Mosul, where an estimated 70% of journalists have fled, leaving ISIL as the only active media outlet.⁶³⁵

Freedom from Torture and Degrading Treatment

The Iraqi government detains, tortures, and executes many Sunni prisoners without trial, accusing them of aiding ISIL.⁶³⁶ Amnesty International provides the testimony of one survivor of detention and torture in the Anti-Terrorism Agency.

The soldiers took some of us out and beat us with cables and said we were terrorists, and then took us back to our cell. At 11.30 pm they opened the door and threw a hand grenade into the cell and closed the door and turned off the light. Six detainees were killed on the spot and many were injured, me among

them; I was injured in the eye and leg. One died of his injuries several hours later.⁶³⁷

Iraqi government forces take these actions under the pretext of the 2005 Anti-Terrorist law. Article 4 of the legislation is the most controversial, sentencing death to those who committed terrorist acts and life in prison for those who “intentionally covers up any terrorist act or harbors a terrorist with the purpose of concealment”.⁶³⁸ Sunni advocates criticize the law of giving cover for the Iraqi government to persecute oppositional Sunni figures.⁶³⁹ These actions specifically target Sunnis regardless of their civilian status, in revenge for the Sunni group ISIL’s military offensive in Iraq.

Women are subject to exceptional torture, threat and sexual assault, forced confessions, and trials without access to lawyers in Iraq’s legal system.⁶⁴⁰ Both men and women suffer from the inadequacies and abuses of Iraq’s legal system. However, women suffer even more due to their second-class status in Iraqi society.⁶⁴¹ According to accounts of a variety of witnesses and NGOs provided to Human Rights Watch (HRW), security forces often target women in order to harass her male family or tribal members.⁶⁴² HRW’s report on the issue found Iraqi security forces carry out violations against women, “at every stage of the justice system”.⁶⁴³

Right to Life, Liberty, Personal Security

During the Iraqi government’s military campaign against ISIL, the air force has conducted air strikes, which have killed innocent civilians.⁶⁴⁴ One attack occurred on 1 September 2014, hitting a school for displaced persons in Tikrit, killing 31 civilians, including 24 children, and wounding 41 others.⁶⁴⁵ According to survivors, no fighters from ISIL or other military objects were in or around the school at the time.⁶⁴⁶ New Iraqi Prime Minister Abadi deserves praise for ordering the Iraqi Air Force to “halt shelling of civilian areas even in those towns controlled by ISIS.”⁶⁴⁷ However, accountability is still needed for past incidents and to keep pressure on the Iraqi government to continue this policy.

Government sanctioned Shi’a militias, officially known as the Popular Mobilization Forces, conduct abductions and killings of Sunnis and ransacking of Sunni villages.⁶⁴⁸ Shi’a militias conducting these abuses include the Badr Brigades, Saraya Al-Salaam (also known as the Peace Brigades and the Mahdi Army), ‘Asa’ib Ahl Al-Haq (League of the Righteous), and Kata’ib Hizbullah.⁶⁴⁹ Such actions are under the guise of fighting the Sunni ISIL. However, these

militias attack Sunni civilians solely out of revenge for ISIL's actions. Ali Jassim Kadham, a fighter with the Badr organization, on the one values the importance of returning Sunni to "liberated" villages in Diyala, but on the other hand warns the punishment for Sunni tribes who collaborated with ISIL "will be more severe than Daesh's (ISIL)".⁶⁵⁰ These revenge killings are evident in the same region of Diyala where in January the Sunni majority residents of the village of Barwanah accused Badr of executing 72 people.⁶⁵¹ A government official spoke to Amnesty International and told his interpretation of the actions.

Sunni men of fighting age who come from, go to or live near areas where there are IS groups tend to be considered by many militias to be terrorists or terrorist supporters and that is why they often get killed, whereas some militiamen target Sunnis in blind revenge for the crimes committed by Sunni terrorist groups. I'm afraid that we're regressing back to the situation as it was seven or eight years ago, when this behavior was very widespread.⁶⁵²

Concerning International Humanitarian Law (IHL), the Iraqi government is "criminally responsible for war crimes of their subordinates if they knew...the subordinates were about to commit or were committing such crimes and did not take all...measures in their power to prevent... [Or] punish the persons responsible".⁶⁵³ As Iraqi military commanders and government leaders knowingly armed and encouraged the activity of these militias, they are guilty of war crimes and culpable for criminal prosecution.

Violations by International Community/Iraqi Government/Kurdish Regional Government

Right to Adequate Living Standard

Because of ISIL's violence and the continuing war between Iraqi government, militia, and international coalition forces, the number of internally displaced persons (IDPs) in Iraq has exceeded 2,450,000 people according to Hussain Dawood, secretary of Iraq's Supreme Committee for Relief.⁶⁵⁴ A majority of displaced Iraqis take refuge in the Kurdish region, Baghdad, and the southern provinces. Many of these IDPs are either in temporary camps, mosques, churches, and schools, or with family members.⁶⁵⁵

Despite the formation of the Supreme Committee for Relief, the Iraqi government's agency tasked with aiding IDPs, and the aid of the United Nations, many IDPs lack even the most basic of needs.⁶⁵⁶ Amnesty International's refugee rights advisor describes the situation on the ground.

There are shocking gaps in the humanitarian response. As a result, scores of people are living in ill-equipped camps or buildings with no walls and no shelter

from the cold, wind or rain. Children are running around in thin clothes in the freezing cold. In some camps, toilets and clean water are inadequate. In some non-camp settings they are lacking entirely. As winter continues the situation is likely to get far worse⁶⁵⁷

Those staying in Kurdistan, while appreciative of the regional Kurdish government's praiseworthy hospitality, lack items such as blankets, warm clothing, and heating needed to survive the region's harsh winter.⁶⁵⁸ The UN's 2014-2015 Strategic Response Plan for Iraq has only been 33% funded, with the portion covering shelter and other basic items only receiving 23% of its allotted budget.⁶⁵⁹

Violations by the Islamic State of Iraq and the Levant

Right to Life, Liberty, Personal Security/Freedom from Slavery/Freedom of Belief and Religion

As ISIL advanced through northern Iraq, the armed group targeted non-Arab and non-Sunni Muslim communities, as well as Sunni Muslims who opposed them. Those who did not flee ISIL's incursion endure persecutions including: mass executions, forced conversions, forced marriage, sexual slavery, abduction, forced juvenile indoctrination and ideological brainwashing, and forced recruitment of children for use as child soldiers.^{660 661} Amnesty International documented the accounts of those who escaped ISIL capture.

In August 2014, ISIL captured a number, possibly in the thousands, of Yezidi men, women and children.⁶⁶² Arwa, a 15-year-old Yezidi girl, spoke to Amnesty International on her time in captivity.

...We were held in a house with five other girls. There they did to me what they did to many other girls. I was raped. My cousin was not molested; they wanted to take her to marry her to a man but in the end, they left her with us, then we managed to escape. One of the girls said she was not raped but I do not know if it is true. Another did not talk about what happened to her. The others were raped. The men were all Iraqis. They said that if we killed ourselves they would kill our relatives⁶⁶³

Arwa's story is common amongst survivors of ISIL captivity. The mass abductions led to the development of an institutionalized market for captured girls for sale and for purchase. ISIL legitimizes such practices through their interpretation of Shari'a law. In ISIL's publication, Dabiq, the group discusses its justification.

Unlike the Jews and Christians, there was no room for jizyah (non-Muslim residents) payment. Also, their women could be enslaved... After capture, the Yazidi women and children were then divided according to the Shari'a amongst the fighters of the Islamic State who participated in the Sinjar operations, after one fifth of the slaves were transferred to the Islamic State's authority to be

divided as khums [fifth]... Before Shaytān [Satan] reveals his doubts to the weak-minded and weak hearted, one should remember that enslaving the families of the kuffār [infidels] and taking their women as concubines is a firmly established aspect of the Shari'a...⁶⁶⁴

Such abuses amount to crimes against humanity, however the government of Iraq's inability to provide security prevents the prosecution of guilty ISIL combatants. ISIL's persecution ultimately has led to the displacement of 500,000 religious minorities.⁶⁶⁵

ISIL's military campaign produces severe human rights violations beyond attacks on minority communities. Following the fall of the Mosul in northern Iraq, ISIL forces rounded up prisoners and systematically executed 600 inmates at a local prison.⁶⁶⁶ ISIL militants separated Sunni and Christian prisoners from Shi'a and other minority prisoners and took the Sunnis and Christians to other ISIL controlled territory, while executing the others in mass.⁶⁶⁷ A survivor of the attack describes the killings.

They (ISIL) started by saying, "Each person raise his hand and say his number." I was number 43. I heard them say "615," and then one ISIS guy said, "We're going to eat well tonight." A man behind us asked, "Are you ready?" Another person answered "Yes," and began shooting at us with a machine-gun. Then they all started to shoot us from behind, going down the row.⁶⁶⁸

ISIL treats Iraqi security forces no differently. A HRW investigation examined the execution of between 560-770 captured Iraqi army soldiers in Tikrit.⁶⁶⁹ In multiple videos posted to YouTube on the same incident, ISIL claims to have executed 1700 "Shi'a members of the army"⁶⁷⁰ Summary executions for no reason other than the inmates being Shi'a or a member of a minority group is continuing evidence of the brutal methodology of ISIL rule and military conduct.

Analysis

Prime Minister Haider al-Abadi emphasis on sectarian reconciliation presents a key opportunity for conflict-ravaged Iraq. International military efforts to stop ISIL will not provide permanent relief from the militant group unless coupled with sincere actions by the Iraqi government to integrate and treat the Sunni minority equally. This includes both political inclusion, but also the reigning in of both Iraqi security forces and Shi'a militias from terrorizing the Sunni population. This is vital for keeping Iraqi domestic support for the campaign against ISIL. The Iraqi constitution contains the necessary legal protections to address the discussed issues,⁶⁷¹ and Iraq is a supporter of the Cairo Declaration on Human Rights in Islam. Thus addressing human rights and equality among religious and ethnic sects in the Iraqi government is

a matter of will rather than legislation. As history shows us, sectarian conflict is not a set fixture in Iraqi politics. If it were so impossible for Iraqi Sunnis, Shias, and Kurds to live with each other, the Iraqi state would have fallen apart long ago. Not to mention the region has been religiously diverse for hundreds of years, and yet has rarely experienced the current sectarian strife.

If Prime Minister Abadi can be true to his promises, the awakening of 2007 is evidence the Sunni population can be convinced to pull its support for ISIL and remove the militant group's key support base. ISIL's extremism is evident to all, and much like in 2007, the Sunni tribes allied with ISIL do not share the extremist ideology with the armed group. It is the recent history of Sunni discontent resulting from the Maliki-led government policies of exclusion and discrimination keeping Sunnis from cooperating with the Iraqi state.

There are steps Prime Minister Abadi can take to move toward reconciliation and cooperation with the Sunni minority, while weakening ISIL at the same time. As one displaced Sunni man phrased it, "I am no more afraid of Daesh (ISIL) than I am of the Shia militias and the Iraqi government."⁶⁷² It is fair to say this attitude is common among the Sunni population, and Abadi must address it to remove support of ISIL. In order to remove fear, Abadi must continue his commendable policy of refraining from conducting air strikes in civilian areas. As the United States is now understanding, killing civilians from the sky often creates more hostile insurgents and resentment, outweighing any military gain by killing militants. Torturing and illegally detaining persons only furthers to give the government a bad name and create fear and resentment in the population. Creating an Iraqi justice system that is fair and just to all Iraqis regardless of sect and gender creates a powerful comparison to the brutality of ISIL's treatment of prisoners. While it is understandable the government of Iraq is reliant on local militias for security in the context of a weak national army, these Shi'a militias are often counterproductive in bringing Sunni and Shi'a Iraqi politicians together. It is unrealistic to ask for the immediate dissolving of these militias, considering their effectiveness in fighting ISIL, but Abadi must focus his resources (including international assistance) on rebuilding the Iraqi national army. Abadi must only rely on Militias for defensive purposes. It sole job of the Iraqi army and the international coalition to conduct the counter-offensive in order to liberate occupied Iraq. Abadi's government must not be afraid of the freedom of information. Allowing Sunni media groups freedom to report is a step to involving the Sunni community in the national dialogue, in

addition to creating a natural check on government activity. These actions not only improve the human rights of Iraqis, they improve the long-term goal of freeing Iraq from ISIL and create a foundation for a more unified and stronger Iraq.

It is unrealistic to expect a negotiated settlement to the conflict between ISIL and the government of Iraq. However, if ISIL believes in its identity as a caliphate and a standard-bearer for Shari'a law, it is our belief their actions violate these principles and Islamic law. Recently, over 120 Sunni Islamic scholars and jurists from around the world penned a letter to Abu al-Baghdadi and supporters of ISIL condemning the group's actions and their religious interpretations for their actions.⁶⁷³ Of the 24 points presented by the letter, several directly support this report's claims of human rights abuses by ISIL. The letter says it is forbidden to kill the innocent.⁶⁷⁴ ISIL has killed many civilians and non-combatants simply because they disagree with ISIL's ideology. Instead, the Quran calls for the saving and preservation of life rather than the taking of it, even comparing a single murder to the murder of all of humankind.⁶⁷⁵ Point 7 of the letter explains it is forbidden to kill journalists and aid workers.⁶⁷⁶ In points 10 and 11 of the letter, the scholars point out it is forbidden in Islam to harm or mistreat Christians or any "People of the Scripture", of which Yazidis are considered.⁶⁷⁷ This directly contradicts ISIL brutal treatment of Christian and Yazidi individuals in ISIL controlled territory. On slavery, the writers claim "no scholar of Islam disputes that one of Islam's aims is to abolish slavery".⁶⁷⁸ Captives for ISIL, especially Yezidis, are subject to purchase and sale as slaves, often as "wives" for ISIL soldiers. It is forbidden in Islam to force people to convert because, as the authors quote, Sura Al-Baqarah 2:256 states, "There is no compulsion in religion. Rectitude has become clear from error..."⁶⁷⁹ When ISIL forces its captives to choose between conversion or death, it directly violates the principle of no compulsion in religion from the Qur'an. On the use of captured children as child soldiers, the scholars believe this violates the rights of a child given to them by the Qur'an.⁶⁸⁰ Shari'a law also forbids torture.⁶⁸¹

Much like the writers of the letter to Baghdadi, we hope the explanation of the violations of Islamic law by ISIL achieves two objectives. First, considering the self-perpetuated identity of ISIL, an appeal to Islamic law is a powerful way to influence for the better the behavior of ISIL. Second, exposing the hypocrisy of the self-declared caliphate is a powerful tool to dissuading potential recruits from joining the group.

The international community has a responsibility to combine its military support with humanitarian aid. The military campaign of the international community must conduct its airstrikes with serious discretion. Any civilian killed is not only a human rights violation, but ultimately propaganda for ISIL militants. The coalition should join Abadi's initiative to end air strikes in civilian areas, even if these areas are under ISIL control.

If the coalition members can afford bombs to drop on ISIL militants, they can afford to fully fund the UN mission's effort to care for the millions of IDPs. The current IDP crisis in Iraq is too large to expect the Iraqi and Kurdish governments to be able to handle it on their own. The UN is willing and able to provide the necessary provisions to ensure IDPs have an adequate living standard, but can only do so if the funds are available. The same is true for resettling Iraq's religious minorities who likely will never be able to return home. Third country resettlement eases the burden on regional states of asylum and provides a long-term solution for displaced Iraqi families.

Recommendations

International Community

- The international community should commit to and expand current third country resettlement programs in neighboring countries and inside Iraq to assist displaced minority communities who cannot return to Iraq.
- The United Nations relief program is in desperate need of funds to meet the right for an adequate living standard for Iraq's internally displaced persons. The international community should commit to fully funding the UN's humanitarian mission in Iraq.
- The international coalition against ISIL should take all possible precautions to avoid civilian casualties during the air campaign against ISIL. The best option is to join the Iraqi government's initiative to end all airstrikes in civilian areas, even if said areas are under ISIL control. These airstrikes should also use weapons and ammunition approved by the UN.
- International coalition military aid to Iraq should not end up in the hands of Shi'a militias. Focus instead on assisting Iraq national army become an effective and humane fighting force.

Government of Iraq

- We urge the Iraqi government to no longer rely on the Shi'a militias to fight ISIL. The government can restore credibility and legitimacy of the Iraqi national army in the eyes of the population by taking the lead in offensive operations against ISIL and by ending joint operations with Shi'a militias.
- Consider amending article 4 of 2005 Anti-Terrorism Law by narrowing the definition of giving aid to terrorist groups. The revision will resolve Sunni complaints of persecution under pretext of the current language of the law.
- Support the efforts of sectarian reconciliation by expanding transparency of justice system and legislating prosecution for perpetrators of torture to ensure the illegal practice has no place in Iraqi's prisons.
- Continue the commendable 13 September 2014 policy of ending air strikes in civilian areas, even those under control of ISIL
- Support bipartisan media coverage through freedom of the press to ensure impartial news coverage

Islamic State of Iraq and the Levant

- A wide array of respected scholars of Sunni Islam declares many of ISIL's human rights abuses are in violation of Islamic law. As a caliphate seeking to represent the best of the Islamic world, the abuse of people under your rule contradicts this principle. An end of these abuses and increased accountability are called for.

IRAN

Michael Land

Human Rights Concerns:

- Freedom from Discrimination
- Freedom of Belief and Religion
- Freedom of Opinion and Information
- Right to Equality
- Right to Fair Public Hearing and Freedom From Torture and Degrading Treatment
- Right to Free Movement in and out of the Country

Background

The human rights situation in Iran has seen some improvement under the presidency of Hassan Rouhani who took office in August of 2013. Rouhani is widely seen as a moderate in comparison to his hardline predecessor Mahmoud Ahmadinejad, and has made an effort to reach out to other nations and negotiate on issues such as Iran's nuclear program.⁶⁸² However, the Supreme Leader of the Islamic Republic, Ayatollah Khamenei remains reluctant to address many of the nation's most pressing human rights concerns, most notably widespread detention of political prisoners, violations of basic civil and judicial rights, the legal inferiority of women, violation of immigrant rights, and persecution of sexual and religious minorities.

The P5+1 negotiations regarding Iran's nuclear program continued in 2014 following the framework set forth by the Comprehensive agreement on Iranian nuclear program. After an initial deadline of 24 November passed without a deal, talks were extended until 1 July 2015 and remain ongoing. Members of the P5+1 negotiations include all permanent members of the UN Security Council and Germany.

Freedom of expression remains a major issue in Iran. 2014 saw the arrest and detention of Washington Post Tehran bureau chief Jason Rezaian without any trial, as well as a death sentence for a blogger who allegedly insulted the Prophet Mohammed.⁶⁸³ Further high-profile violations of freedom of expression include the case of women's rights activist Ghoncheh Ghavami who was arrested after attending a male-only volleyball match and charged with "propaganda against the regime," among many others.

Iran continues to have a very poor record regarding women's rights. A recent example of this was the 25 October execution of Reyhaneh Jabbari, a victim of attempted rape who was convicted of murdering her attacker after what Amnesty International described as a "deeply

flawed investigation and trial". A UN Monitor in the country further backed up Jabbari's account, describing her actions as being in self-defense.

Iran borders both Afghanistan and Iraq and, as such, has seen a large influx recently of refugees from the conflicts in these countries. Iran maintains close relations with the Assad regime in Syria, and has pledged its support to help the regime against both the Islamic State and Free Syrian Army. Iran's relationship with Iraq has improved markedly in the past decade as the government shifted from Sunni to Shi'a. This has resulted in Iran's support for Shi'a militia groups in Iraq which are allegedly committing drastic human rights violations in that country's internal conflicts. Iran also has a long history of financially and militarily supporting the Shi'a group Hezbollah in Lebanon and its allies throughout the region. Hezbollah is considered a terrorist organization by the Cooperation Council for the Arab States of the Gulf (GCC), the United States, Canada, and Israel.

Freedom from Discrimination

Adultery remains illegal in Iran and is punishable by the same sentences as apostasy and treason, including life imprisonment or death. Gay and lesbian rights in Iran remain non-existent, as according to Iranian law, there is no such thing as a homosexual person – only a heterosexual person committing homosexual acts, which is punishable by death in Iran.⁶⁸⁴

In one incident this past August, two men were hanged in the Southern city of Shiraz over vaguely defined crimes.⁶⁸⁵ According to Iran's Jonoub News Agency, Abdullah Ghavami Chahzanjiru and Salman Ghanbari Chahzanjiri were charged with sodomy.⁶⁸⁶

However, in 1987, then-Ayatollah Khomeini issued a pro-transsexual fatwa, essentially recognizing gender identity disorder as a legitimate disease to be cured, rather than an immoral choice.⁶⁸⁷ This ruling has allowed those who can afford it to undergo sexual reassignment surgery. As of 2007, Iran carries out more such surgeries than any other country besides Thailand.⁶⁸⁸

Freedom of Belief and Religion

The state religion of Iran is Shi'a Islam. Christianity, Judaism, Zoroastrianism, and Sunni Islam are recognized by the constitution. However, members of minority religions still face persecution.⁶⁸⁹ Sufi Islam and Baha'i are not recognized religions in Iran, and their adherents

face widespread persecution in Iran. Apostasy (conversion away from Islam) is illegal in Iran and punishable by death, although there have been no executions on charges of apostasy.⁶⁹⁰

Freedom of Opinion and Information

The 1985 Press Law prohibits "discourse harmful to the principles of Islam" and "public interest", as referred to in Article 24 of the Constitution. This law has been used to justify widespread violations of freedom of expression in Iran. Recent examples of this include:

- May 2014 six young people in Tehran were arrested for making and posting a video in which they danced and lip-synched to the Pharrell song, "Happy".⁶⁹¹
- Soheil Arabi, a blogger, was sentenced to death for insulting the Prophet Mohammed.⁶⁹²
- Masoud Seyed Talebi, a 21-year old who was sentenced to 20 years in prison for "insulting the sacred".⁶⁹³
- Mahdiah Golrou, who was arrested after protesting acid attacks against young women in Isfahan. She has been detained without charges and without access to a lawyer since October.⁶⁹⁴ Article 35 of the Iranian Constitution directly states: "[Parties] to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel."⁶⁹⁵

Reporters Without Borders (RSF) continues to report that Iran has one of the worst cases of internet censorship in the world, as well as one of the worst standards of journalistic freedom in the world.⁶⁹⁶

On July 22, Washington Post Tehran bureau Chief Jason Rezaian and his wife Yeganeh Salehi, also a journalist, were arrested.⁶⁹⁷ Salehi was released on bail in October, although Rezaian remains in detention after appearing in court for the first time in early December.⁶⁹⁸

Right to Equality

Women remain second-class citizens in the eyes of the law in Iran, particularly in regard to inheritance law and testimony in court, wherein the testimony of two women is equal to that of one man. These laws are taken mostly from interpretations of traditional Shari'a Law, upon which the Iranian Constitution is based. Fortunately, the Rouhani administration has taken a more moderate tone than its predecessor. This April, President Rouhani stated: "Women must enjoy equal opportunity, equal protection and equal social rights," as part of a televised speech to

mark International Women's Day.⁶⁹⁹ However, Ayatollah Khamenei remains resistant to expanding women's rights, countering that gender equality is "one of the biggest mistakes of Western thought".⁷⁰⁰ Khamenei bases his reasoning for this statement on his understanding of traditional Islamic law.

Abortion in Iran is restricted to only cases in which the health of the mother or the child is at risk, or cases where the child will be born with a severe mental disability.⁷⁰¹ There is no exception for pregnancies resulting from rape.⁷⁰²

Iran's strict dress code requires women to cover their hair with a veil or scarf in public at all times, regardless of their religion or personal preference.⁷⁰³ President Rouhani indicated in October 2013 that he would favor a loosening of the law, although Parliament did not share this view.⁷⁰⁴ In June of 2014, two thirds of Iran's Parliament wrote a letter to President Rouhani expressing their belief that the dress code be more strongly enforced.⁷⁰⁵

Right to Fair Public Hearing & Freedom from Torture and Degrading Treatment

There have been recurring issues with Iran's justice system spanning decades. However, it is worth noting that the last two presidential administrations have made some improvements to try and correct some of the worst abuses in the system. For example, execution by stoning has ended in Iran as of 2013,⁷⁰⁶ and the execution of juveniles has been outlawed since 2012. However, Human Rights Watch has cited unofficial sources who claim as many as eight juvenile offenders were executed in 2014.⁷⁰⁷ Amnesty International has also reported that one man, Saman Naseem, has been threatened with execution despite having been 17 at the time of his arrest.⁷⁰⁸ Naseem, an Iranian Kurd, had been hunger striking to protest the conditions of his imprisonment.⁷⁰⁹

Reports of torture and deaths in police custody remain widespread. Amputations remain a legal form of punishment for some crimes.⁷¹⁰ 870 people were executed in the first year of Rouhani's term, including 411 in the first half of 2014 alone.⁷¹¹ Iran currently holds the highest incarceration rate in the Middle East and North Africa with 284 prisoners per 100,000 people.⁷¹²

Iran's extra-legal security force, the *Basij*, is an all-volunteer force which is given extraordinary discretion to support the government and quash dissent.⁷¹³ ⁷¹⁴ According to one Amnesty International worker, "there is no way for the public to even identify [members of the *Basij*], let alone bring them to account for violations. If the Iranian authorities are not able to

control such a militia, they should disband it. It is irresponsible to provide weapons and then to relinquish responsibility when abuses occur.”⁷¹⁵

Right to Free Movement in and out of the Country

As of 2012, there are around 2.4 to 3 million Afghans living in Iran, over 840,000 of whom have been given some form of temporary status (“registered” refugees). Refugees from Iraq also make up a smaller population of about 42,000. Those who leave Afghanistan for Iran continue to face major obstacles in trying to relocate. This is due in large part to “no-go areas” where all foreigners, including refugees from Afghanistan and Iraq, are banned from living in Iran. There are further restrictions on where Afghan refugees can take up residence in all of Iran’s provinces except those in the vicinity of Tehran.⁷¹⁶ Unfortunately, there are only two official border crossings from Afghanistan into Iran, one of which leads into a province with a partial ban on Afghan refugees and one with a full ban, meaning that refugees must make it hundreds of miles to Tehran or face deportation.⁷¹⁷

Those who are to be deported are kept in detention facilities with poor living conditions, and must pay for their own deportation back to Afghanistan. Those who cannot pay are held in detention until their family is able to pay their way back to Afghanistan. There have also been reports of widespread violence against the refugees in the detention facilities.⁷¹⁸

Analysis

Gender Roles and Women’s Rights in Shari’a

The Constitution of the Islamic Republic of Iran is based heavily in Shari’a Law, a legal system in which the secondary status of women is considered acceptable, and in some cases, to be encouraged. Surah 4:34 of the Qur’an states (in translation) “As to those women from whom you fear disobedience/first admonish them, then refuse to share your bed with them, and then, if necessary, beat them.”

Another aspect of Shari’a followed by Iranian law is the issue of inheritance. In most cases, women receive half the inheritance of what their male siblings receive. This practice is based on two Surahs from the Qur’an, most notably, Surah 4:11 which states: “Allah (thus) directs you as regards your Children's (Inheritance): to the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one,

her share is a half.” The same two-women-for-one-man logic applies in the courtroom as well, where the testimony of two women is equal to that of one man. Since these wordings are very explicit, there is very little which can be achieved without a full separation of Iranian law from Shari’a Law.

The Cairo Declaration on Human Rights in Islam (CDHRI), which exemplifies the differences between traditional Islamic law and modern human rights standards, takes a more modest tone, although still coming far short of fully endorsing the rights of women, Article 6, which discusses women’s rights in Islam states in full: "(a) Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform, and has her own civil entity and financial independence, and the right to retain her name and lineage. (b) The husband is responsible for the maintenance and welfare of the family.”⁷¹⁹ The use of the term “dignity” in section (a), as well as the failure to enumerate any rights which women enjoy leaves open much room for interpretation. In his critique of the CDHRI, Dr. Husayn Mihrpur writes:

[The CDHRI] says that women have fixed duties at home. Therefore, they have fewer responsibilities and duties. And this should not be attributed to inferiority of women in respect to men. To what extent this can justify the distinctions between men and women such as the rejection of women’s testimony in some affairs, and their blood money being half that of men, and their incapability of taking custody of their own children deserves due contemplation.⁷²⁰

Clearly, the issue of women’s rights in traditional Islamic law is not a settled matter, and open to much interpretation.

Part of the reason for this confusion originates from seemingly contradictory statements within the Qur’an itself. For while the Qur’an does give women a secondary status to men, and even endorse domestic abuse under certain circumstances, women are said to be “equal to man in human dignity,” as is stated in the CDHRI. One researcher at Tehran University attempted to reconcile the two statements by dividing all Islamic law into two realms – the religious and the cultural.⁷²¹ Under Islam as a religion, all humans are equal and to be judged by God by their piety alone.⁷²² Another way to put this might be that man has no advantage over woman in achieving eternal salvation. By contrast, under Islam as a culture (which includes Shari’a Law), men and women are still equal but “Due to their nature, they are not the same in many respects and this requires their difference in respect to rights, duties and punishments.”⁷²³ While Islam regards men and women as equals in the eyes of God, that equality does not translate into equal

roles and rights. It is therefore unlikely that Iran will change its laws to include equal rights for women without a dramatic decoupling of Iranian and Shari'a Law.

Women's rights do have a relatively strong advocate in President Rouhani, who has called for "equal opportunity, equal protection and equal social rights."⁷²⁴ Furthermore, there is a robust women's rights movement within Iran which has seen some success in recent years, most notably in the "One Million Signatures" campaign.⁷²⁵ Although leaders of the campaign have been arrested and attacked, One Million Signatures has successfully pressured the government on issues such as stoning and family law by, as its name suggests, collecting signatures *en masse* to express the public sentiment towards these laws. Other regional organizations, such as Alwane in Oman, have shown that increased rights for women are possible even in autocratic Islamic countries. While Iran and Oman are not comparable in many ways, increased international and regional support for NGOs like the One Million Signatures Campaign is a strong way to ensure that women are able to have their voice heard and have their rights recognized.

Transsexual Rights as a Case Study

The history of transsexuals in Iran, and how such a traditionalist state has come to have such a liberal policy regarding transsexuality may offer some clues in how best to approach other issues of inequality in the country, particularly those regarding sexual minorities, women, and possibly even religious minorities. One Iranian-American historian and gender theorist writes on how many of the earliest discussions on transsexuality in Iran came from Persian-language versions of the same texts that were read in the United States and Europe at the time.⁷²⁶ By the late 1960s, modern terms like "gender disorder" became generally accepted in the medical community in Iran, and by 1973 non-intersex (the person did not have ambiguous genitalia beforehand) sexual reassignment surgery (SRS) was performed in hospitals in both Tehran and Shiraz.⁷²⁷ In 1976, however, the Medical Association of Iran (MAI) declared that SRS was only acceptable in the case of intersex patients - a decision which would hold until well after the Islamic Revolution.⁷²⁸

None of this is to suggest that the right to SRS is somehow a Western idea forced upon Iran by a pro-Western Shah. Rather, it is meant to show that Iranian thought evolved alongside Western thought in this regard. This theory is further supported by the contemporaneous works of Ruhollah Khomeini, who lived in exile in Iraq and France at the time. In 1967, Khomeini

issued a fatwa (albeit, a symbolic fatwa, since he was in exile) declaring that intersex SRS is indeed acceptable. After extensive lobbying from Iranian transsexual advocate Maryam Khatoon Molkara, Khomeini gradually became more accepting of all varieties of SRS, at one point saying that it is an “Islamic obligation” to ensure that one is in a body of the proper sex.⁷²⁹ In 1985, then Ayatollah Khomeini reissued his 1967 fatwa, this time to establish a legal framework to legalize all forms of SRS in the country and provide government funds to make the surgery more financially accessible.⁷³⁰

This case shows how much of a difference non-state actors and NGOs can make. This is not the only story like this in the region, as many women’s rights organizations have brought transformative changes in their countries as well. If these groups can work together, and if they receive proper support from the international community and other outside groups, Iran may feel enough internal pressure to change its ways without having to resort to sanctions or military might.

Torture

Government-sanctioned torture in Iran is not entirely attributable to a difference in what constitutes human rights between Iran and the rest of the world; it is simply an unenforced part of the basic law of the country. Article 38 of the Constitution of the Islamic Republic of Iran states:

All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law.⁷³¹

Shari’a Law, the basis of Iranian law, *does* sanction the use of torture under certain circumstances, and it is important to note that the Constitution of Iran does not ban torture in all cases, only “for the purpose of extracting confession or acquiring information”. Even though there have been complaints of Iranian authorities torturing prisoners in direct violation of the wording of the Constitution, it is entirely plausible that these went unprosecuted because they did not violate Shari’a Law. There is also the possibility, of course, that the regime is so autocratic that it needs torture to continue its existence. However, this seems an overly simplistic view of the situation, and very little could theoretically be done to change it.

Iran is likely to continue its practice of torturing prisoners and dissidents, barring a dramatic increase in pressure either internally or internationally. The international community may have overplayed its hand in terms of sanctions, which have been largely put in place in response to Iran's alleged nuclear program. However, those countries currently imposing sanctions may make it clear that they are willing to lift some sanctions if Iran makes progress tackling the issue of torture. This will give Iran economic and political, in addition to moral incentive to change its practices.

The Basij

The unaccountability of the *Basij* can be traced to the lack of standard identifying markers, the anonymity of its members, and the lack of any third-party review of their actions.⁷³² While demanding solutions from the current Iranian government for all of these issues may not be realistic, requiring all members of the *Basij* to wear a standard-issue uniform and have their names clearly printed upon it may be a tangible step towards increased accountability. By allowing citizens to recognize members of the *Basij* and removing their anonymity, a level of self-regulation will serve to limit offences by members. This will further allow for citizens to place legal complaints against the *Basij*, and will therefore aid its legitimacy within Iran.

Immigration

Immigration from Afghanistan into Iran became a major issue following the ouster of the Taliban in late 2001. Afghan refugees who had fled into Iran during the bloody wars of the 1980s and 90s began to return *en masse*, with one measure estimating that 2.3 million Afghans returned from Iran in 2002 alone. However, many of these people found reintegration into Afghan society difficult, and have faced “ongoing insecurity in their home areas, loss of livelihoods, lack of access to health care and education, and challenges in reclaiming land and property.”⁷³³

Starting in 1997, Iran began to register the Afghan refugees who were living in the country while also preventing new refugees from registering. The immediate effect was a skyrocketing number of deportations which has lasted ever since.

The situation of Afghans in Iran is unique for two reasons: First, unlike many refugee populations, only 3% of Afghans in Iran live in camps, with the vast majority living in large urban centers. Second, the indiscriminate nature of Iran's “no-go areas” has led to the

deportation of unregistered as well as registered refugees. The result is that people who are legally living in Iran are being deported to Afghanistan for travelling within Iran - a right protected under international law. This situation is made all the more difficult, given the great distance between the official border crossings and the provinces which are not designated no-go areas.

As a party to the 1951 Convention relating to the Status of Refugees and 1967 protocol, Iran is legally obligated to cooperate with the United Nations High Commissioner for Refugees (UNHCR) and is forbidden from forcibly returning refugees to their country if they legitimately fear for their safety there.⁷³⁴ As Iran has clearly not lived up to its legal obligations in these regards, it is up to the international community, in particular the UNHCR, to respond to Iran's intransigence.

Role of the International Community

Iran has been the target of economic sanctions from both the United Nations as well as individual countries around the world as a result of its alleged nuclear ambitions. While these sanctions have likely played a large part in Iran's agreement to continue talks related to its nuclear program, the sanctions have truly damaged Iran's economy and has made access to basic needs harder for average citizens.⁷³⁵ Healthcare in particular has become much more expensive under increased sanctions.⁷³⁶

However, countries participating in these sanctions need to ensure that they don't waste their leverage solely on Iran's nuclear program, as it is just one of many issues which its government needs to be pressured to change. It is imperative that the international community restructure its sanctions to allow for access to healthcare, while not removing needed pressure from the Iranian government.

Recommendations

To the Government of Iran

- Article 38 of the Constitution of Iran should be clarified to include all forms of torture.
- Iranian law should be in accordance with 1951 Convention relating to the Status of Refugees and 1967 protocol through:
 - Ending the use of no-go areas for foreigners
 - Ending the deportation of documented refugees
 - Ensuring that all immigrants from Afghanistan are allowed to apply for refugee status
- Members of the *Basij* should be clearly identifiable as such, and have their full name displayed on their person so that complaints of wrongdoing may be lodged against them.
- To further ensure accountability for the actions of the *Basij*, a third-party review board should be established to ensure that members are not acting outside of the law.

To the International Community

- Basic health care needs of Iranian citizens must be met, and any sanction which threatens the supply of healthcare to Iranian citizens should be restructured to prevent this.
- Sanctions should be used to pressure the Iranian government on human rights issues in addition to issues of nuclear proliferation.
- If further sanctions are not feasible, countries should offer to remove sanctions if Iran improves its human rights record.
- Remember that the nuclear issue is not the only issue Iran faces, and equal attention should be paid to its offences in other areas.
- Iranian NGOs should be supported through financial and non-financial donations, if such help does not compromise the legitimacy of the organization within Iran.

To Regional NGOs

- Regional women's rights groups should partner with Iranian activists to allow for increased cooperation and resources for all parties and to ensure that the success in one nation can be matched in neighboring nations.

SAUDI ARABIA

Erica Ames

Human Rights Concerns:

- Freedom from Discrimination
- Freedom from Interference with Privacy, Family, and Home
- Freedom of Opinion and Information
- Right to Desirable Work and to Join Trade Unions
- Right to Asylum
- Women's Rights

Background

In the early 20th century, a supra-tribal polity came to power around the modern capital, Riyadh, under the authority of the Al Saud family.⁷³⁷ The Saudi Arabian Kingdom was created in 1932 and operated under an alliance between Abd al-Aziz and the Hijazi merchant class. The same year, an agreement with Standard Oil of California granted Saudi Arabia independence from British influence. In 1973, the Organization for Petroleum Producing Countries (OPEC) triggered an oil embargo in an attempt to end Western support for Israel during the Yom Kippur War of 1973. Saudi Arabia was one of the first countries to end the suspension of oil production and trade with the U.S. and after the Iranian Revolution in 1979, became a prominent ally to the U.S. in the Middle East and Islamic World.⁷³⁸ In 1988, Saudi oil was fully nationalized under “Saudi Aramco”, which remains the world’s largest petroleum producing company.⁷³⁹ As a result of dependence on oil revenues, the Saudi state and private sector remain highly fragmented to this day. Despite the abundance of monetary wealth, unemployment ranges between 13 - 25% and social inequities are wide spread.⁷⁴⁰

Saudi Arabia is an authoritarian, dynastic monarchy that operates under Islamic law. The utmost political power resides in the familial descendants of Abd al-Aziz Al Saud, and the king heads the main institution of the state, the Council of Ministers. The king’s authority is primarily unchecked and political parties are not allowed within society. In 2003 and 2005, the Saudi government enacted two human rights bodies: the National Human Rights Association and the Human Rights Commission.⁷⁴¹ Both institutions are operated and staffed by the government and fail to promote any legitimate adherence to humanitarian ideals. There is no constitution in Saudi Arabia because the government operates under a strict interpretation of Islamic law.⁷⁴² The

monarchy continues to assert their interpretations of Islam and Islamic oppositional groups hold that the government is corrupt and highly influenced by Western allies.

In 1981, Saudi Arabia formed the Gulf Cooperation Council whose members include: Kuwait, Bahrain, Qatar, the United Arab Emirates, and Oman.⁷⁴³ In recent decades, Saudi Arabia has continued to exert influence over other states in the Arabian Peninsula via diplomatic leadership and economic coercion. The Saudi state initiated the Israeli – Palestinian Peace Plan and the Hamas – Fatah agreement, which attempted to resolve intra-Palestinian conflict. During the 2011 Arab uprisings, Saudi Arabia attempted to prevent social revolutions in Tunisia and Egypt by participating in a military intervention to counter mobilization by the people.⁷⁴⁴ On the other hand, the Saudi state supported popular uprisings in Syria to undermine Syrian-Iranian relations in the region.

Saudi Arabia is primarily Sunni Muslim, which is also the official doctrine of the state, and constitutes 10 – 15 % of a Shiite minority.⁷⁴⁵ Shiite communities typically reside in the oil-rich Eastern Province and face widespread discrimination by the state. Shiite Muslims are socially marginalized by discriminatory state policies that limit their access to public education and government employment. During the 2011 Arab uprisings, marginalized Shiite groups protested against “corruption, municipal mismanagement, and poor official response to environmental crisis” and nearly destroyed the city of Jeddah; however, such demonstrations were met with brutal retaliation by the Saudi security forces.⁷⁴⁶

On January 22, 2015 the Saudi Arabian King Abdullah passed away, leaving the country under command of his brother King Salman.⁷⁴⁷ Since the initiation of his rule, King Salman has issued numerous government hand-outs to state officials and abolished various governmental councils in charge of the Saudi state’s intelligence agency, in a supposed attempt to further consolidate his control.⁷⁴⁸ In addition, the King has also appointed Prince Mohammad the interior minister, which will allow him to detain and monitor the finances and telecommunications of suspected terrorists under the newly enacted anti-terrorism law. Prince Mohammad, who is next in line as king, has been criticized by human rights organizations for his assertive security focus that aims to maintain state stability and silence political opposition to the extent that political rights and individual expression of freedom are jeopardized.⁷⁴⁹

Freedom from Discrimination

Similar to other Gulf countries, Saudi Arabia is host to a prominent Sunni majority of roughly 85% of the population.⁷⁵⁰ Discrimination of the Shia Muslim minority is deeply rooted in the country's history and is perpetuated systematically by state regulations. In October, Saudi Arabia's Specialized Criminal Court sentenced a well-known Shia cleric, Sheikh al-Nimr, to death under the charge of "breaking allegiance with the ruler" and "inciting sectarian strife".⁷⁵¹ Throughout his career al-Nimr had outspoken against discriminatory government policies and supported the coalition in favor of Shia seceding from Saudi Arabia.

The majority of Shias live in the oil-rich eastern region of Saudi Arabia, which is neglected in terms of infrastructure and development by the state. The Shia community also faces limited access to public education and government employment, whereas the Sunni population receives prominent government funding for religious activities and sites. In September of 2014, a Human Rights Watch analysis reported that four other Shia protesters had also been on trial before the Specialized Criminal Court and failed to receive proper due process.⁷⁵² The Saudi state continues to discriminate against religious minorities and repress activist movements that demand reform. In the past, the systematization of religious discrimination has allowed for Saudi Arabia to become a breeding ground for extremist mobilization including organizations such as al-Qaida.

Freedom from Interference with Privacy, Family, and Home

In February 2014, the Saudi government enacted the Penal Law for Crimes of Terrorism and its financing.⁷⁵³ The new terrorism law authorizes security forces to legally "criminalize free expression" and violate the individual's right to due judicial processing and a fair trial.⁷⁵⁴ The terrorism law was initially drafted in 2011, but recent revisions have removed sentencing guidelines for participants in demonstrations and broadened the state's definition of 'terror' to include any public critique against the government. Broad statements such as "any act carried out by an offender in furtherance of an individual or collective project... intended to disturb the public order of the state" or "expose its national unity to danger" define terrorism in the newly enacted law.⁷⁵⁵ The law provides vague regulations regarding criminal procedures and allows the investigation agency to determine the detention period, as well as the suspect's access to an attorney.

During his reign, King Abdullah also granted the interior minister the legal authority to detain civilians and monitor the communication and finances of supposed terrorists.⁷⁵⁶ The law provides the legal permissibility of the persecution of peaceful dissidents, foreign and domestic, without proper judicial oversight and transparency. Disguised by an anti-terror veneer, the law works to expand the legal authority of Saudi security forces, as well as diminish the state's accountability to uphold human rights. The newly appointed interior minister, Prince Mohammed, has demonstrated stark commitment to domestic security and has been "credited with a leading role helping Saudi Arabia fend off al-Qaeda and other Islamist militants over the last decade".⁷⁵⁷

Freedom of Opinion and Information

The terrorism law has only strengthened the Saudi government's efforts to silence protesters and other human rights activists. The Saudi authorities continue to bolster their campaign against freedom of expression and association, especially within the realm of human rights. Security forces are permitted to mechanize tactics such as intimidation, detention, and prosecution in order to repress any dissidents who question the authority of the state. In April, the prominent lawyer and human rights activist Waleed abu al-Khair was arrested by Saudi authorities and imprisoned for unknown reasons.⁷⁵⁸ Abu al-Khair is also the creator of the Facebook page entitled "Monitor of Human Rights in Saudi Arabia" and has been known to routinely question the authority of the state. In July of 2014, Abu al-Khair was sentenced to 15 years in prison under vague provisions enacted by the terrorism law.⁷⁵⁹

Other human rights activists have also been detained and sentenced under the guise of supposed threats to the public order and charges include "participating in, calling for, and inciting breaking allegiance with the ruler" and "inflaming public opinion and disparaging and insulting the judicial authority".⁷⁶⁰

In 2009, Saudi Arabia ratified the Arab Charter for Human Rights, which includes the right to a fair trial under Article 13.⁷⁶¹ Regardless, activists are routinely victim to unfair legal practices enacted to repress popular demands for reform. In November of 2014, the Saudi ambassador Abdallah Y. Al-Mouallimi conducted an official statement on behalf of the Organization of Islamic Cooperation to reaffirm their commitment to "international cooperation on combating terrorism" before the Security Council.⁷⁶² However, the newly enacted anti-

terrorism regulations have only strengthened the state's authority to repress any actor who has been labeled as a threat to sustain the current political economic system.

Right to Asylum

Beginning in January, Saudi security forces initiated the deportation of roughly 12,000 people to Somalia without any efforts to establish a refugee program that would work to help deportees during the relocation and settlement process.⁷⁶³ The Saudi Interior Ministry confirmed the deportation of Somali refugees.⁷⁶⁴ Saudi Arabia is a signatory member of the United Nations, and yet the mass deportations violate the UN Convention and Protocol Relating to the Status of Refugees, which allows people to seek asylum, without the fear of expulsion, in other countries during times in which their life and freedom are threatened.⁷⁶⁵ Especially in the south, Somalia is plagued by extremist group violence and famine amongst other dire living conditions. On January 17th, 2014, the UN High Commissioner for Refugees (UNHCR) established guidelines in regards to Somali refugee deportation that "called on counties to not return anyone before interviewing them and ensuring they do not face the threat of persecution or other serious harm if returned".⁷⁶⁶ Saudi Arabia failed to produce any evidence that such guidelines had been followed.

Right to Desirable Work and to Join Trade Unions

Saudi Arabia is characterized by a large migrant community, which accounts for roughly one third of the state's population.⁷⁶⁷ Migrant workers move from one country to another in order to find work. Typically, migrant workers are forced to relocate due to economic hardships or limited opportunities to join the labor force in their native country. The International Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families was adopted by the United Nations in 2003 and has been ratified by 34 states.⁷⁶⁸ The Convention is one of seven international human rights treaties and includes the right to equal treatment with national citizens under Article 54.⁷⁶⁹

The availability of foreign labor allows business' to maintain low wages and poor working environments, while excluding many Saudi nationals from the job market. In the late 1980s, the Saudi government enacted legislation to restrict the Arab share of the foreign population out of fear that a large Arab expatriate community would increase social unrest.

Many migrant workers demand that the Saudi state reform nationalization laws. However, in 2004, the Saudi government took more stringent stance on immigration and nationalization policies.⁷⁷⁰

Historically, Saudi oil workers have routinely protested against racial discrimination and corporate violence, but Aramco and the Saudi state have only met such demonstrations with violent repression. Earlier this year, the Saudi Interior Ministry confirmed the deportation of over 250,000 migrant workers who were supposedly in violation of labor laws.⁷⁷¹

Women's Rights

In early December 2014, the Saudi authorities arrested two women driving in Saudi territory near the United Arab Emirates (UAE) border, both of which were in possession of valid UAE driver's licenses.⁷⁷² The female activists, Lujain al-Hathloul, 25, and Maysa al-`Amoudi, 33, stated that they were detained at the al-Batha border and then transferred to the Bureau of Interrogation and Prosecution.⁷⁷³ Both female activists continue to be held in unknown detention centers for publicly disobeying the Saudi ban on the woman's right to drive.

Currently, state policies forbid women from obtaining a passport, marrying, traveling, or accessing a higher education without the approval of a male guardian. In 2008, Human Rights Watch published "Perpetual Minors", a report that documented the human rights abuses stemming from male guardianship and sexual segregation in Saudi Arabia.⁷⁷⁴ The Saudi government has instituted a system in which every female citizen must have a male guardian, generally a husband, father, or son, who is legally responsible for making fundamental decisions on behalf of the female.⁷⁷⁵ Despite repeated promises by the Saudi government to reform such institutionalized discrimination against women, the state continues to exclude females from privitot sectors of public life such as healthcare, education, and the political freedom to vote.

King Abdullah's accession to the throne in 2005 was marked as a great victory for the promotion of women's rights in Saudi Arabia. In 2013, the King Abdullah appointed thirty women to Saudi Arabia's Shura Council, which operates as an advisory board to the Cabinet.⁷⁷⁶ In 2011, the King also asserted that women would gain the privilege to run and vote in municipal elections in 2015.⁷⁷⁷ However, elections have yet to be scheduled and the newly appointed King Salman has not conducted any public statements in regards to the previous king's ascertains.

Analysis

Since the initiation of statehood, Saudi Arabia has operated under Islamic jurisdiction committed to authoritarian consolidation of power and exemplary of inefficient economic planning as a result of oil revenue. Social identities distinguished by the religious affiliations of Shia and Sunni were set in place by the original founder of Saudi Arabia, Abd al-Aziz, who constructed the government under the most conservative interpretation of Islamic Law.⁷⁷⁸ The Muslim doctrine of Shi'ism was originally formed in the 7th century under the belief that the community's religious leader (imam) needs to be a descendant of 'Ali, the Prophet's cousin, and his wife Fatimah, the Prophet's daughter. The subsequent imam was supposed to be elected by the current imam. In contrast, Sunni Muslims have believed since the early stages of the Islamic civilization that the leader of the community can be any pious Muslim regardless whether he was related to the Prophet through the bloodline or not.

There is a stark political fragmentation regarding religious affiliation in the Islamic world as a result of external influences that began in the early 19th century. For Saudi Arabia in particular, religious affiliations are fundamentally ingrained within society by discriminatory laws that perpetuate social inequalities for followers of Shi'ism. In the Government Involvement in Religion Index (GIR) Saudi Arabia is ranked first for whether the state "gives preferential treatment to some religions."⁷⁷⁹ Since 1925, the Saudi kingdom has been the main protector for the two most holy sites in the Muslim world - Medina and Mecca - and the regime continues to permeate its legitimacy under their interpretation of Islam. Saudi Arabia is also one of only two states that do not distinguish between civil and religious courts.⁷⁸⁰ Thus, it is imperative that the Saudi government reform society's relationship between religion and politics.

Other Muslim countries in the Middle East, such as Turkey, Tunisia, and Lebanon, have abolished religious-dependent court systems in order to modernize civil society and have succeeded in the production of a division between religion and politics. By establishing a more unbiased judicial system, Saudi Arabia would initiate the progress to end religious discrimination and instill further political transparency by the state.

The next successor of the kingdom, Prince Mohammad, has made public statements to demonstrate his appeal to liberalization, which is promising for change; however, his stringent focus on security might prevent him from instilling more progressive state policies that would threaten his family's legitimacy granted by Saudi Arabia's conservative interpretation of Islamic

law. The Saudi state operates under social cohesion that is embedded within religious conservatism upheld by the ruling family. The social fabric of Saudi society is interwoven within a balance of power between religion and politics and any measure taken to modernize that relationship has the ability to jeopardize the current system. Thus, it is imperative that policy recommendations are reflective of cultural sensitivity.

In Article 1 of the Cairo Declaration of Human Rights in Islam, women are granted equality in terms of basic human dignity, obligations, and responsibilities.⁷⁸¹ However, the document, which is restricted by interpretation under Sharia law, fails to reserve any other subsequent rights for women. Saudi Arabia has also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).⁷⁸²

Under the current institutionalization of male guardianship, the Saudi state is acting at odds with their international commitment to guarantee women the right to education, employment, freedom of movement, and freedom of marriage with consent.⁷⁸³ Saudi interpretation of certain Qur'anic verses, such as the Arabic word “qawwamun”, which translates as guardian, grants men total authority over women instead of the responsibility to protect.⁷⁸⁴ It is the conservative interpretation of Islamic law that acts as a mechanism to restrict human rights versus encourage principles that would act as a utility to society. Significantly, women are disadvantaged by their access to health care due to the obligatory male permission needed to receive treatment, as well as their restriction to operate an automobile due to the reality that they cannot register for a driver's license. The emergence of women's access to public life in Saudi Arabia will come at a slow transition. Regardless, the three arenas essential to promote basic human rights are health care, education, and political rights to vote and obtain a driver's license.

The possibility to change the Saudi interpretation of Islamic law regarding women's rights depends primarily on the success of intersecting regional and international social movements aimed to enhance female political potential and their opportunity for education. The enhancement of women's opportunity for education would directly correlate with increased female participation in professional and recreational activities in Saudi society, which would provide intrinsic value to the state economically, socially, and politically.

Recommendations

To the Saudi Arabian Government

- The government should terminate the Penal Law for Crimes of Terrorism and its financing and review past investigations / legal proceedings to adhere to international Human Rights law.
 - Such reviews should include interviews with detainees, legal representation for all those prosecuted, and transparent and public documentation of the status of reports.
- The establishment of a government ministry would help to develop a refugee program that aims to provide temporary living quarters, sufficient amounts of food and water, as well as a resettlement advisory board.
- The revision of national immigration and nationalization policies to provide migrant workers living wages, better standards of living, and equal opportunities for citizenship would benefit the migrant workers community in order to render a more productive labor force.
- The government should establish an independent monitoring council to oversee the implementation of policies to benefit the migrant worker communities, in addition to a compliant and reparation apparatus to ensure progress.
- The judicial system should be reformed to separate religion and civil society under the law, in order to end discrimination against the Saudi Shia population.
- The government should reform the guardianship system in order to allow women full access to health care and mobility of transportation.
- Encourage the establishment of a council diversified by gender, religious affiliation, and political status to oversee the incremental proliferation of female self-determination in society.
- Encourage the establishment of an independent body tasked to examine the implications of sex segregation in society and research appropriate methods to enhance female civic participation in society.
- The government is urged to provide more state funding for free female public education at the primary and high school level, especially in rural areas.

To Regional Actors

- The Gulf Cooperation Council (GCC) should aim to increase migrant workers' rights by increasing dialogue with trade unions and other human rights organizations.
- The GCC is encouraged to increase communal funding for monitoring labor recruitment agencies in both the countries of origin and destination in the Gulf States.
- The GCC should reform the Joint Security Agreement ratified by six member states in 2012, which provides for the endangerment of the freedom of expression and privacy rights.
- The Organization of Islamic Cooperation (OIC) should foster alliances between female empowerment groups and other NGOs across the borders of different countries in the MENA region in order to bolster support for the emergence of more wide-spread women's rights.

To the International Community

- Encourage Western woman NGOs to partner with woman-led Saudi organizations in order to promote cooperation and education regarding the expansion of women's rights.
- The U.S., as well as other member states of the EU, should include in trade agreements, strong and enforceable women's rights provisions that aim to align Saudi state policy with basic human rights international law.

BAHRAIN

Michael Land

Human Rights Concerns:

- Bahraini Government
 - *Freedom from Discrimination*
 - *Freedom of Belief and Religion*
 - *Right of Peaceful Assembly and Association*
 - *Right to a Nationality and the Freedom to Change It*
 - *Right to Equality*
- Opposition Groups
 - *Freedom of Belief and Religion*

Background

Bahrain's government is an absolute monarchy in which a Sunni Muslim King rules over a majority Shi'a country. Recently, conflict between Sunni and Shi'a communities has escalated, resulting in human rights violations by both sides. The ruling Al-Khalifa family retains most of the power in government even outside of the head of state. For instance, Prince Khalifa bin Salman Al Khalifa has been Prime Minister for 45 years after being appointed by his brother, the father of the current king. The uprising which began in 2011 was the only uprising in an Arab monarchy to call for the complete overthrow of the regime, and has led to a continuing crackdown on freedom of expression and a generally deteriorating human rights situation in the country.

This uprising has largely simmered over the past two years. However, violent incidents still occur, and are usually sectarian in nature. For example, three Sunni policemen were killed in a bomb attack in the Shi'ite village of Bani Jamra on December 20th. More recently, Sheikh Ali Salman, a key leader of the moderate opposition and a Twelver Shi'a cleric was arrested sparking more anti-regime protests. These protests have been broken up violently, including one in Manama where security forces opened fire on protesters.

The government further denies many Shi'a Bahrainis the full rights of citizenship, particularly those of Iranian descent. Rather, it gives them the status of "Stateless Person" or *Bedoon*, and has deported many such people.

Iran has been very antagonistic toward the Bahraini government due to its mistreatment of the Shi'a population. Meanwhile, Sunni Arab States in the Gulf, in particular Saudi Arabia,

Qatar and the UAE have feared Iranian influence in Bahrain, and have sent troops to support the government in the recent uprisings.

The United States plays a major role in Bahrain, as the US Naval Forces Central Command and US Fifth Fleet are both stationed there. The United States has taken a much softer stance regarding Bahrain than it might have otherwise.

Bahrain is a member of the Cooperation Council for the Arab States of the Gulf (GCC) and the Arab League, as well as the annual host of Formula One's Bahrain Grand Prix.

Bahraini Government

Freedom from Discrimination

Bahrain is one of the more tolerant countries in the Middle East and North Africa in regards to same-sex relationships, having effectively legalized homosexual activity in 1976 with the replacement of British law with a new penal code.⁷⁸⁵ As the age of consent in Bahrain is 21, one must be at least this age to engage in any homosexual activity, according to Bahraini law.

Legal recognition of same-sex relationships beyond simply allowing for homosexual acts is unlikely in the foreseeable future. Furthermore, although homosexuality is not illegal, homosexuals in Bahrain are still far from equal in the social realm. Members of the Al Menbar bloc in the Bahraini Parliament called for a “crackdown” against homosexuals in 2008, with one member, Jalal Fairouz, referring to homosexuals as “dangerous” and a “threat to our society and Islamic values.”⁷⁸⁶

Cross-dressing is illegal in Bahrain and has been prosecuted under Articles 328 and 329 of the Bahrain Penal Code.

Freedom of Belief and Religion

Since Bahrain is a mostly Shi'a country ruled by a Sunni monarchy, much of the conflict in the wake of the 2011 uprising has been sectarian in nature, and Human rights violations have been pervasive on both sides in the conflict. Government and government-backed Sunni forces, in addition to cracking down on peaceful protests, have attempted to target Shi'a groups by destroying Shi'a mosques as “illegal buildings.”

In a larger sense, the conflict in Bahrain, like the conflicts in Iraq and Syria, has become a proxy-battle between Sunni and Shi'a states in the region. After talks stalled between the

government and the opposition in March of 2011, the government invited 1,500 Saudi troops to help quash the uprising. This was justified in Saudi Arabia as necessary to end “Iranian influence” in the country.⁷⁸⁷

Bahrain divides its justice system so that some cases are held in Sunni courts, while others are held in Shi’a courts.⁷⁸⁸ These courts do not always operate under the same legal code, as some laws only apply to one of the two courts.

Right of Peaceful Assembly and Association

In response to the recent uprising, Bahraini security forces have consistently broken up anti-regime protests and arrested dissidents, often using violence. Those who are arrested face torture and long-term imprisonment.⁷⁸⁹ This not only includes ordinary citizens, but even members of Parliament such as Sheikh Ali Salman, who was arrested after attending a protest against November elections which were boycotted by the mostly-Shi’a opposition.⁷⁹⁰⁷⁹¹

In July 2014, Bahrain charged Sheikh Ali Salman and Khalil al-Marzooq with violating the 2005 Law for Political Societies, which prohibits political groups in Bahrain from meeting with foreign diplomats without official authorization. Ali Salman and Al-Marzooq, leaders of the Shi’a opposition party, Al Wifaq, met with Tom Malinowski, US assistant secretary of state for democracy, human rights and labor.⁷⁹² On 29 December, 2014, Ali Salman was arrested and charged with plotting a coup under article 160 of the penal code, which “provides for a maximum of ten years in prison for ‘any person who favors or advocates in any manner whatsoever, the overthrow or change of the country’s political, social or economic system with the use of force, intimidation or such other illegal methods.’”⁷⁹³ Salman went on trial on 28 January, 2015. Tensions have risen as Salman’s supporters protest his trial and the government clamps down on public dissent.⁷⁹⁴ On February 4, 2015, a UN press release cited reports that “at least 150 people were arrested and around 90 were injured during the protests and in clashes with the police. At the same time, another 72 people had their Bahraini citizenship revoked.”⁷⁹⁵

Nabeel Rajab, a leading Bahraini human rights activist, was brought to court in October 2014 for comments he made on social media. Rajab called attention to the government’s prosecution of human rights activists under counterterrorism laws and alleged that the Bahraini security forces support extremist Islamic ideology.⁷⁹⁶ In January 2015, Rajab was convicted and sentenced to six months in jail.⁷⁹⁷ Rajab had a prominent role in the 2011 protest movement. He

served a prison term between July 2012 and May 2014 on charges related to his involvement in demonstrations and alleging that he incited violence, despite the fact that “prosecutors presented no evidence that Rajab advocated or engaged in violence.”⁷⁹⁸

Some other notable political arrests in the past year include:

- Zainab Al-Khawaja who was arrested in October, and sentenced on December 4th to three years in prison, along with a 3000 dinar fine for “insulting the king” (specifically, she tore up a picture of the king while in court).⁷⁹⁹
- Nader Abdulemam was sentenced to six months in prison for insulting a prominent historical figure of Islam on Twitter.⁸⁰⁰

Right to a Nationality and the Freedom to Change It

Like several other regional nations, Bahrain has a group of inhabitants considered stateless, often referred to by their Arabic name *Bedoon*, meaning “without”. In Bahrain, this term is usually applied to those of Iranian Shi’a descent, even those whose family has lived in Iran for several generations. Bedoon are afforded few rights under Bahraini law, and are forbidden from holding legal residency or travelling abroad. Further restrictions prevent Bedoon from getting loans, going to public school, or receiving free medical care. Because of these extraordinary restrictions on everyday life, many Bedoon are deported to Iran, a nation which many who were born and raised in Bahrain have never even visited.⁸⁰¹

There are also allegations from some members of the opposition that Bahrain has been granting expedited citizenships to immigrant workers from Sunni-majority countries.⁸⁰² When questioned in 2006, the Minister of the Interior stated that citizenships were not expedited, and had only amounted to about 5,000 total immigrants between 2004 and 2006.⁸⁰³ However, according to independent research by the al-Wasat newspaper, 30,000 such citizenships were granted between 2002 and 2006, suggesting a number much higher than the official 5,000.⁸⁰⁴

Right to Equality

The status of women in Bahrain is remarkably good when compared to other countries in the Middle East and North Africa. Despite only granting women the right to vote in 2002, King Hamad (who has ruled since 1999) has been widely regarded as a reformer and a progressive when it comes to women’s rights. Praise is not universal, however, and there are still many

obstacles in the way of women achieving full political or social equality. One prominent women's rights activist in Bahrain, Ghada Jamshir, spoke about what she calls the government's "artificial and marginal" reforms in a December 2006 speech to the British House of Lords:

...women in Bahrain have participated in elections as candidates and as voters. However, only one of the female candidates made it uncontested to the House of Representatives, thanks to the sectarian division of electoral areas. The government arranged for her to be the only candidate in Hewart Island where hardly anybody lives. Ten other women out of 40 members have been appointed in the Shura' council based on their loyalty to the ruling family.⁸⁰⁵

Ghadi went on to note that women make up (as of 2006) only 8% of high government positions, most of whom have some personal connection to the ruling family.

Due to the division of the Bahraini justice system into Sunni courts and Shi'a courts, the 2009 personal status law only applies in Sunni courts, leaving the majority of Bahrain's women without legal personal status.⁸⁰⁶

Neither domestic abuse nor marital rape is covered under the Bahraini Penal code.⁸⁰⁷

Opposition Groups

Freedom of Belief and Religion

Recently, some Shi'a opposition groups have split from the peaceful protesters and began using violent means to fight against government and government-backed Sunni forces, often resulting in the deaths of innocent civilians. Recent attacks include:

- 6 November 2012, two street cleaners were killed in a bombing in Manama. Bahrain accuses Hezbollah of building and supplying the bomb.⁸⁰⁸
- 15 February 2014, one policeman was killed and three wounded in two bombings in the towns of Dair and Dih.⁸⁰⁹
- 9 December 2014, a policeman was killed in a bombing in the town of Damistan. Bahrain again accused Hezbollah of building and supplying the bomb.⁸¹⁰

Analysis

Although Bahrain bases its law on traditional Shari'a Law, it affords its citizens many rights not usually provided by such countries. The primary issue it faces is properly supporting the rights it affords through appropriate legislation and prosecution of those who violate these rights. There are further issues with the vague wording of some articles of the Constitution which

leave loopholes for laws which violate the rights of Bahraini citizens and others who live in the country.

Institutionalized Sectarianism

Bahrain has had both periods of religious strife as well as periods of relative calm. After heightened tensions in the 1990s, stability returned in the early 2000s. Although current tensions have come mostly in the aftermath of the 2011 uprising, the pro-government Sunni vs. anti-government Shi'a divide began in a scandal which has come to be popularly known as "Bandargate." In 2006, Salah al-Bandar, a Sudanese Brit advising the Bahraini Cabinet Affairs Ministry and a Sunni Muslim, leaked a trove of documents exposing a conspiracy by various members of the government to rig elections and foment sectarian strife in order to ensure the strength of the Sunni minority.⁸¹¹ The 200+ page report included checks from the Bahraini government to anti-Shi'a activists in Bahrain, funding to spy on Shi'a citizens, establish and run websites which encourage sectarianism, and most damningly, rig elections to favor Sunni candidates.⁸¹²⁸¹³ The exposure of the report did little to help ease religious divides in the country, and despite al-Bandar's forcible deportation to the UK, none of the government officials implicated in the report were brought to justice. The alleged mastermind of the plot and member of the royal family, Ahmed bin Ateyatalla Al Khalifa, is currently employed as Minister of the Royal Court for Followup Affairs. Although Bandargate justifiably hurt the image of the government, it also served to link the government with anti-Shi'ism, and solidify the political divide seen today as one based on religious divisions.

Article 22, Section D of the Cairo Declaration on Human Rights states that "It is not permitted to excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form or racial discrimination." This would seem to directly reference the kind of tactics used by the Bahraini government. If the Bahraini government wishes to retain its legitimacy in this regard, it should immediately end any of these alleged practices if it has not done so already, and work to better integrate the Sunni and Shia communities. The simplest ways to achieve this would be a unification of the Shia and Sunni legal systems and courts into a single national standard, and the end of gerrymandering along religious lines.

Issues of electoral representation go beyond just religious divisions. In 2002 municipal elections, 51% of eligible voters made it to the polls. Over half of them were women, yet no

female candidates were elected to office. According to one pre-election survey, 60% of women opposed the participation of female candidates for public office.⁸¹⁴ In 2006, one woman was elected in an uncontested race.

Women's Rights

Bahrain has ratified the 1981 Convention on the Elimination of All Forms of Discrimination against Women, although it has not signed or ratified the Optional Additional Protocol. Although, again this is a case of the Bahraini government not backing up its legal promises through robust legislation. While a few laws could be considered openly discriminatory toward women (the lack of a personal status law for Shi'a women is one example), Bahrain's main issue is the lack of substantive progress toward full social and political equality since women gained the right to vote in 2002.

As the current King has modeled himself as a reformer with regard to women's rights, pressure in this regard should be focused on him. Domestic activists and NGOs should be supported by their regional and global partners so that they have the resources available to apply this pressure. This support should not be so blatant so that these organizations appear to have been bought off by foreign interests. Rather, it needs to help Bahraini citizens gain a stronger voice in their own domestic agenda.

Citizenship

The complex citizenship system of Bahrain and the problems faced by the Bedoon population has its roots in British rule and contradictions within the Bahraini legal framework. Although Bahrain became a protectorate of Great Britain in 1895, it wasn't until 1939 that Britain instituted a national law recognizing individuals living in Bahrain as citizens.⁸¹⁵ As part of this law, those with proper documentation (i.e. a birth certificate) received "certificates of citizenship."⁸¹⁶ However, because most immigrants at the time (particularly Shi'a immigrants from Iran) did not travel with, or even have documentation, they were largely excluded from citizenship.⁸¹⁷ After a passport system was established in 1963 to replace the certificates of citizenship, Shi'a citizens were given a window of time to prove their citizenship. Those who could not, either because they were not given the proper documents in 1939 or because they

simply missed the window of opportunity, lost their citizenship and became eligible for deportation, even if they had been born in Bahrain.

After Bahrain declared its independence, the 1973 Constitution did little to help or clarify the citizenship situation in the country. Article 17 seemed to grant automatic citizenship to all those born in Bahrain: “Citizenship shall be defined by the law, and no person enjoying citizenship by origin may be deprived of it except in cases of high treason and dual nationality and in accordance with the conditions specified by the law.”⁸¹⁸ The 2002 Constitution (which also discusses citizenship in Article 17) made the definition of nationality even less clear, using the phrase “inherently enjoying his Bahraini nationality” in place of “enjoying citizenship by origin”.⁸¹⁹ Furthermore, the article’s introduction was changed from “Citizenship shall be defined by the law” to “Bahraini nationality shall be determined by law.” There is a small but important distinction between having the power to define citizenship and having the power to determine citizenship - the former assumes that citizenship already exists in some form, while the latter does not. Despite the fact that the 2002 Constitution was seen as one with many democratic reforms, small changes like these have in fact worked against equal rights for the people of Bahrain.

Article 15 of the UN Universal Declaration of Human Rights states: “(1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” However, Bahrain has neither signed nor ratified the 1960 Convention relating to the Status of Stateless Persons and has little legal obligation to change its laws on citizenship or amend its constitution. Bahrain has continually refused internal calls for reform since its uprising. Pressure from the international community and regional actors seems the most likely source of change regarding the citizenship situation. One obvious candidate to effect change is Iran, the destination of most deportees. In the short-term, Iran can ensure that those deported from Bahrain are allowed to apply for refugee status (as they meet the definition of a refugee as defined in the 1951 United Nations Convention Relating to the Status of Refugees).⁸²⁰ Iran currently has its own issues conforming to UN standards regarding refugees,⁸²¹ and should absolutely not be regarded as a safe haven for the entire *Bedoon* population.

In the longer term, Iran and the signatories of Convention relating to the Status of Stateless Persons as well as the Convention Relating to the Status of Refugees should put

economic pressure on Bahrain by, for example, refusing to do business with companies that do not provide equal opportunity to the Bedoon population. As the recent uprising resulted in few large-scale sanctions, it is unlikely that as low-profile of an issue as statelessness will warrant such a move, as much as it may be needed to change the situation.

“Immorality” Laws

Most of Bahrain’s issues with personal liberties, particularly those related to LGBT communities, have their origins in two vaguely worded articles in the 1976 Penal Code. Article 329 states that,

Every person who solicits another in a public place to do acts of immorality or prostitution shall be liable for imprisonment for a period not exceeding two years. / Every notice containing an invitation implying a temptation to indulge in immorality or prostitution or attracting attention thereto, shall be considered as soliciting.⁸²²

Article 328 contains similar wording regarding “establishments... for purposes of immorality.”⁸²³ Although these laws ostensibly pertain to prostitution, the broad wording and use of the umbrella term “immorality” has led to its use in prosecuting businesses believed to be sympathetic to homosexuals, such as hairdressers and spas.⁸²⁴ Furthermore, the law was used by one lawmaker in 2010 to call for the removal of “raunchy” posters from malls in Bahrain as “a blatant violation of our Arab and Islamic mores and values,” although there is no evidence that he was successful in this endeavor.⁸²⁵

The simplest way to prevent the misuse or misinterpretation of these laws would be the removal of the word “immortality.” Doing so would ensure that these otherwise well-written laws give necessary protection to sex workers (by ensuring the prosecution of pimps and johns) without distracting law enforcement by criminalizing establishments or people for simply being associated with homosexuals. If such a change is unrealistic, replacing immorality with a more specific, technical term, such as “illicitness,” or “illegality” would also be acceptable.

Role of the International Community

Bahrain’s government has had the steadfast support of several important players in the international community, most notably the United States and Saudi Arabia. These relationships have likely played a role in Bahrain not facing harsh consequences for its human rights abuses.⁸²⁶ As it is likely not in the interests of these countries to see regime change in Bahrain, the simplest

solution would have to include the current regime addressing its own problems - something it has promised in the past, while failing to follow through.

One possible loophole to allow these countries to persuade the Bahraini regime to change its practices would be targeting the institutions responsible for the violations, rather than the government or country as a whole. For example, the United States could keep its naval base in Bahrain, and continue its close military relations with the country, but refuse to arm or fund the Bahraini police force. Doing so would prevent US-manufactured arms being used against peaceful civilian protesters, and might put some pressure on the police force to moderate its policies. Other sectors which could be targeted might include Bahrain's immigration services, and other groups enforcing Bahrain's strict deportation measures.

As a major non-NATO ally of the United States,⁸²⁷ and as such is eligible to receive financial and military assistance in several forms.⁸²⁸ Although it may be unlikely, the United States government could consider withholding some of these benefits in order to promote a more stable and legitimate government in its ally Bahrain.

The annual Bahrain Grand Prix was cancelled in 2011 for security reasons, but allowed to resume the following year. No internationally-sponsored event which brings in as much revenue as the Grand Prix, or which acts to improve the public relations of autocratic regimes should be allowed to continue without serious changes to the government system.

Recommendations

To the Bahraini Government

- Articles 328 and 329 of the Bahrain Penal Code should be clarified by removing the use of the word “immorality”.
- The practice of gerrymandering along sectarian lines with regard to political representation should end.
- The justice system should not be divided along religious lines, and all courts should be integrated into a single national standard system.
- Deportations of those who have never visited the country to where they are being deported or have no immediate relations should immediately cease.
- Allow stateless inhabitants to apply for citizenship.
- No candidate applying for citizenship should be given preferential or expedited treatment.
- Clarify Article 17 of the Constitution so that, at bare minimum, those born in Bahrain to parents who were also born in Bahrain are afforded full rights of citizenship.
- Release Sheikh Ali Salman and Khalil al-Marzooq without prejudice as a symbol of good faith towards the opposition.

To the Bahraini Opposition

- Protests should remain peaceful under all circumstances.
- Protests must not be anti-Sunni in nature, but rather anti-regime, anti-corruption, or simple anti-status quo.
- Continue to appeal to the international community and regional actors to voice concerns.

To Iran

- Work with Bahrain to address the Bedoon situation
- Bedoons deported to Iran should be supported in reestablishing their livelihood and in their attempts to return to Bahrain.

To the United States

- As many financial and military benefits as possible should be withheld to promote a stable and legitimate government in Bahrain.
- The procurement of US arms by those security forces which violate the rights of peaceful protesters should be limited as much as possible.

To the International Community

- Business with institutions in Bahrain perpetuating the human rights situation should be limited as much as possible.
- The Bahrain Grand Prix should be immediately suspended.
- As much support as possible should be given to domestic Bahraini NGOs seeking to address the human rights issues in the country.

KUWAIT

Erica Ames

Brandon Song

Human Rights Concerns:

- Freedom from Interference with Privacy, Family, Home, and Correspondence
- Freedom of Opinion and Information
- Migrant Workers' Rights
 - *Right to Desirable Work and to Join Trade Unions*
 - *Right to Free Movement in and out of the Country*
- Right to Nationality and the Freedom to Change It / Freedom from Discrimination

Background

Kuwait was originally founded in the seventeenth century by an Arab tribe, Banu Khalid.⁸²⁹ After the demise of Banu Khalid, the Anazia tribe came to power under Sabah I. The Sabah dynasty continues to rule the country uncontested to this day. In the 1930s, the discovery of oil marked Kuwait's global significance. Between 1899 and 1961, Kuwait was a protectorate of Great Britain and provided the fastest and shortest route for trade from the British colony, India. Less than one week following independence, Iraq's prime minister declared claims to Kuwaiti territory.⁸³⁰ Iraqi forces withdrew after the execution of the Prime Minister, Abdul Karim Qasim, in 1963; however, Kuwait was again invaded by Iraq after the Iraq-Iran war in 1990. Throughout the previous decade, strained relations with both neighboring countries, Iraq and Iran, plagued the domestic politics of Kuwait. The new Iranian ruler, Ayatollah Khomeini, targeted all monarchical Gulf regimes and preached the exportation of the ideals of the Iranian Revolution.⁸³¹ Shiite Muslims account for roughly 25% of the Kuwaiti population.⁸³² Khomeini's politics radicalized groups of Kuwaiti Shiites and between the years 1983 and 1988 Kuwait was victim to a series of terrorist attacks that continue to affect domestic politics and raise major security concerns.

In 1990, under the command of Saddam Hussein, Iraqi forces took control and annexed the entire country. At the time, Kuwait was over-producing oil and in violation of price caps set by OPEC, which had negative ramifications on the Iraqi economy. Saddam Hussein also declared that Kuwait was stealing oil revenue on the Kuwaiti-Iraqi border and that Kuwait was refusing to repay for the monetary assistance given to Iraq during the Iraq-Iran war.⁸³³ A military coalition, headed by the United States, liberated the small country a few months later by the deportation of air strikes, which came to known as Operation Desert Storm.⁸³⁴ The United States

plays a critical role in Kuwait's domestic and foreign policy. In 1991, Kuwait and the United States declared a strategic partnership within a ten-year defense pact, which was ratified in 2001.⁸³⁵ The U.S. provides military protection and development and Kuwait allows the U.S. to access ports and deter regional instability.

Kuwait's oil was discovered in 1938 by the Kuwait Oil Company, a joint stock holding under the Anglo-Persian Oil Company.⁸³⁶ In 1976, the government bought KOC, which allowed for more progressive nation building in the following decades. In 1962, the newly enacted constitution expanded the welfare state and bureaucracy in Kuwait. Kuwaitis are guaranteed social services such as education, housing, and subsidies for basic needs. The ruler, or amir, is the supreme commander of the armed forces and shares legislative power with the National Assembly, judicial power with the courts, and executive power with the Cabinet. The amir, who is a descendent of the Al Sabah familial line, appoints the prime minister as well as other ministers that head committees for foreign affairs, finance, defense, and oil. There is prominent pressure on Kuwait to further democratize by Western allies and in 2005 Kuwaiti women were granted full political rights and the same year the government appointed its first female minister.⁸³⁷

In 1961, Kuwait joined the Arab League and in 1963 became a member of the United Nations and other UN agencies.⁸³⁸ Since 1965, expatriates have outnumbered Kuwaitis. Palestinians made up the majority of the expatriate population until they were forcibly expelled following the Gulf war in 1991. The expatriate population is made up of different sects of minority Muslims, Christians, and Parsi people. Kuwait is a member of the Gulf Cooperation Council and during the 2011 Arab uprisings supported other Gulf governments in transition primarily in Bahrain and Yemen.⁸³⁹ There is a small al-Qaeda presence in Kuwait and in 2005 Kuwaiti security forces arrested 37 militants who had planned to bomb U.S. military bases.⁸⁴⁰ Currently, there is some demand for government reform to weaken the political power of the Amir and expand popular participation in governance especially for underrepresented and marginalized minorities in society.

Freedom from Interference with Privacy, Family, Home, and Correspondence

In May 2014, the Kuwaiti government adopted the Communication Law, which established an independent monitoring commission and authorized the discretionary supervision

of all telecommunication networks under vague policy provisions.⁸⁴¹ The law imposes harsh punishments to offenses that include “immoral messages” and “threatens public order or national security”; further, the new legislation does not provide for any form of judicial review or transparency of criteria for censorship.⁸⁴² Sentencing charges include unlawful detention and reports of physical abuse. It enables the government to legally punishment any individuals or communication service provider found guilty under expansive and subjective provisions of the state and was established during a time of social unrest following the 2011 protests.

The state continues to implement policies that intervene in the individual right to the freedom of expression and the Communications Ministry has expanded the range of websites blocked by the authorities.⁸⁴³ Prosecutors are allowed to charge individuals under ambiguous provisions that are criminalizing to human rights activists, independent journalists, others publically engaged in political commentary regarding the Kuwaiti state and society.

Freedom of Opinion and Information

Throughout the past year, the state has increasingly persecuted individuals who have expressed criticisms of the Kuwaiti government. Suspects are typically charged under Article 25 of Kuwait’s 1970 penal code, which sentences 5 years of imprisonment to anyone who publically “objects to the rights and authorities of the emir or faults him”.⁸⁴⁴ Articles 36 and 37 in the Kuwaiti constitution protect the freedom of expression and the freedom of the press, but the provision is stifled by the clause “in accordance with the conditions and in the circumstances defined by the law”.⁸⁴⁵ In June 2014, the Kuwaiti authorities stripped five Kuwaiti nationals of their citizenship in response to critical statements expressed against the government.⁸⁴⁶ The individuals were tied to independent media outlets that had provided published information to the public in spite of a media blackout conducted by the Ministry of Information.

In certain circumstances, citizenship status can be revoked under Kuwait’s Law of Nationality. Such circumstances are disclosed under Article 14 and include subjective description, such as “where he [the Kuwaiti national] has been convicted of an offence involving the breach of allegiance to Kuwait”.⁸⁴⁷ By ratifying the Arab Charter on Human Rights, Kuwait is accountable to Article 32, which guarantees, “the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium”.⁸⁴⁸ This right can only be limited to “ensure respect for the rights or

reputation of others or the protection of national security, public order and public health or morals”.⁸⁴⁹ Exposing government abuses and actions, as these men did, does not threaten national security or public morals. Rather, media accountability of government actions is a legitimate and essential form of free speech and functions as one of the most important roles of the media. The Kuwaiti government has no right to claim such speech falls under unprotected speech. In fact, critiquing the government shows these men are deeply care for the future of Kuwait, rather than demonstrating a “breach of allegiance to Kuwait”.

Migrant Workers’ Rights

- *Right to Desirable Work and to Join Trade Unions*
- *Right to Free Movement in and out of the Country*

Kuwait is one of the largest oil-producing countries in the Persian Gulf, which has drastically affected the state’s division of labor. Roughly one third of Kuwait’s population, and 85% of the Kuwaiti labor force, are migrant workers who are dependent on remittances to provide for their families abroad.⁸⁵⁰ Similar to most Gulf countries, Kuwait operates under a *Kafala* labor sponsorship system, which bars migrant workers from transitioning to a new job before their original contract has expired.⁸⁵¹ The *Kafala* system allows for working environments that maintain inadequate labor conditions and constricted mobility for abused workers.

In 2011 the Kuwaiti government announced that the usage of *Kafala* would be reduced by promoting a “Kuwaitization” of the labor market.⁸⁵² Since then, the government has adopted various measures to accomplish this goal. In 2013, the government implemented a 10-year plan to downsize the foreign workforce by 100,000 every year to reach one million.⁸⁵³ Though such steep cuts in the number of migrant workers are not economically feasible since more laborers will be needed for the country’s \$108 billion development plan, thousands of migrant workers have been deported to achieve this target.⁸⁵⁴

Even though Kuwait ratified International Labour Organization’s (ILO) Convention No.87 (Freedom of Association and Protection of the Right to Organise) in 1961, migrant workers are restricted in their opportunities to organize trade unions, cooperatives, and NGOs. While migrant workers can join the Kuwait Trade Union Federation (KTUF), Kuwait does not allow foreign nationals to form their own trade unions.⁸⁵⁵ Organizing NGO requires prior authorization from Ministry of Social Affairs and Labour (MOSAL). Similar and all founding

member of NGO to be Kuwaiti nationals.⁸⁵⁶ Similar restriction applies in organizing cooperatives. Law Decree No.24 of 1979 does not exclude foreigners from membership. However, the law requires an approval from MOSAL and a minimum of 50 Kuwaiti nationals over the age of 21 for the establishment of a cooperative.⁸⁵⁷

Due to the fact that migrant workers are not granted the opportunity to apply for citizenship in Kuwait, they suffer from poor working conditions and low wages because they are not technically protected under national law and further do not receive any benefits of the Kuwaiti welfare state.⁸⁵⁸ In November 2014, the GCC announced their renewed devotion to improve labor standards for migrant workers that would include: an 8 hour limit on the working day, ensure one day off per week, and entitlement to overtime compensation.⁸⁵⁹ However, there has been no official documentation that any said standards have been enforced leading into the New Year.

Despite these restrictions, Kuwait has showed some progresses in protecting migrant workers' rights. Kuwait has not only contributed \$3 million dollars to ILO since 2009, but also worked with the government of Jordan in advocating the ratification of ILO Convention No.189 (Domestic Worker) and ILO Recommendation No.201 (Domestic Worker).⁸⁶⁰ As a member of the Arab Network on Migrant Worker's Rights, its member includes civil society institutions from Jordan, Bahrain, Kuwait, Lebanon, Egypt, United Arab Emirates, and Libya, KTUF has advocated the abolition of the *Kafala* system and establishment of committee for migrant workers in trade unions, cooperatives and NGOs.⁸⁶¹ However, the independence of committee can be at risk if the committee is formed within existing organizations. Moreover, migrant workers' issue of restricted mobility may discourage the workers from participating in the committee meetings.⁸⁶²

In recent years, the Kuwaiti government has created the Labor Inspection Management division under the MOSAL to monitor employers' fulfillment of migrant worker's contract and on-time payment of wages.⁸⁶³ MOSAL has created a database to verify employers' compliance to working conditions and salary level guaranteed in the Labour Law.⁸⁶⁴ MOSAL also plans to lift the level of labor inspection to international standards and adopt a direct deposit system for paying migrant workers' wage.⁸⁶⁵

Right to Nationality and the Freedom to Change it / Freedom from Discrimination

Kuwait is home to between 105,000 and 130,000 *Bedoon*, and residents without formal citizenship. Most of the Bedoon population are descendants of nomadic people that missed the deadline for registration in the 1960s. Throughout recent years, the stateless Bedoon population has held multiple demonstrations in an effort to demand legal citizenship by the Kuwaiti government. Such demonstrations were met with brutality by security forces.

Despite the fact that the Kuwaiti government is obligated by international law to protect the right to assembly, which is also guaranteed in the country's constitution, Bedoon are not legally permitted to publically assemble under Article 12 in the 1979 Public Gathering law due to their lack of citizenship.⁸⁶⁶ In March 2011, the government granted Bedoon minimal access to social services, but in the Human Rights Watch Report in 2013 Bedoon individuals claimed that few have benefitted from the new policies.⁸⁶⁷ In March of last year, the Kuwaiti parliament passed a law to naturalize 4,000 Bedoon by 2015, but currently the Bedoon population remains stateless.⁸⁶⁸

Analysis

Labor importing states possess the regional political power to employ and at times abuse migrant workers dependency on their job market. For Kuwait in particular, the state depends on revenue generated by rent, which is allocated to the government through sources other than taxes. By cutting production costs, the state will assume a greater percentage of oil revenue at the expense of the laborers. Thus, the implementation of the *Kafala* sponsorship program, which aims to exploit migrant workers under state policy, but ultimately hinders productivity and innovation. The 1962 Kuwaiti constitution guarantees every Kuwaiti national the right to an education and state-sector job. Such policies have instigated a negative effect on the productivity of the Kuwaiti labor force due to the reality that the majority of migrant workers are employed by the private sector, which is unregulated by the state and thereby more prone to human rights abuses, while Kuwaiti nationals reside in service sector positions.⁸⁶⁹

In order to fully reap the economic benefits of roughly two thirds of Kuwait's population, it is imperative that the state provide at least minimal rights and social services to migrant workers. Not only will the state benefit from higher economic productivity, but the extension of workers' rights will also work to prevent social unrest or mobilization against the regime by

those populations. This can be done by extending equal labor law protection to all migrant workers and establishing an effective investigation council in order to ensure compliance, as well as a transparent compliant mechanism to be made available to all workers as required by the International Labor Organization's Domestic Workers' Convention.⁸⁷⁰

Kuwait's abundance of oil, as well as its strategic geopolitical location, has rendered Kuwait a prominent partner for the United States in the MENA region. After the United States liberated Kuwait from Iraqi forces in 1991, the countries entered into a strategic partnership that continues to this day. The Kuwaiti government aims to enforce a domestic agenda that will work to contain societal instability and Islamic terrorism that has emerged as a by-product of Iraqi factional and intercommunal warfare.⁸⁷¹ Kuwait's primary priority in national security due to highly controversial relations with other regional powers, Iraq and Iran, has led to a strong dependence on U.S. military support. Thus, the United States possesses much influence over Kuwaiti politics and in the interest of the perpetuation of human rights, has the responsibility to encourage a more transparent and fair system of governance, in addition to improved labor standards.

The Kuwaiti state uses the rights and services associated with legal 'citizenship' as a tool to maintain legitimacy by recognizing certain groups, those that dutifully support the government, as legitimate and not others. Using citizenship status as a weapon against dissenters and oppositional media groups hinders the democratic process Kuwait claims to be a leader in. Migrant workers and Bedoon community members suffer as a result of state policies that impede their ability to obtain social services and basic political recognition; and yet the Kuwaiti state has an interest in maintaining the current status quo to allow for the survival of the state.⁸⁷² Further, by stripping the citizenship of Kuwaiti nationals who do not adhere to state policies, the government is attempting to force compliance of its citizens through abusive regulations and practices. In order to sustainably retreat from this model of state-fostered coercion and violation of human rights, Kuwait will need to incrementally allow for the expansion of the opportunity for citizenship in correlation with improved labor standards. The changes should be slow paced as to allow the Kuwaiti government to continue to provide societal stability for the population.

Before Kuwait's independence in 1961, the British signed agreements with elite families in the Gulf region, which transformed into royal dynasties and allowed Great Britain to maintain control from a distance.⁸⁷³ Although Kuwait is semi-democratic, there is a political tension

between traditional and progressive politicians in the country. To exemplify, Kuwait was one of the first countries to recognize political rights for women; however, other elements, such as civil discrimination, are embedded within the Kuwaiti Penal Code. The Kuwaiti constitution refers to sharia law as a “main source of legislation”, which has liberalization implications, and yet domestic laws remain bound to interpretations developed within the Islamic tradition.⁸⁷⁴

In the 1970s, Kuwait underwent a process of ‘Islamization’ as a state mechanism of social control that worked to legitimize the monarchy.⁸⁷⁵ Since then, many Islamic political parties that emphasize conservative and traditional elements of Islam have won significant parliamentary elections in Kuwait. Such parties argue that secular nationalist agendas produce oppression and economic stagnation, which appeals to many marginalized citizens and heightens fear regarding regime change for the ruling family. Due to the reality that Kuwaiti politics aim to marginalize certain sectors of the population, such as the Bedoon and migrant workers, Islamic extremism and the erosion of current political power have the potential to emerge if the state fails to reform certain aspects of society.

Similar to other countries based in the Islamic tradition, the Kuwaiti government operates under a relationship between political and civil society embedded within legitimacy under religion. Thus, the state itself tends to mediate fear by implementing domestic laws to curb social mobilization and enhance the political power of the elite. This is exemplified by the Communication law, the *Kafala* labor-sponsorship program, and differentiation of citizenship status. Such laws violate basic human rights and in fact act as a detriment to state development. Discrimination and fear only breed political stagnation and social fragmentation; whereas, equality and transparency enhance economic development and civic empowerment.

Kuwait is recognized as the one of the most democratic states in the MENA region and possesses the potential to further modernize and generate economic and social success for the Kuwaiti people through the implementation of effective policies that will also act as a vanguard to human rights.

Recommendations

To the Government of Kuwait

- The government should provide incremental sectors of the Bedoon population the opportunity for citizenship in adherence to the nationalization law enacted in 2014.
- The Bedoon community should be allowed certain privileges regarding their right to the freedom of expression, which would include their right to the freedom of assembly, prior to receiving citizenship status.
- The Kuwaiti Prime Minister is urged to terminate the Communication law and dissolve the telecommunication monitoring commission.
- All investigations under the Communications legislature should be reviewed by an independent monitoring body to ensure fair due process and transparency in the judicial sector.
- The government should stop utilizing the threat of citizenship status as a tool to repress dissent.
- The government should reinstate the citizenship status of the 5 Kuwaiti citizens charged under Kuwait's Law of Nationality.
- Extend equal labor law protection to all migrant workers and establish an independent and effective investigation council in order to ensure compliance, as well as a transparent compliant mechanism to be made available to all workers as required by the International Labor Organization's Domestic Workers' Convention (No.189).

To Regional Actors

- The Gulf Cooperation Council (GCC) should encourage cooperation between member states to increase the protection of migrant worker's rights.

To the International Community

- Encourage the Kuwaiti government to administer substantial reforms to the *Kafala* labor-sponsorship system through a diplomatic dialogue.
 - Reforms should implement changes to the *Kafala* program in order to adhere to International Labor Organization's Domestic Worker's Convention.

To the Government of the United States

- Encourage the Kuwaiti government to reform migrant workers law in order to improve living conditions through diplomacy and financial aid during the implementation interim.

QATAR

Brandon Song

Human Rights Concerns:

- Freedom from Arbitrary Arrest and Exile
- Migrant Workers' Rights
 - *Freedom from Slavery*
 - *Right to Desirable Work and to Join Trade Unions*
 - *Right to Free Movement in and out of the Country*
- Right of Peaceful Assembly and Association
- Women's Rights
 - *Freedom from Discrimination*
 - *Right to Equality before the Law*

Background

The State of Qatar is an absolute monarchy ruled by Al Thani family since the mid-19th century. The country's Emir is Sheikh Tamim bin Hamad Al Thani and the prime minister is Abdullah bin Nasser bin Khalifa Al Thani. The country is one of the richest states in the world and a member of the Cooperation Council for the Arab States of the Gulf, also known as the Gulf Cooperation Council (GCC). Qatar was one of the most marginalized and poorest countries in the Middle East before its independence. Its economy relied heavily on fishing and pearling. However since oil production began in 1947, Qatar has experience a dramatic economic and social advancement.⁸⁷⁶ Nowadays, Qatar's is highly urbanized country with the world's highest per capita income, and its economy significantly depends on petroleum and gas export.

From 1783 to 1868, the Qatar Peninsula was ruled by the Al Khalifa family. When Al Khalifa family established a permanent rule over Bahrain in the mid-eighteenth century, Al Khalifa tribe recognized the Al Thani family as the ruling family of Qatar. After the invasion of Doha by East India Company in 1821, Qataris started to rebel against the Al Khalifa family to seek independence. By deploying massive naval force to Qatar in 1867, the Al Khalifa family violated the 1820 Anglo-Bahrain Treaty which prohibited piracy in the Persian Gulf.⁸⁷⁷ This forced Al Khalifa to recognized Qatar as an independent state from Bahrain. However, Qatar did not become a British protectorate until 1916 due to subsequent Ottoman rule from 1872 to 1916.

Following Qatar's submission to Ottoman rule in 1871, the Ottoman Empire recognized Al Thani family as Ottoman governors and established a garrison in the country. After Ottoman forces evacuated the peninsula in 1915, the House of Thani signed a protectorate treaty with Britain on 3 November 1916. Qatar agreed to have relationship exclusively with Britain in the exchange of the protection of Qatar from any form of external aggression. On 5 May 1935, Qatar signed another treaty with Britain that guaranteed the protection of Qatar from inside attacks. Oil reserves were discovered in 1939, but Britain delayed exploitation due to the outbreak of the Second World War.

On 1 September 1971, Qatar declared its independence separately from the trucial states and Bahrain after their attempt to form union failed. In 1972, Khalifa bin Hamad Al Thani led a successful coup against his cousin Amir Ahmad to seize the control of the country. In 1995, Emir Hamad bin Khalifa Al Thani overthrew his father. Under Emir Hamad's rule, the country allowed women's vote in municipal election in 1999, drafted its first written constitution in 2005, and inaugurated Roman Catholic Church in 2008.

The United State and the United Kingdom are key international actors in Qatar. The U.S. and U.K. have military presence in the country. Al Udeid Joint Air Base has been used as a HQ for Britain's Operation Shader against ISIL and command and basing hub for U.S. operations in Afghanistan and Iraq.

The country is the host of 2022 FIFA World Cup and has come under increasing scrutiny over its human rights issues. Fédération Internationale de Football Association has been demanded by various human rights organizations, such as Human Rights Watch and Amnesty International, to influence Qatar to reform its labor laws to improve working condition of construction workers. However, the FIFA showed reluctance in involving in Qatar's domestic politics.

According to Human Rights Watch, roughly 90% of the country's 2.2 million population are foreign nationals,⁸⁷⁸ and migrant workers comprise 94% of the country's workforce.⁸⁷⁹ Among its citizens, 90% are Sunni Muslims while estimate for Shia Muslims vary between 5 to 15%.⁸⁸⁰ Including citizens and expatriates, 77.5% are Muslims while only 8.5% are Christians and 10% are other or unaffiliated.⁸⁸¹

In 2014, the Qatari government continued to oppress freedom of expression. The Qatari policing agency utilized arbitrary arrests, incommunicado detention, torture, and other ill-

treatments to suppress any dissent against its government. Migrant workers were exposed to harsh working and living conditions due to the lack of protection from the Qatari judicial system. The Qatari government also restricted migrant workers' freedom of movement. Lastly, Sharia law guaranteed Qatari men more privileges than women on issues of property rights and marital life.

Freedom from Arbitrary Arrest and Exile

Various human rights issues, especially the treatment of migrant workers in Qatar, captured attention of international human rights organization and media. Since Qatar won the World Cup bid in December 2010, media and human rights organizations have issued many reports on corruption claims regarding the FIFA's World Cup bid process and human rights violations in Qatar, and some even demanded FIFA to revoke Qatar's host of 2022 FIFA World Cup. The Qatari government has used arbitrary arrest to prevent journalists and human rights workers from documenting its labor practices.

On 12 October 2014, two German broadcasters, Peter Giesel and Robin Ahne, were detained for 27 hours after they filmed the working conditions of migrant workers at a World Cup construction site from the balcony of the Mercure Grand hotel in Doha.⁸⁸² According to Giesel, the security police told two men that they were detained for advocating a riot by talking to migrant workers.⁸⁸³ Giesel said that they were treated well while detained, but the security police confiscated their equipment to manipulate and erase some of footage they filmed.⁸⁸⁴

On 31 August 2014, two British human rights workers, Krishna Upadhyaya and Gundev Ghimire, researching working and living conditions of Nepalese migrant laborers went missing for nine days before they were released on 9 September 2014. Before his disappearance Upadhyaya texted a friend saying that he was followed by Qatari police. A week after two men's disappearance, Qatar's ministry of foreign affairs announced that Upadhyaya and Ghimire were arrested and "interrogated for having violated the provisions of the laws of the state of Qatar".⁸⁸⁵ However, the Qatari authorities never specified on which laws they violated.

Right of Peaceful Assembly and Association

Although Qatar portrays itself as a progressive country dedicating in upholding the highest standards of international human rights, the right of peaceful assembly and association

has seriously violated in the past.⁸⁸⁶ In 2011, a Qatari poet—Mohammed Rashid al-Ajami—was arrested for writing and reciting a poem that allegedly promoted for the overthrow of ruling family of the country. Because Article 136 of Qatar’s penal code “mandates a life sentence for those who instigat[e] by public means to overthrow the regime of the country”, he was sentenced to life-imprisonment.⁸⁸⁷ In 2013, his sentence was reduced to 15 years.

The Qatari government announced the Anti-Cybercrime Law of 2014 that criminalizes spreading of false news on the internet. The new law enables the authorities to shut down websites that threatens the safety of the country and punish anyone who contributes in distributing false information that deteriorates social order. The law also grants the Qatari government to request telecommunication provider to block access to sites and supply evidence and records. Amnesty International expressed its concern that

The new cybercrimes law is a major setback for freedom of expression in Qatar. [As it] contains broad and vaguely-worded provisions that fly in the face of international standards. They effectively grant the government extensive powers to punish anyone who posts or shares content that officials consider harmful to Qatar’s “social values” or national interests. There is a real danger that legitimate, peaceful expression could be seriously undermined by this new law by facilitating arbitrary crackdown on peaceful dissent.⁸⁸⁸

The Qatari government also aims to gain greater control over freedom of expression through media censorship. A newly drafted media law requires government approval for all publication and grants the monitoring agency to remove content or prevent publication.⁸⁸⁹

The right to freedom of expression in Qatar is restricted not only by Qatar’s domestic laws, but also by the 2004 GCC Convention for the Suppression of Terrorism. The convention prohibits “interference in the domestic affairs” of GCC countries⁸⁹⁰. This can be abused by Qatar to criminalize anyone who criticizes other GCC states or political figures.

Migrant Workers’ Rights

- *Freedom from Slavery*
- *Right to Desirable Work and to Join Trade Unions*
- *Right to Free Movement in and out of the Country*

The GCC member states practice a migration policy known as the kafala system which requires expatriate workers to be sponsored by local citizen employers in order to enter and work in the country. In Qatar, expatriates can work only under sponsorship which means that the expatriate must be hired by Qatari national employer, also known as kafeel. Various human rights organizations, including Human Rights Watch, have demanded the Qatari government to

reform the kafala (sponsorship) system as it facilitates exploitation and abuse. According to a report from Human Rights Watch, migrant workers were exposed to grim living conditions and high death rates at work sites.⁸⁹¹

Migrant workers, especially low-skilled and domestic workers, are also financially exploited by recruiters, employers, and intermediaries involved in recruitment process. Since the kafala requires expatriate workers to be sponsored by Qatari nationals, kafeels lend their names to recruiters and employers in exchange for money. In addition to high recruitment fee charged by recruiters and intermediaries, the employee becomes liable for traveling and kafeel fees accrued in employment process.

The kafala system also violates migrant workers' freedom of movement. The sponsorship system ties workers' legal status to their employers.⁸⁹² When kafeels withdraw sponsorship or report their migrant employees for abscondence, the employee loses his right to stay in country. Qatar and Saudi Arabia are only countries in GCC that require expatriate workers to obtain exit visa before their departure. Qatar's kafala system requires all expatriate workers, except women and children sponsored by their husband or father, to obtain a release letter or No Objection Certificate (NOC), also known as an exit permit, from their sponsoring employers each time they leave the country. If a migrant employee leaves the country without NOC, he is prohibited from returning to Qatar for a minimum of two years before working for a new employer.⁸⁹³ In addition, the employee has to apply for an exit permit each year since it is valid for only one year, which can be costly to those in low-skilled, domestic, service sectors. The NOC requirement also applies when the employee seeks to transfer from the original employer to another. The employee cannot transfer to or work for another employer unless both his original and new employer make an agreement, and a NOC is granted by the original employer. Employers abuse the NOC requirement to resolve disputes over wage, contract, and other work-related issues. However, the law does not hold employers responsible for failure to provide NOC. Without a NOC from their employers, migrant workers can be trapped in Qatar indefinitely. Employers abuse these legal restrictions and confiscate workers' passports to adjust contracts and settle disputes in their favors.

Excessive powers sponsors hold and exorbitant fees ultimately trap migrant workers into forced labor, including debt bondage and underpaid labor. Threat of deportation, physical and mental abuse, false financial liability, and denial of exit permits are used by employers to force

migrant workers into slavery with delayed or nonpayment of contracted salaries. Migrant workers often avoid legal actions because of fear of deportation, retaliation, and lack of financial means and information about their legal rights. These conditions, along with migrant worker's legal status ties to their employers, forced migrant workers to accept lower wages, hazardous working conditions, and unsanitary living conditions. According to a report by Guardian, more than 500 Indian migrant workers and 382 Nepalese workers have died since 2012.⁸⁹⁴ Since Qatar was announced as the host of 2022 FIFA World Cup, 717 Indians have died in Qatar.⁸⁹⁵ According to documents made by the Nepalese embassy in Doha, more than half of 44 Nepalese deaths in Qatar between 4 June and 8 August 2013 were result of heart attacks, heart failure or workplace accidents; the documents also revealed the evidence of delay or nonpayment and forced labor on World Cup infrastructure projects.⁸⁹⁶

Provisions in Qatar's Labor Law specifically exclude domestic workers from various workers' privileges. Therefore, Migrant domestic workers are open to greater exploitation and abuses as they are not protected under Qatar's standard Labor Law. According to Amnesty International, approximately 95% of the women detained at Doha's deportation center in March 2013 were domestic workers.⁸⁹⁷ A series of reforms the Qatari authorities announced in May 2014 did not specify a timeframe for the implementation nor included protection for domestic workers.⁸⁹⁸ 1.8 million Migrant workers are still left vulnerable to multiple degrees of human rights violations—trafficking, forced labor, confiscation of passport, physical abuse, etc.⁸⁹⁹

Women's Rights

- *Freedom from Discrimination*
- *Right to Equality before the Law*

Application of Sharia law denies women equal status in certain civil proceedings. According to a 2008 Qatari government study, 28% of Qatari women experience violence in their homes.⁹⁰⁰ However, Qatar does not have a law that specifically criminalizes domestic violence. Article 57 of Provisions of Law No. 22 of 2006 prohibits husbands from hurting their wives physically or morally. On the other hand, Article 58 states that it is a wife's responsibility to look after the household and to obey her husband. The term "obey" in Article 58 is often interpreted by husbands as "obeying to husbands' disciplines". This is often used to justify

domestic violence. Article 36 also states that two men must witness marital contracts concluded by male matrimonial guardians.

The criminalization of illicit relations, extramarital sex, in Sharia law also puts rape victims at risk of prison time when they report to legal institutions. Amnesty International reported that a senior prison official informed the organization “that approximately 75 female prisoners were being held—74 of whom were foreign nationals—around half were being held on charges related to illicit relations”.⁹⁰¹ According to an Amnesty International’s interview with a rape victim, she was charged with illicit relations after she reported her rape case in February 2012 and sentenced one year in prison in December 2013.⁹⁰² Qatari women continue to face unequal treatment in judicial process due to the lack of clear guidelines for victim identification.

Analysis

Qatar has relied heavily on western forces in ensuring its national security. Recently adopted anti-terrorism and anti-cybercrimes legislation were precautionary measures to preserve peace in the country. While the Qatari government’s rights to protect its national security must be respected, flawed legislation has been used to justify arbitrary arrest and suppress the right of peaceful assembly and association. As a respected member of United Nations Human Rights Council, Qatar must commits to upholding the highest standards in protecting human rights.

Qatar is one of only two countries that require the expatriate worker an exit visa or NOC for each departure. In contrast to Qatar, Bahrain and Kuwait have more flexible sponsorship laws that provide possible policy options for Qatar. Bahrain does not have the NOC requirement for changing employer, and expatriate workers with expiring contrast can extend their stays by finding a new employer. Although the kafala system is practiced in all GCC member states except Bahrain, there are no standard contracts or regulations that apply to all members. Instead, each member state has various versions of the kafala. This prevents expatriate workers from freely seeking employment in one Gulf country to another. Having standards contracts and kafala regulation across all GCC members will promote the mobilization and constant supply of labor force in the Gulf region.

The Qatari government’s recent effort in eradicating migrant workers’ rights violations provides optimistic view for the future. On 24 October 2011, Qatar enacted Law No. 15 of 2011 Combating Trafficking in Human Beings, which prohibits all forms of sex and labor trafficking,

including forced labor, contained in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons.⁹⁰³ The law provides sentence up fifteen years' imprisonment and fines up to 300,000 Riyals (\$80,000). Moreover, 2009 Sponsorship Law prohibits sponsors from confiscating workers' passports. Qatar has a national coordinating body to police anti-trafficking activities, the Qatar Foundation for Protection and Social Rehabilitation (QFPSR), formally known as Qatar Foundation for Combating Trafficking in Human Beings. QFPSR responded to British news media Guardian that the organization increased number of labor inspector by 25% and carried out over 11,500 random spot-checks of work sites between December 2013 and February 2014.⁹⁰⁴ More recently, Qatar has dedicated to improve living and working conditions for migrant worker. In 2014, Qatar has pledged to reform its exit visa system to implement an automated system that will issue migrant workers exit visas after a 72-hour grace period.⁹⁰⁵ Qatar also has adopted the Arab initiative in partnership with the United Nations Office on Drugs and Crime, and the Arab League to eradicate human trafficking; in which the country promised to cover all the cost of the initiative (\$6 million).⁹⁰⁶ According to Qatar's Ministry of Foreign Affairs the initiative aims to

build the capacity of national leaders working in various areas of the fight against human trafficking in the Arab region (including the officials in charge of law enforcement organs and criminal justice systems, the prosecution, the immigration and border exists, international cooperation, labour administration, labour recruitment, officials in charge of shelters and humane care centres for victims of human trafficking, and officials in the civil society institutions), and the identification of victims and addressing their situations and bring them back to their home countries or their rehabilitation and provide protection, care and assistance to them.⁹⁰⁷

According to Qatar's Ministry of Foreign Affairs, the Emir of Qatar supports women to attain their rights and improve their status and role in the society....[and] the State of Qatar endeavors to...[enhance] equality between men and women by providing women with equal chances for quality education, training and development to upgrade their administrative and leadership skills. The Government also supports the role of the social organizations concerned with women's affairs, particularly, the Supreme Council of Family Affairs.⁹⁰⁸

Women's status in Qatar has optimistic future as an increasing number of women are entering both the public and private sectors. In public sector, female Qatari employees account for 36.1% of the total workforce, and more than 50% in that of the Ministry of Education.⁹⁰⁹ The Supreme Council of Family Affairs, which was established by the Emiri Decree, aims to enhance the role of women society and focuses on women's and children's issues.

Recommendations

Regarding Freedom from Arbitrary Arrest and Exile, and Right of Peaceful Assembly and Association:

To the Gulf Cooperation Council

- New provision should be added to the 2004 GCC Convention for the Suppression of Terrorism to list detailed acts of “interference with domestic affairs.”
 - If such an amendment cannot be implemented, the provision should be removed from the Convention.

To the Government of Qatar

- Provisions of the Anti-Cybercrime legislation should be amended.
 - Definition of “social values” should be clarified in detail.
 - If such an amendment cannot be implemented, the term should be removed from the legislation.

Regarding Migrant Workers’ Rights:

To the Gulf Cooperation Council

- An independent coordinating agency should be established within GCC to monitor strict practice of labor regulations in GCC countries.
- GCC must develop a standard contract for its members.

To the Government of Qatar

- Exit visa or NOC requirement should be removed.
 - If the requirement cannot be removed, exit visa or NOC should be apply only to people subjected to criminal investigation.
- Migrant domestic workers should be included and protected under the Labor Law.
- Domestic Workers’ Law would have to be introduced.
- Qatar Foundation for Protection and Social Rehabilitation (QFPSR) should train labor inspectors with adequate victim and violation identification skills.
 - Rigorously practice labor violation monitoring and victim identification.
 - Provided protection and shelter programs to all victims of labor violations.
- Ratify ILO (International Labour Organization) Conventions, including on migrant workers (no 97 and 143), freedom of association, right to organize and collective bargaining (no 87 and 98), domestic workers (189) and private employment agencies (181).

Regarding Women’s Rights:

To the Government of Qatar

- Precise and systematic rape and domestic violence victim identification method should be practiced.
 - Enforcement officers should receive in-depth rape victim identification training.
- The Ministry of Justice should
 - Establish a special unit or department that oversees female-targeted crimes.
 - Increase the number of female legal advisors.

To the Supreme Council of Family Affairs

- Partnership with local and international women's NGOs should be developed to advance women's participation in politics as well as in private sector.
- The Council should partner with local NGOs and the QFPSR to improve protections for female migrant domestic workers.
- The council should develop an independent rape and domestic violence victim protection system—including shelter, legal assistance, interpreter service, counseling, etc.

UNITED ARAB EMIRATES

Brandon Song

Lauren Capobianco

Human Rights Concerns:

- Freedom from Torture and Degrading Treatment, and Freedom from Arbitrary Arrest and Exile
- Right of Peaceful Assembly and Association
- Migrant Workers' Rights
 - *Freedom from Torture and Degrading Treatment*
 - *Right to Desirable Work*
- Women's Rights
 - *Right to Equality before the Law*

Background

The Lower Gulf states, including UAE gained independence from the United Kingdom in 1971. Until then the various emirates had been de facto colonies.⁹¹⁰ Similar to many countries within the MENA region, late independence in relation to global norms has posed problems for the process of nation building, among them a lack of legislation, of institutions, and of notions of citizenship and nationality.⁹¹¹ Human rights issues stemming from these central problems plague UAE and other Lower Gulf states. United Arab Emirates is Federation of seven emirates—Abu Dhabi, Ajman, Dubai, Fujairah, Ras al-Khaimah, Sharjah, Umm al-Quwain. Many national issues stem from the original organization of UAE. The constitution written in 1971 does not detail the distribution of powers between the federation and constitutive emirates. Overall, the emirate's rulers are autonomous in relation to domestic politics and foreign policies are decided at the federal level, The Federal Supreme Court consists of the seven semiautonomous emirates which is UAE's highest legislative, executive and constitutional authority.

Monarchies of the seven emirates were recognized as the rulers of principalities and protectorates through the Trucial Sheikhdoms treaty with Great Britain in 1853.⁹¹² The political bond between the Great Britain and the trucial states became more intimate after the Treaty of 1892, in which the Emirates agree to trade only with the British and not to engage in relationship with any other nations without consent from the Great Britain.⁹¹³ Britain also supported the country in a border dispute with Saudi Arabia during the 1950s over the Buraimi oasis.

President Khalifa bin Zayed Al Nahyan is the Emir of Abu Dhabi, the largest and wealthiest emirate in the federation. Al Nahyan was inaugurated on 3 November 2004.⁹¹⁴ He is

also Chairman of the Supreme Petroleum Council of Abu Dhabi National Oil Company, which is the world's fourth largest oil company with annual revenues exceeding 10 billion dollars. Prime Minister Mohammed bin Rashid Al Maktoum, the constitutional monarch of the most populous emirate—Dubai, assumed office on 11 February 2006 after his brother Maktoum bin Rashid Al Maktoum's term. He owns the majority of Dubai Holding, a global investment holding company with over 10 billion dollar revenue.

Western military presence in UAE significantly restrains the growth of Islamist groups, which is a major national security concern for the country. Thus, the country has retained close relationships with the West by supporting various West-led military campaigns in the last two decades. The country signed a defense agreement with the United States and France in 1994 and 1995 respectively, and aided the 1991 Persian Gulf War and Operation Northern Watch. In recent years, the country supported military operations during the Iraq War in 2003, Global War on Terror, and Libya in 2011. In 2008, the country signed an agreement with France that allowed France to establish permanent military base in Abu Dhabi. The country also provided military and humanitarian aids in military campaigns against Islamic State of Iraq and the Levant (ISIL).

In May 1997, UAE recognized the Taliban as a legitimate government. However, the country cut its ties with Taliban after the September 11 attack in 2001.⁹¹⁵ The country has maintained close relations with the U.S. through both economic and military cooperation. In 2011, the country signed a \$3.48 billion dollar deal with the US to receive missile defense system.⁹¹⁶ According to the Washington Post, UAE spent the most money in the world, 14.2 million dollars, to lobby American politicians and reporters.⁹¹⁷ The Al Dhafra air base is used as a temporary joint-base for U.S, U.K., and French military.

Recently, France has been trying to break American domination in the country. France established a permanent military based at Port Zayed in Abu Dhabi after a request from President Khalifa bin Zayed Al Nahyan in 2009, and former French president Nicolas Sarkozy expressed that the base “was the beginning of long-term French engagement” which “ensure[s] stability in this strategic region”.⁹¹⁸

In 2010, the Emirati government estimated that expatriates comprised 88% of the country's total population.⁹¹⁹ UAE's official religion is Islam; 76% Muslim, 9% Christian, and 15% other.⁹²⁰ Among its citizens, Sunni Muslim is the majority. Arabic is the official language of the country, but English is also widely used.⁹²¹

In recent years, the government of UAE has portrayed the country internationally as a dynamic, modernizing economic power. Dubai is the home of the world's tallest building and is set to host the World Expo trade fair in 2020 while Abu Dhabi hosts numerous international events. Underneath this facade, a different reality is present. One in which challenging authorities or speaking out in favor of democracy and government accountability is an offense punishable by a lengthy stay in prison. In 2014, the Emirates government continued to violate freedom of expression by through the means of arbitrary arrests, incommunicado detention, and unfair trial. Restrictive sponsorship law enabled employers to exploit their workers through the illegal confiscation of passports, nonpayment of wages, confinement, abuse of legal processes, and physical violence.

Freedom from Torture and Degrading Treatment, Freedom from Arbitrary Arrest and Exile

According to legislature, torture is illegal and is prohibited in Article 26 of the Constitution, but UAE faces international criticism for permitting, investigating inadequately, or not strongly prosecuting cases of torture. On the other hand, political suspects in the UAE are commonly held incommunicado in undisclosed locations.

Human rights organizations, Human Rights Watch, Alkarama, and Amnesty International said that state security officers have subjected detainees to systematic mistreatment, including torture. These accusations are from hand-written letters detainees have smuggled out of jails. The mistreatment described in the letters is consistent with other allegations of torture at UAE state security facilities, and indicates that torture is a systematic practice at these facilities.⁹²² These allegations come after concerns of numerous other cases reported by Amnesty international in the recent years.

On 17 March 2014, Osama al-Najjar was arrested by state security officers for advocating release of his father, Hussain Ali al-Najjar al-Hammadi, on Twitter. After his arrested, Osama was confined in a secret location for four days and denied of any contact with his family or a lawyer. Osama al-Najjar said that he was “punched and beaten repeatedly all over his face and body and threatened with electric shocks”.⁹²³ He was sentenced three years for undermining social order and his government assertions. Amnesty International reported that Najjar's father is also a prisoner of conscience. His father is serving a total of 11 years' imprisonment after being

convicted under vaguely-worded national security charges following two unfair mass trials. Amnesty International reported that Hussein was held in solitary confinement for eight months in conditions amounting to enforced disappearance following his arrest in 2012”.⁹²⁴

Amnesty International reported that some of those jailed had their fingernails pulled out, severely beaten and hanged upside down for extensive periods, and threatened with electric shock, rape and death.⁹²⁵

Right of Peaceful Assembly and Association

Human rights activist constantly expressed their concerns over UAE harsh crackdown on dissents. Amnesty International pointed that,

Beneath the façade of glitz and glamour, a far more sinister side to the UAE has emerged showing the UAE as a deeply repressive state where activists critical of the government can be tossed in jail merely for posting a tweet... The scale of the crackdown has been chilling and the truth is that the UAE’s dreadful treatment of activists critical of the government, and their families, has gone largely ignored by the world. It is time for the UAE’s international allies to stop turning a blind eye to the rampant abuses by the authorities and to place human rights firmly before business interests.⁹²⁶

Despite increasing concerns among human rights organizations, the UAE government continues to oppress freedom of expression by subjecting dissenters and members of non-governmental organizations to prosecution under various public order laws. According to Amnesty International, since 2011 more than 100 peaceful activists and dissenters have been prosecuted or jailed for committing “national security or cybercrime offences and more than 60 of them are still in prison, serving sentences up to 14 years”.⁹²⁷

Article 16 of the UAE’s 2008 Law on Association prohibits non-governmental organizations and their members from interfering “in politics or in matters that impart state security and its ruling regime”.⁹²⁸ This law is often used to justify UAE’s civil society crackdown. In 2011, UAE’s Ministry of Social Affairs charged members of the Jurist Association and Teachers’ Association with the violation of Article 16 of 2008 Law on Associations after the two organizations signed a public appeal demanding for democracy in the country.⁹²⁹ Later, their members were replaced with state appointees.

In 2013, 64 members of a non-violent Islamist group Reform and Social Guidance Association (Al-Islah), 64 of UAE 94, were sentenced to between five years and life in prison⁹³⁰ for violating Article 180 of the Penal Code, which “prohibits founding, organizing, or operating a group that aims to overthrow the country’s political system”.⁹³¹ Although the organization has

been dedicated in advocating Islamic precepts through peaceful political debates, the UAE authorities claimed that the organization set up a parallel organization, Dawat al-Islah, with “different goals and ideology”.⁹³²

The UAE laws also restrict free speech on information technology. Federal Legal Decree No.5 of 2012 provides legal basis to prosecute people who use any information technology means, such as blogs, social networking sites, text messages, and emails, to express dissents against the UAE authorities.⁹³³ Several components of this decree prevent people from not only making critical comment about the country, its ruler, and officials, but also organizing civil organization. Article 28 of the decree provides for “imprisonment and a fine of up to 1 million dirhams (\$272,000) for anyone who uses information technology with the intent of inciting to actions, or publishing or disseminating any information, news, caricatures, or other images liable to endanger state security and its higher interests or infringe on the public order”.⁹³⁴ Article 29 prohibits dissent against state officials by providing the same penalties for those who use such means “with the intent of deriding or harming the reputation, stature, or status of the state, any of its institutions, its president or vice president, the rulers of the emirates, their crown princes or their deputies, the state flag, national safety, its motto, its national anthem, or its symbols”.⁹³⁵ Article 30 provides life imprisonment for those advocating “the overthrow, change, or usurpation of the system of governance in the state, or obstruct provisions of the constitution or existing law, or oppose the fundamental principles on which the system of governance is based”.⁹³⁶ Article 32 authorizes imprisonment or fine of 500,000 dirhams (\$136,000) for those who “plan, organize, promote, or advocate demonstrations, marches, and the like [on information technologies] without a permit from the competent authorities”.⁹³⁷ Article 38 prevents international journalists and human rights activists from obtaining information from UAE resident by criminalizing those who provide “any organizations, institutions, agencies, or any other entities incorrect, inaccurate, or misleading information liable to harm state interests or damage its reputation, stature, or status”.⁹³⁸

The UAE government placed greater restriction on freedom of opinion and expression by announcing Terrorism Law No. 7 on 20 August 2014, which dubiously defines a “terrorist outcome” to be “stirring panic among a group of people and antagonizing the state”.⁹³⁹ Article 14 of this law allows a court to sentence death penalty or life-imprisonment to those who seeks “to undermine the stability, safety, unity, sovereignty, or security of the State” or “to undermine

national unity or social peace”.⁹⁴⁰ Based on the past cases, such as those of UAE 94 and Osama al-Najjar, any critics and dissents against the country, its ruler, and officers were perceived as an attempt to alter security and social peace of the country. This creates the suspicions that the new terrorism law is another legal measure to suppress freedom of expression and speech.

Migrant Workers’ Rights

- *Freedom from Torture and Degrading Treatment*
- *Right to Desirable Work*

The human rights standards of the migrant workers are generally problematic.⁹⁴¹ Additionally, there have been recent unsuccessful political strategies to limit the influx of labor, but migrant workers comprise 85% of the country’s total population and 92% of the private sector workforce.⁹⁴² In addition to the Gulf States’ traditional heterogeneity, recent migration has added to the complexity of society. The job market is effectively segmented by nationalities: the higher positions of the bureaucracy are reserved for Gulf nationals, whereas higher positions in the private sector are often staffed by Western expatriates.

UAE practices a migration policy known as the *Kafala* system that requires expatriate workers to obtain sponsorship from local citizens in order to work in the country. UAE’s *Kafala* law requires expatriate workers to have a UAE national as the primary sponsor *kafeel*, and foreign nationals can be the primary *kafeel* for only domestic workers. Outside the free economic zones, non-UAE businesses are able to employ expatriate workers only when its partner, owner, and majority shareholder is a UAE citizen.

Migrant workers, mainly those in low-skill, domestic, and service sectors, are also financially exploited by recruiters, employers, and intermediaries involved in recruitment process. Since the *Kafala* requires expatriate workers, except domestic workers, to have UAE nationals as a primary sponsor, *kafeels* lend their names to recruiters and non-UAE nationals in exchange for money. In addition, migrant workers from Asia often willingly pay recruitment fee of up to \$1,000 to obtain a sponsorship to enter UAE. Upon their arrivals, the employee becomes liable for traveling, recruitment, *kafeel*, and settlement fees that occur in employment process.

Restrictive *Kafala* system ties workers’ legal status to their employers. *Kafala* system also prevents migrant workers from changing their employers. UAE labor law prohibits all migrant workers in the private sector from leaving their original sponsors without completing

contractor terms, which is a minimum of two years. If the employee leaves the original sponsor without completing contract terms, a labor ban of up to a year is imposed. The ban can be only removed if the new employer offers the employee with a higher position and an equal or higher salary set by the UAE's ministry of labor. While skilled professionals may find it easier to find a position with such a condition, low-skilled and domestic workers often lose their legal status because they cannot find a job with higher position. Because of this restriction, migrant workers are forced to stay with their original sponsor even when serious human rights violations exist in their work sites.

Domestic workers are excluded from the UAE's labor law and the basic protections, such as limits on working hours and provision for overtime pay. Domestic workers have virtually no legal safeguards governing their employment. At least 146,000 female migrant domestic workers are employed in UAE. Promoted as a "golden opportunity", promises of high wages and good working conditions entice workers that migration could provide the means to obtain education, escape poverty and essentials for their families.⁹⁴³ When Human Rights Watch interviewed women who became migrant domestic workers, it discovered that most said their employers confiscated their passports. Some accused their employers of having physically abused them and confined them to the homes. Many domestic workers experienced delayed or non-payment of wage, excessive working hours, inadequate provision of food, living conditions, and medical treatment. Some workers were employed in circumstances that amounted to forced labor or trafficking.⁹⁴⁴

The Kafala system rules are especially restrictive for domestic workers. Other migrant workers can legally leave an abusive employer without penalty. Domestic workers, on the other hand, must obtain the cooperation of an employer, even abusive ones, if they are to leave before the end of the contract (absconding) without penalty.⁹⁴⁵ Absconding is an administrative offense that can result in fines, deportation, and a one-year entry ban. Additionally, the UAE standard contract states that a domestic worker's rights are "null and void" if the worker leaves work without informing the sponsor.⁹⁴⁶ Domestic workers were interviewed by Human Rights Watch and in total, 22 out of the 99 domestic workers interviewed attested that their employers had abused them for various reasons and many said that their employers did not seek medical help for injuries they had inflicted on their employees. Many also spoke of forms of psychological or verbal abuse.

They thought of me as dirty. They didn't think of me as human. I know because they never talked to me like I was a person and they had no manners at all -Farah S.⁹⁴⁷

According to Human Rights Watch, employers confiscate worker's passports in order to adjust contract terms, which often open workers exposed to forced labor, extended working hours, physical abuse, and even sexual abuse in extreme cases.⁹⁴⁸

Women's Rights

Right to Equality before the Law

Application of Sharia law denies women equal status in certain civil proceedings and life. Females can only inherit one-third of assets while men are entitled to inherit two-thirds. Law forbids Muslim women from marrying non-Muslims. In addition penal code and the Federal Supreme Court upheld husband's legal right to discipline their wives and children. The definite of "illicit relations" in Sharia law is vaguely interpreted by the Emirates judicial institutions. This prevents victims of rape and sexual violence from seeking help from law enforcement. In July of 2013 CNN reported that a Norwegian woman, Marte Deborah Dalelv was "detained and charged with having unlawful sex, making a false statement and illegal consumption of alcohol" after reporting to police that she had been rape by her coworker.⁹⁴⁹

Analysis

Human rights violations in UAE's judicial system attributes significantly to the lack of independency in its justice system. The courts often follow the decision made by the UAE executives, and defendants are often denied access to lawyers and their rights for appeal and verdict. Though UAE ratified United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2012, the absence of monitoring agency in preserving the UN standards exposes detainees to torture and degrading treatment at state facilities. Members of Islamic organizations, such as the Muslim Brotherhood, were targeted most as they disapprove monarchy. UAE must recognize that the country is a party to Arab Charter on Human Rights, which states that,

Based on the faith of the Arab nation in the dignity of the human person whom God has exalted ever since the beginning of creation and in the fact that the Arab homeland is the cradle of religions and civilizations whose lofty human values affirm the human right to a decent life based on freedom, justice and equality...reaffirming the principles of the Charter of the United Nations, the Universal Declaration of

Human Rights and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and having regard to the Cairo Declaration on Human Rights in Islam.⁹⁵⁰

UAE must uphold fair trial rights as Article 13 of the Arab Charter on Human Rights guarantees rights to equality before the law by stating that “Trials shall be public, except in exceptional cases that may be warranted by the interests of justice in a society that respects human freedoms and rights”.⁹⁵¹ Article 24 further addresses UAE’s responsibility in protecting its citizen’s freedom of expression by stating in amendments one, five and six that every citizen has the right:

1. To freely pursue a political activity
5. To freely form and join associations with others
6. To freedom of association and peaceful assembly⁹⁵²

More importantly, Article 32 of the Arab Charter on Human Rights contradicts with the UAE’s Federal Legal Decree No.5 of 2012 by stating that “The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries”.⁹⁵³ As a member of the United Nations Human Rights Council, UAE must adhere to upholding the international standards in protecting and nurturing human rights within its judicial processes.

UAE and Oman are only countries in Gulf Cooperation Council (GCC) that require expatriate workers to complete a minimum of two years of service before changing their employer. Other GCC countries that require a release from the original sponsor, like Qatar and Kuwait, do not have a minimum service year requirement. Bahrain has the most ideal solution among the Gulf States. Bahrain does not require migrant workers to have either a release or a minimum service year before transferring to another employer. In addition, the employee with an expiring contract has three-month window period before finding a new employer.

One factor that contributes to the violations of migrant workers’ rights is the lack of standard labor and *Kafala* regulation within the GCC states. Since each Gulf country has its own version of *Kafala* law, foreign workers often have to leave the Gulf region before returning to a Gulf country. This prevents free mobilization and constant supply of labor force in the Gulf region. Having a standard *Kafala* law for the GCC states will promote increased exchange of labor within the Gulf States.

In addition, UAE relaxed labor regulations in free zones where most high-skill expatriates are employed while maintaining restrictive labor laws for unskilled labor. UAE has one federal labor law that applies to all seven Emirates and three separate labor laws that applies to each of the Jabel Ali Free Zone, Dubai Technology and Media Free Zone, and Dubai International Financial Center Free Zone. Free zone employees are also required to obtain consent from their original sponsors before transferring to a new employer. However, the consent requirement can be waived based on the authority's discretion.

The UAE government also established National Committee to Combat Human Trafficking (NCCHT) operates to prevent labor violation by providing anti-trafficking hotline and preventive education to migrant workers. In addition, a Human Rights Office was opened in Dubai International Airport in 2013 to provide services to migrant workers who faced exploitations. More importantly, the UAE government launched a pilot program with the Government of India and the Philippines to ensure that worker's contract are signed in the source countries to prevent employers from altering contract terms in UAE.

The Sharjah emirate government has committed to improve women's social status and participation. The Supreme Council for Family Affairs (SCFA) was established by Emiri decree 24 of 2000. While the organization was not designed specifically for women's issues, the organization aims to empower women by providing various programs, such as women's education and consultant programs and ladies club.⁹⁵⁴ Sheikha Jawaher Bint Mohammed Al Qasimi, the wife of Sultan bin Mohammed Al-Qasimi, serves as the chairperson of the SCFA and Sharjah Ladies Club, an organization under the SCFA. Sharjah's SCFA is a potential policy option for other emirates as the organization elevate women's social status through promoting education and greater social participation.

Recommendations

Regarding Freedom from Torture and Degrading Treatment, and Freedom from Arbitrary Arrest and Exile

To the Government of United Arab Emirates

- An independent monitoring agency should be established:
 - To ensure the preservation of UN Convention on the Elimination of All Forms of Torture and Other Cruel and Inhumane or Degrading Treatment or Punishment.
 - To inspect all detention center.
 - To provide medical examination and protection for detainees who claims they have been tortured or ill-treated.

Regarding Right of Peaceful Assembly and Association

To the Government of United Arab Emirates

- Article 16 of the UAE's 2008 Law on Association should be amended to list clearly types of acts that harms "state security and its ruling regime".
 - If such an amendment cannot be made, Article 16 should be removed.
- Federal Legal Decree No.5 of 2012 should be evaluated by legal experts to ensure that it accords with the Arab Charter on Human Rights.
 - Until decision is made the law should be suspended.
 - If the law does not accord with the Arab Charter on Human Rights, it should be abolished.
- Terrorism Law No. 7 of 2014 should be amended to precisely define the definition of "terrorist outcome" and "terrorist act".
 - If such an amendment cannot be made, the law should be suspended.

Regarding Migrant Worker's Rights

To the Gulf Cooperation Council

- An independent monitoring agency should be established to ensure labor regulations are strictly practiced in GCC states.
- GCC should develop a standard contract for all of its members.

To the Government of United Arab Emirates

- National Committee to Combat Human Trafficking (NCCHT) should:
 - Increase effort to instigate, prosecute, and punish labor law violations.
 - Increase victim identification efforts for forced labor and provide protection services, including shelter, interpreter service, counseling, legal assistance, etc.
 - Train labor inspectors with systematic victim identification skills.
- Ratify ILO (International Labour Organization) Conventions, including on migrant workers (no 97 and 143), freedom of association, right to organize and collective bargaining (no 87 and 98), domestic workers (189) and private employment agencies (181).
 - Consent requirement waiver should be expanded to all seven emirates.
 - Domestic worker should be included under the Federal Labor Law.

Regarding Women's Rights

- The Ministry of Justice should implement systematic rape and domestic victim identification method.
- Enforcement officers should receive thorough rape victim identification training.
- An independent nationwide organization, modeled after Sharjah's Super Council for Family Affairs, should be established.
- State funds should be allocated to:
 - Support establishment of local women's NGOs.
 - Promote partnership between local, regional, and international women's NGOs.
- The NCCHT should:
 - Partner with local women's NGOs to provide protection and shelter services to female migrant workers who became victims of exploitation.
 - Cooperate with local and international NGOs in drafting Domestic Workers' Law.

OMAN

Tiffany Butler

Human Rights Concerns:

- Freedom of Assembly
- Freedom of Expression
- Women's Rights

Background

Early in Oman's history, Oman's coastlines became an important port of trade with India. Trade between the Ya'ariba Dynasty (1624-1744) and India was so favorable that permission was given to build a Hindu temple. Beginning in 1798, the rulers of Muscat began to interact with the British Raj when the coastlines of Oman became part of an important route of British trade with India. Therefore, it became the interest of Britain to guard against internal instability or rival interests in order to keep ports open for trade.⁹⁵⁵ In 1920, India brokered the Treaty of Sib which led to the separation of the Imamate in the interior of Oman and the British-backed Sultanate on the coast.⁹⁵⁶ With the discovery of oil in Bahrain in 1932, international actors began to fashion further plans of their own for the Arabian Peninsula. Regional and international actors involved within Oman include Saudi Arabia, with which Oman shares a contiguous border, Yemen, the United Arab Emirates (UAE), the U.K, and the U.S.

Oman is a member of the Saudi Arabia sponsored Gulf Cooperation Council (GCC). The GCC is a general common market as well as a defense planning council. The member states of Saudi Arabia, Oman, Qatar, Bahrain, and Kuwait recognize a special relationship based off of their shared Islamic faith and their similar political systems.⁹⁵⁷

The current ruler of Oman is the Sultan & Prime Minister Qaboos bin Said Al-Said. The Sultan's father, Said III bin Taimur, took power in Muscat in 1932. In the 1950's the Sultan undertook exploration into the interior of the country to take advantage of the country's oil supply.⁹⁵⁸ Qaboos bin Said Al-Said formed a coup against his father in 1970 to become Sultan. He has held control of the monarchy since that time.

Distinctive from other Arab nations, Oman has an Ibadhis majority of approximately 75% of the population.⁹⁵⁹ Statistics can vary, however, and the CIA Factbook says that Oman is 85.9% Ibadhi majority, with a smaller percentage of Sunni and Shia, 6.5% Christian, 5.5% Hindu, 0.8% Buddhist, less than .1% Jewish, 1% other, and 0.2% unaffiliated. Oman is currently

experiencing far less turmoil than many of its neighbors. Through an examination of the human rights concerns, as well as the historical context and internal factors, we seek to examine why Oman is different, and how, if possible, that understanding can benefit the rest of the Islamic/Arab world.

Of particular interest is Oman's Ibadhi majority. Unlike any other Islamic country in the region, Oman has a majority Ibadhi population. In legal matters, the Ibadhi differ from other Muslims.

"In legal matters the Ibadis put more weight on the Qur'an and less on the Hadith than other branches of Islam. Thus, they do not impose the (non-Qur'anic) punishment of stoning for adultery, for example. The nature of their community has also led preserving *Ijtihad*⁹⁶⁰. Unlike the Sunnis but like the Shi'is, they have never closed the gates of *Ijtihad*."⁹⁶¹

The Ibadhi further differ from both Sunni and Shia sects in that they believe that the legitimate election of the head of state solely lies on the piety of a Muslim elected by the people, rather than to familial or tribal ties.⁹⁶²

Within Oman, the main human rights violations concern freedom of expression, freedom to assemble, and the rights of children and women. Oman was a part of the Arab Uprising (AU) of the early 2011. Sections of the population called for more jobs, economic benefits and an end to corruption. Human Rights Watch (HRW) in our 2014 report noted that, "officials continued to harass and detain pro-reform activists in 2013, creating little opportunity for citizens to impact the government and its policies."⁹⁶³

Freedom of Assembly

The Sultanate of Oman requires approval for all gatherings. Unapproved gatherings have resulted in arrests during the 2011 uprising. Since 2011, 14 prisoners have been released, but their convictions have not yet been expunged. Police often use violence and extreme force to disband protesters.⁹⁶⁴

In September 2014 a member of the United Nations Special Rapporteur, made a visit to the Sultanate of Oman. At that time, he praised Oman's economic breakthroughs in the past 40 years, however, he encouraged the sultanate of Oman to continue to build on past achievements by adopting a human rights centered approach. Freedom of assembly has been infringed upon by the monarchy's desire to secure peace, order and stability which has been used to justify the

repression of rights to meet that end. The Sultanate of Oman must be encouraged to realize that the freedom of assembly is not the antithesis to stability.⁹⁶⁵

...the enjoyment of civil and political rights on one hand, and stability on the other, are not mutually exclusive. In fact, human rights are the foundation for true and sustainable stability. Stability flows organically through involvement and consensus, through a social contract in which everyone freely participates. The rights to freedom of peaceful assembly and of association, in particular, foster Government accountability, ethnic equity, cultural diversity, tolerance, participation and good governance, which in turn promote stability.⁹⁶⁶

HRW has not documented large numbers of political prisoners held by Oman. However, HRW does consider the criminalization of “illegal gatherings”, when, that is, they are peaceful, to be a violation of international human rights laws. Among other human rights violations, HRW recommends an open dialogue concerning the case of the parliamentarian Dr. Talib al-Maamari with the Sultanate of Oman:

“On 6, August 2014, an appeals court in Muscat convicted Dr. Talib al-Maamari, a former member of Oman’s Shura Council from Liwa, to one year’s imprisonment and a fine of 100 Omani Rials for “illegal gathering,” and three years’ imprisonment and a fine of 500 Omani Rials for calling for demonstrations. The court also sentenced former municipal councillor from Liwa, Saqer al-Balushi, to one year of imprisonment and a fine of 300 Omani Rials for “illegal gathering.” Seven other defendants also charged with “illegal gathering” were acquitted by the court. The court allowed al-Balushi to be released on bail pending an appeal with the Supreme Court, but refused the release on bail of Dr. al-Maamari.”⁹⁶⁷

Middle East Eye reported on 4 February, 2015, that Dr. Talib al-Maamari still remains detained in Oman.⁹⁶⁸ Despite pressure from human rights organizations, the Omani Sultanate continues to suppress the freedom of assembly as well as the freedom of expression of its citizens.

Freedom of Expression

Oman is accused of using overly broad laws that in effect criminalize individuals to use freedom of speech and the rights to assemble. These laws criminalize “illegal gatherings” and “insulting” Sultan Qaboos bin Said Al Said. “The pattern of arrests and interrogations in Oman has clearly had a chilling effect on the ability of Omanis to speak out. Oman cannot claim to be a rights respecting nation when authorities routinely arrest peaceful dissenters.”⁹⁶⁹

Articles 29, 30, and 31 of Oman’s Constitution protect the freedom of expression and the freedom of press.⁹⁷⁰ However, this is often not upheld, or there are loopholes, such as contradiction inherent in other legislations such as Article 40. Article 40 states that “Respecting the Basic Statute of the State, the Laws and orders issued by the public authorities in their implementation thereof, observing public order, and respecting public morals is a duty incumbent upon all residents of the Sultanate.”⁹⁷¹ Even though articles 29, 30, and 31 protect

freedom of expression, the authorities often simply do not recognize these freedoms.⁹⁷² The result of the suppression of freedom of expression is that the people of Oman have less of a chance to make a difference.

Amnesty International reported on 20, January 2015, that the Omani human rights activist and blogger, Saeed Jaddad, who had been released on bail on 22 December 2014, was set to appear on trial on 25 January 2015. Saeed is on trial for, “undermining the status and prestige of the state.”⁹⁷³ It is reported that Saeed was held for five days without the ability to contact his family or a lawyer.

Oman ratified the GCC Security Agreement in January of 2014. HRW is concerned that the ratification of the GCC will undermine freedom of expression and has the power to infringe on privacy rights. This security agreement has the potential to give the gulf governments another legal justification to criminalize dissent.⁹⁷⁴ This is done through the use of vague laws that have the potential to convict individuals for “interference in the domestic affairs”.⁹⁷⁵

Women’s Rights

Article 17 of the Omani Constitution bans discrimination on the basis of gender. However, men are often granted privileged status. Women continue to face discrimination in law and practice. In December 2012, HRW reported that “Oman held its first municipal council elections with a total of over 1,400 candidates, including 46 women, competing for 192 seats. Four women were elected.”⁹⁷⁶ Among the Arab countries, Oman appears to be experiencing the greatest advances in women’s rights. While the climate for women’s rights is not perfect, there are some rays of hope. Alwane is a women’s organization to raise public awareness about women’s rights. Their hope is that women would be empowered to claim their rights once they recognize what those rights are. As women take advantage of these rights, Oman’s development will progress rapidly and more sustainably.⁹⁷⁷

Another ray of hope in women’s rights is The Extraordinary Women’s Conference of Oman that will be taking place from 15-17, March 2015. The conference is a networking experience for women from different walks of life living in Oman. The purpose of the conference according to their website is “For Oman to continually grow, the progress and development of women is crucial. The Extraordinary Women Conference addresses precisely these issues and understands the need to provide role models to inspire individual women from

all walks of life.”⁹⁷⁸ Examples like these give an idea of the ways that Oman is making inroads into expanded human rights for the women of Oman.

It was reported by UNHCR that in 2010 (and further updated in 30, January 2015) women made up 97% of literacy classes as well as 32% of adult education classes. The report states that “In general, older, illiterate women have difficulty owning property or participating in economic activities in the modern sector of the economy.”⁹⁷⁹ This explains the impetus of more women enrolling in literacy classes as it would directly affect their ability to own property according to this statement. However, women make up only 5.15% of the leadership and decision making process within the government.⁹⁸⁰

Analysis

As we understand the relative calm of Oman we can find clues into how we can promote similar programs and policies for improved human rights in the other countries of the MENA region. Even though Oman is currently experiencing far less turmoil than many of its neighbors, perhaps no other Arab nation has experienced as many rebellions towards external domination as Oman. So what brought about this current change to relative internal peace and cooperation with other regional and international actors, and what makes Oman an interesting case study in relative peace and reform?

In comparison to other Arab states politically, the smaller Gulf States appear to be more reform oriented and flexible.⁹⁸¹ Oman has experienced a rapid and peaceful modernization under Sultan Qaboos since the 1970’s. Two factors in particular solidified statehood: 1) British domination, and 2) the discovery of oil in the 1930’s. First, with the apex of British domination in the 19th Century, the British preferred to deal with predictable rulers and delineated territories. This includes the Perpetual Maritime Truce of 1853, which delineated fixed borders of the shaykhs’ familial rule. Second, the discovery of oil in the 1930’s has perhaps forever changed the dynamics of the Gulf States. The discovery of oil, as well as its international use in the 20th, and now the 21st Century, have contributed to the external interest of stable borders in the Gulf countries.⁹⁸²

In order to uphold stability and fixed borders, the United Kingdom and the US have had a strong economic and military presence in Oman. Both the United States and the United Kingdom contribute significant economic and military aid to the sultanate.⁹⁸³ The US State Department in

Oman reported that for the Fiscal year of 2014 the military aid came to approximately \$11 million, also in line with previous years. This aid took on the form of International Military Education and Training (IMET) and Foreign Military Financing (FMF).⁹⁸⁴ Since this aid is for military education and training, most of these funds do not actually benefit the Omani people. It is the oil revenues that Sultan Qaboos has used to build up the Omani society.

Despite the recent global recession, Oman's economy has steadily grown at a 5% average rate.⁹⁸⁵ With these revenues, Sultan Qaboos has prioritized education and health at even greater levels than richer neighbors.⁹⁸⁶ The outcome has led to relative public optimism. However, even the relative peace of Oman has the potential to splinter. The cracks in Oman's glowing reputation became apparent in the popular uprising in 2011 which called for more jobs, economic benefits and an end to corruption.

Therefore, a few notes of caution for the future of Oman's long term stability include: 1) succession and Oman's governance model, 2) the double-edged sword of raising incomes and education, 3) the persistent issues that drove the 2011 uprising, and 4) the weakness of the current international oil market. First, speculation has increased recently about the successor after Sultan Qaboos due to an announcement last November that the Sultan is receiving care allegedly for colon cancer.⁹⁸⁷ As Oman already resembles an unstable partial autocracy, one could imagine Sultan Qaboos' successor closing themselves off from the Omani elite and positioning themselves to gain further decision-making authority over national policy.⁹⁸⁸

Second, while the increase in incomes and education have bolstered public optimism, these same developments have the ability to create a politically aware sector of society that lacks the political vehicle to air their grievances due to the infringement of freedom of assembly and expression. Since independent political parties are banned, citizens may take to the streets again, especially in an unfavorable regime change with whoever succeeds Sultan Qaboos.

Third, since many of the issues that drove people to protest in 2011 have not been meaningfully addressed the same thing could happen again. Finally, due to the weak international oil market the prosperous Omani society may come into a season of economic hardship.⁹⁸⁹ If this were to occur, this would simply serve to exacerbate grievances against rights to freedom of assembly, freedom of expression and slow moving women's rights.

The appearance of women's organizations, such as Alwane Oman, give hope that change in women's rights is progressing in Oman. Alwane believes that with the use of innovative

technologies such as media and the internet, as well as the involvement of young people contributing new and diverse voices, that new supportive policies will be pursued by the women of Omani which would in turn stimulate change in the Middle East and North Africa.⁹⁹⁰ Along with Alwani, The Extraordinary Women's Conference also serves to bring women from different sectors of Omani society to the table to become aware of the rights that are currently available to women (such as Article 17 which states that all citizens are equal before the law and share the same public rights and duties - including women), and give space for these women and men to push for additional human rights. Organizations like these do not intrinsically contradict the religious convictions concerning gender in the region, but they create a networking opportunity for women to meet other women, whether they work in the home, or whether they work in the private or public sector.

Another positive development is the current shift towards "Omanization". This is the current trend to replace foreign workers with Omani workers in order to create further employment within the country. Omanization is a form of economic nationalism that employs and empowers Omani's to contribute to society instead of outsourcing and contracting out jobs from within Oman. With unemployment as of December of 2014 at 15%.⁹⁹¹ Omanization is a positive step in job creation to further build up the Omani society.

Omani law and forces create a culture of fear and silence that paralyzes the very individuals who would otherwise speak up and work towards reforms in Oman.⁹⁹² In regard to freedom of assembly and association, the main amendments that restrict freedom of assembly entail demonstrations that would pose a threat to the Sultanate and to public order. Since, Articles 29, 30, and 31 of Oman's Constitution (1996 (rev. 2011))⁹⁹³ protect the freedom of expression and the press, loopholes, such as the contradiction inherent in Article 40, as well as the pervasive language in Oman's Constitution upholding rights as far as they support "public order" should be clarified and rephrased to allow for peaceful freedom of expression and assembly. The result of the suppression of free expression is that the people of Oman have less of a chance to make a difference.

Recommendations

- We urge the Omani sultanate to introduce an amendment to address the loophole inherent in Article 40 of the constitution, as well as clarify the language upholding “public order”.
- “Oman should immediately release everyone detained solely for exercising their rights to freedom of expression, association, and peaceful assembly.”⁹⁹⁴
 - This includes, but is not limited to, the release of Dr. Talib al-Maamari for exercising his right to freedom of assembly.
- Support and promotion of organizations such as Alwane within Oman in order to promote awareness of rights available to women in Oman.
- We urge Oman to uphold habeas corpus, allowing those in detention swift representation by a lawyer to protect the individual’s rights.
- Continue the process of “Omanization” in order to create more jobs within the Omani population.
- Follow through on the United Nations Special Rapporteur’s recommendation that the Omani government “ensure the safety of all these individuals and that they will not be subjected to any form of reprisals – including threats, harassment, punishment or judicial proceedings, as required by Human Rights Council Resolutions 24/24 and 12/2 and in the Terms of Reference for country visits by Special Procedures of the Council.”⁹⁹⁵

YEMEN

Tiffany Butler

Human Rights Concerns:

- Freedom of Movement
- Impunity
- Right to Life, Liberty, Personal Security
 - *AQAP in Yemen*
 - *The United States*
- Right to Water and Adequate Nutrition
- Women and Children's Rights

Background

Yemen's history includes powerful and prosperous kingdoms, with centers of civilization including the fabled Kingdom of Saba, ruled by the Queen of Sheba of biblical quranic fame.⁹⁹⁶ This early, prosperous history is particularly striking against Yemen's current sociopolitical and economic realities. Systematic corruption predating the 2011 uprising, still marks Yemen's society and politics. Gelvin says, "Making corruption all the more grating is Yemen's status as the poorest state in the Arab world."⁹⁹⁷ Both external and internal forces have shaped the current sociopolitical climate riddled with systemic corruption, poverty, and rampant human rights concerns.

In the 1500's the Ottoman Empire absorbed part of Yemen. North Yemen did not become independent of the Ottoman Empire until 1918. The British, who set up a protectorate area around the southern port of Aden in the 19th century, withdrew in 1967 from what became South Yemen. Since the 1960's, Yemen has been a hotbed of international struggle.⁹⁹⁸ In 1970, the northern government of the Yemen Arab Republic (YAR) was officially recognized by Saudi Arabia, and soon after the People's Democratic Republic of Yemen (PDRY), otherwise known as South Yemen, adopted a Marxist orientation.

In the 1970's and 1980's Moscow had an interest in South Yemen for both offensive and defensive reasons. The USSR's involvement in Yemen began in the Soviet's interest in the Ogaden War between Ethiopia and Somalia of 1977-1978.⁹⁹⁹ The USSR wanted to support the Marxist regime brought about by the Mengistu's coup during the war. In response to the Eritrean secessionists, the USSR feared that Saudi leadership could take control and create an anti-Soviet sentiment in the area. To counter any potential coalition, the USSR proposed a Marxist coalition to include Ethiopia, Somalia, the YAR and Djibouti.¹⁰⁰⁰ The YAR ultimately lost its Soviet

sponsor in 1990, and the decision was made to unite with the North. The two countries were formally unified as the Republic of Yemen in 1990. A southern secessionist movement, and a brief civil war in 1994, were quickly subdued.¹⁰⁰¹

Prior to the Arab Uprising in Yemen, several actors have challenged the central government in Sana'a. These include the Houthis in the northwest, al-Qaeda in the Arabian Peninsula (AQAP), the Joint Meeting Parties (JMP) - a coalition of opposition parties, a Southern Movement that still protests the union with the north, as well as various tribal forces in Yemen.¹⁰⁰²

Since 2004, there has been extensive fighting between the allegedly Iran-backed Houthis,¹⁰⁰³ a Zaydi Shia minority, and the government in the northwest.¹⁰⁰⁴ The Houthis ruled a 1,000-year kingdom in Yemen until 1962. The Houthis claim to be fighting against government corruption and marginalization of minorities. In September of 2014, the Houthis took over the capital of Yemen, Sana'a. On 22 January 2014, president Hadi, the Prime Minister, and the cabinet resigned after Houthis took over the presidential palace, demanding a greater share of power in the country.¹⁰⁰⁵ Al Jazeera reported on 20 February 2015 that a UN mediator reported that a "people's transitional council" has been established to navigate the country out of the current political crisis.¹⁰⁰⁶

Al-Qaeda in the Arabian Peninsula (AQAP), a non-state actor within Yemen, has been recognized as a regional and international terrorist organization that has been accused of various human rights violations.¹⁰⁰⁷

The primary goals of AQAP are consistent with the principles of militant jihad, which aims to purge Muslim countries of Western influence and replace secular "apostate" governments with fundamentalist Islamic regimes observant of sharia law.¹⁰⁰⁸

The AQAP began to build up their operations in Saudi Arabia. However, their operations were weakened in Saudi Arabia through counter-terrorism operations. Within Yemen, the AQAP has become almost totally independent of the original al-Qaeda.¹⁰⁰⁹ The 2011 uprising in Yemen gave the AQAP the opportunity to expand their activities beyond terrorism and to capture further territory within Yemen.¹⁰¹⁰ Even though the AQAP operations in Saudi Arabia have been weakened, the largest donations towards the AQAP in Yemen come from Saudi Arabia.

The AQAP in Yemen has become a number one concern for the U.S. government. Washington has been conducting drone strikes against the AQAP in Yemen for some time. U.S.

drone strikes are the cause of various human rights violations, and the U.S. drone strike operations still remain largely secretive.

Regionally, Saudi Arabia plays an important role in Yemen. Saudi Arabia is the primary sponsor of the Gulf Cooperation Council (GCC), to which Yemen is not a member. However, the initiatives of the GCC have been a cornerstone of Yemen's political order since the 2011 uprising in Yemen.

Similar to many of countries of the MENA region, Yemen signed the Rome Statute in December of 2000. The Rome Statute established the International Criminal Court (ICC), which when ratified has the power to exercise its jurisdiction over individuals accused of the most serious crimes of international concern.¹⁰¹¹ Yemen has yet to take steps towards ratification of the Statute. In light of the current government takeover by the Houthis, it is difficult at this juncture to say if this past commitment will indeed be upheld.

Freedom of Movement

Since 2010, 337,000 migrants and refugees have entered Yemen from North Africa. These migrants and refugees are attempting to make their way to Saudi Arabia. While in Yemen, these migrants and refugees are often detained and exploited in human trafficking operations. In 2013, the number of migrants and refugees had dropped when Saudi Arabia cracked down on undocumented migrant workers, however, numbers of persons exploited by human trafficking have begun to rise again since 2013. The main hub of human trafficking in Yemen takes place in the border town of Haradh. It is estimated that upwards of 80% of the economy comes from human trafficking.¹⁰¹²

Often these migrants are taken to camps in and around Haradh and detained and tortured in order to extort money from family members. At times these tortures end in death. Several human rights violations include, detainment without legal right, torture and beatings, extortion, rape, and illegal human trafficking. These illegal operations are held together by all levels of officials within various ranks and positions. Involvement range from taking bribes to turn a blind eye, to torture, rape and the trafficking of the migrants and refugees for black market, economic gain.¹⁰¹³

In May of 2014, HRW reported,

In the coming weeks Yemen's parliament is scheduled to debate an anti-trafficking bill that could enhance the protection of migrants and make it easier to prosecute traffickers and complicit officials. The proposed

law should conform to international standards by criminalizing human trafficking. The law should also increase the government's capabilities to detect and prevent trafficking at the borders.¹⁰¹⁴

This bill was submitted to the Yemeni parliament by September of 2014. However, the bill still requires further review before it is enacted.¹⁰¹⁵ In the fight against human trafficking, and for human rights in general, impunity has been one of the largest stumbling blocks to enduring justice in many regions of the world, including Yemen.

Impunity

For officials and security forces involved in Yemen's torture camps there are no recorded cases of disciplinary or legal action taken. There is little information available concerning the raids from March to May of 2014 of these trafficking camps. One of the main barriers to the continuation and full process of the raids has been to supply the food and housing for migrants after their liberation from these camps. Therefore, the camps that have been raided still continue to operate after the raids.¹⁰¹⁶

In February of 2012, the former president, Ali Abdullah Saleh, left the presidency when an immunity deal was brokered with the Gulf Cooperation Council and largely backed by the United Nations Security Council. In this immunity deal, Saleh was not held responsible for human rights violations committed during his 33 year rule. It is this type of immunity that shields individuals and groups from being held responsible for sometimes serious human rights violations. This type of immunity also sets a precedent for potential violators to continue to perpetuate violent crimes of humanity within Yemen as well as other countries of the world. HRW says, "The immunity law violates Yemen's international legal obligations to prosecute those responsible for serious human rights violations, including crimes against humanity, war crimes, torture, enforced disappearance, and extrajudicial execution."¹⁰¹⁷ The removal of impunity laws would signal positive human rights changes within Yemen. If impunity laws are to be upheld, it is the responsibility of the country to recognize the injustice done, and to itself make reparations to the communities and families that have had their human rights violated.

In May of 2014 the government of Yemen was encouraged by HRW to reassess its stance towards impunity in the ratification of the Rome Statute and to establish a commission to investigate violations committed by the government during the 2011 uprising.¹⁰¹⁸ As of the writing of this report, Yemen has still not signed the Rome Statute.¹⁰¹⁹ With the current turnover

in the Yemeni government, it is an important time for the international community to encourage that the new Houthi government be persuaded to ratify the Rome Statute.

On 15 December 2014, Khaled al-Junaidi, died allegedly of a gunshot wound after the Yemeni Special Security Forces had taken custody of al-Junaidi. Yemeni authorities claim that a committee has been assigned to investigate the death, however, no arrests have yet been made.¹⁰²⁰ This is not an isolated instance. Yemeni security forces have frequently been indicated in the death and illegal detention of citizens, and similarly arrests have been elusive, and investigative findings have been opaque. Along with the removal of impunity, the Yemeni Security Forces should be held to a greater level of transparency within investigations.

A model to imitate would be the International Commission against Impunity in Guatemala. This commission has strived for 3 initiatives:

1. First, CICIG should investigate the existence of illicit security forces and clandestine security organizations that commit crimes that affect the fundamental human rights of the citizens of Guatemala, and identify the structures of these illegal groups (including the links between such groups and State officials) as well as their activities, operating modalities and sources of financing.
2. Second, CICIG should help the State to disband clandestine security structures and illegal security groups, and promote the investigation, criminal prosecution and punishment of the crimes committed by the members of such groups.
3. Third, CICIG will make recommendations to the State of Guatemala regarding public policies to be adopted—including the necessary judicial and institutional reforms—to eradicate and prevent the re-emergence of clandestine security structures and illegal security forces.¹⁰²¹

HRW believes that the imitation of these initiatives would create an atmosphere within Yemen which would set a precedent for greater human rights of the Yemeni citizens. If government security forces are not held to accountability, how will the common citizen be held to such a standard?

Right to Life, Liberty, Personal Security

AQAP in Yemen

Al-Qaeda in Yemen has perpetuated violations against humanity in violating the right to life, liberty and personal security. Al-Qaeda borrows their same extremist ideology from Bin-Laden. Groups like AQAP in Yemen become noteworthy in the discussion of human rights when they incite violence and terror upon others, therefore violating the right to life, liberty and personal security. For example, al-Qaeda in Yemen has most recently been tied to the Charlie Hebdo attacks in France. CNN reported that the AQAP in Yemen staged a suicide bombing of a Houthi rally in October of 2014. The bomb killed 50 people. The AQAP in Yemen also released

a video that showed 14 Houthis being executed. The AQAP has also been tied to the Boston Marathon bombing, as well as the “underwear bomber,” Umar Farouk Abdul Mutallab, who attempted to blow up an American jetliner in 2009.¹⁰²² In response to the actions of the AQAP in Yemen, the U.S. has ordered drone attacks on its members in Yemen.

The United States

Independent research groups have reported 23 U.S. drone strikes in Yemen from January to November of 2014.¹⁰²³ A main point of issue is that these drone attacks remain largely secretive. The U.S. has not released transparent, comprehensive reports to assess the efficacy of the use of drones in Yemen. The question remains what percentage of those targeted are indeed members of the AQAP of Yemen. Evidence has surfaced that some of the attacks have been committed against civilians. In December of 2013 a U.S. drone struck a wedding procession killing 12 people. The Yemeni government paid out more than 1 million dollars to the victims, which they have only done in cases of casualties against civilians in the past.¹⁰²⁴

Right to Water and Adequate Nutrition

Yemen’s capital, Sana’a, is set to become the first capital in the world to run out of water by 2040. Population growth has led to an increase in urban living. Resources have not been allocated effectively by the Yemeni government to safeguard water for every citizen.¹⁰²⁵ Along with poor tourism and stagnant economic growth, the 2015 Index of Economic Freedom names water shortages as one of the causes that undermines foreign investment.¹⁰²⁶

Under the Universal Declaration of Human Rights, Article 25,

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.¹⁰²⁷

To deny citizens the right to adequate availability of the necessities of life, including water, is a violation that must be addressed.

Some Yemenis farmers grow a crop called qat. Qat is used for medicinal purposes and is chewed as a stimulant to achieve the sensation of euphoria. The cultivation of qat consumes quite a bit of water. Qat is banned in many other countries, and critiques argue that water conservation

could be possible by banning the qat crop in Yemen. However, a more realistic approach is simply for water to be used more efficiently among qat farmers.¹⁰²⁸

Women and Children's Rights

HRW has urged legislation to set a minimum marriageable age for women. Classically social factors, as well as economic pressure on families, has been fertile ground for child marriages within Yemen. It has been reported that some girls in Yemen have been married as early as ten years old. The main concern is that the young girls are not physiologically ready for intercourse and childbirth, which incidentally having led to the reported death of young newlyweds. Early marriages have been of particular concern in the northern village of Hajja.

Mi'raj Islamic News Agency reported on Sunday, 26 January 2015, that on January 24, a sentence has been included in the new constitution setting the minimum age of marriage at the age of 18. The news agency states that,

The new draft constitution has yet to be approved by the powerful Al Houthi movement which over the past week held the government hostage demanding larger representation in the government. However, the movement has not shown any opposition to setting a minimum age for marriage.¹⁰²⁹

Analysis

The Houthis took over the capital of Sanaa four months ago. Demanding constitutional changes that would increase Houthi power. As of 22 January 2014 the president, Abd Rabuh Mansur Hadi, the prime minister and the cabinet allegedly resigned after Houthis took over the presidential palace demanding a greater share of power in the country. Rueter reported on 21 February that Hadi had been able to escape house arrest by his Houthi captors and fled to Aden. In Aden, Hadi reported to Al Jazeera that he still remains president and that he continues to be committed to the 2012 transition plan to democracy from the decades-long rule of former president Ali Abdullah Saleh. As part of the transition plan, Hadi says he wants a new meeting for a national dialogue to draft a new constitution.¹⁰³⁰

The situation in Yemen is changing day by day, and minute by minute. Therefore, of paramount importance at this juncture is the stabilization of the country and the establishment of a legitimate government based on the rule of law. Human rights within Yemen will continue to spiral out of control unless stability is reached. What remains to be seen is if Hadi will indeed return to power, or if the new Houthi led government will remain in control. In its search for

stability, Yemen needs the assistance of regional powers such as Iran, Oman, the GCC, the Organisation of Islamic Cooperation (OIC), and the Arab League.

Iran should be called on to reign in their support for the Houthis by withholding weapons, money and training.¹⁰³¹ With the cooperation of Iran and other regional powers to broker a proportional representation government so that further instability can be avoided. This calls for a quick response from regional and international actors. Considering the sectarian conflicts within Yemen and violations of minority human rights, a proportional representation would ensure that minority groups receive a measure of representation which is proportionate to their electoral support.¹⁰³²

As of this writing (February 2015), reports have not become public as to any official changes to Yemen's constitution. However, the Houthis have called for several changes to the constitution. Two changes referenced are:

1. Several of the constitutional changes sought by the Houthis would emphasize the characteristics of Yemen as a federal state and push for more inclusion of diverse groups.
2. The Houthis call for marginalized political groups to have the right to partnerships in state institutions and fair representation, according to the text of the tentative agreement.¹⁰³³

In the 2015 Index of Economic Freedom it was reported that Yemen's judiciary branch was only nominally independent of the executive branch, making it susceptible to corruption. As a new government moves forward it should work to strengthen Yemen society and justice. The new government should reexamine its separation of the different branches of government. In addition, the auditing and investigative bodies should be adequately independent from the executive branch to foster impartiality as the new government is reconstructed.¹⁰³⁴

Recommendations

Iran

- Discontinue support of the Houthis by stopping the flow of weapons, money and training, and support the creation of a proportional representation government in Yemen.

Regional Actors

- Oman, the GCC, the Organization of Islamic Cooperation (OIC), and the Arab League should apply pressure to Yemen to create a proportional representation government.

Yemeni Government

- Yemen should be urged to organize a referendum to ask their people if they wish to live again in two countries in order to avoid a civil war.
- Yemen should imitate the impunity model of the International Commission against Impunity in Guatemala
- The new government could gain legitimacy by ratifying the Rome Statute and are urged to do so.
- Identification and evaluation of what worked in 2013 when the Saudi government cracked down on undocumented workers coming from Yemen. If Yemen had a proportional representation government its Sunni part could talk to Saudi Arabia to arrange for the Saudi government to take legislative steps to identify and report undocumented workers.
- Request aid from the UN and other gulf countries for financing and resources to supply safe housing, and the deportation and return of victims of human trafficking to their homes (wherein they are not in direct danger of returning to their homes).
- An independent task force should be assigned to examine Yemen's use of safe drinking water. Laws should be introduced which protect sources of safe drinking water.
- Encourage the reorganization and reordering of the Yemeni military in order to incrementally discontinue U.S. led drone strikes.
- The new government is encouraged ratify a sentence proposed in the new constitution setting the minimum age of marriage at the age of 18.

International Community

- The U.S. and the EU should continue diplomatic dialogue with the new Houthi led government as well as regional actors to encourage a proportional representation government. At this time the international community should be encouraged not to retreat from Yemen, but to create new bonds of diplomatic cooperation and understanding.

CONCLUDING REMARKS

Tiffany Butler

Our world has been through a lot in this last year. Within the MENA region, the daily news talks about deepening human rights concerns in Syria, Egypt, Lebanon, Israel, Palestine, and Yemen, to name a few. At the same time, the newspapers talk about the protests for greater awareness about discrimination, diversity and rights in Ferguson, the crisis in Ukraine and the civilians caught in the crossfire, as well as China's treatment of the Uighurs in Xinjiang.

In other words, the world and the protection of human rights and freedoms seem to be in crisis everywhere one looks. So what, if anything, makes the situation in the MENA region different? In the MENA region many of the political institutions are weak and there is often a blurred line between the different arms of government. During the 2011 uprisings, the people under these governments wanted more opportunities for financial security, jobs, dignity, and physical safety - in other words, basic human rights. The people who took to the streets in 2011 weren't just calling for new governments, they were calling for whole new systems that would acknowledge their rights.¹⁰³⁵

Within the current model of state building, many of the states in the MENA region are young and some would appear to be stillborn. As we have discussed in this report, much of this fragility was predated and aggravated by the state building of other countries near and far; exerting soft and hard power within the region. In light of the weakness of many states in the MENA region, before 2011 many predicted that the demise of regimes in the MENA region would come at the hands of Islamic extremists or disgruntled members of the regime.¹⁰³⁶ Many were pleasantly surprised by the often peaceful protests of the 2011 AU and the demonstrators' demands for a shift towards democratization.¹⁰³⁷ However, the aforementioned analysts may be nodding their heads claiming that the current unrest in the region is exactly what they expected to see. What we hope to convey in this report is that the reader cannot overlook the human element involved in popular uprisings.¹⁰³⁸ The protesters' peaceful nature in the AU was a surprise in some respects. However, while the current crisis with the Houthi takeover of the Yemeni government, the crisis in Libya, and the continuing conflict in Israel/Palestine, may be what many analysts expected to see before the 2011 uprisings, one cannot overlook the seeds of democracy that have been planted in the MENA region through these uprisings. These seeds will

not be easily uprooted. The 2011 Uprisings revealed that people in the region recognize their lack of human rights, civil rights and justice, and therefore, voiced their desire for them.

So where can the MENA region go from here? Religious infighting and extremism has proliferated throughout the region and exacerbates human rights violations. The Amman Message should be utilized by Islamic nations. In the Amman Message, 200 scholars agreed about some key issues what Islam is and what it is not. Ultimately, they specified three points:

1. They specifically recognized the validity of all 8 Mathhabs (legal schools) of Sunni, Shi'a and Ibadhi Islam; of traditional Islamic Theology (Ash'arism); of Islamic Mysticism (Sufism), and of true Salafi thought, and came to a precise definition of who is a Muslim.
2. Based upon this definition they forbade takfir (declarations of apostasy) between Muslims.
3. Based upon the Mathahib they set forth the subjective and objective preconditions for the issuing of fatwas, thereby exposing ignorant and illegitimate edicts in the name of Islam.¹⁰³⁹

In addition, we have examined in this report specific recommendations that we believe will bring about further human rights to the MENA region. Regionally, there are many similar concerns that we have discovered.

In the Maghrib and Libya region, in order to ensure the rights of displaced Sahrawi civilians throughout Western Sahara, Morocco, and Algeria, the UN should extend the United Nations Mission for the Referendum in Western Sahara (MINURSO) mandate to include a human rights monitoring component. In Libya, the power vacuum post-Qaddafi has led to the spread of the extremist group ISIL in Libya. It appears that outside intervention is necessary to curb the expansion of ISIL territory.

In the Levant, particularly in Iraq and Syria, the existing U.S. led airstrikes should take every necessary step to prevent civilian casualties. Washington should abide by all UN regulations on weapons used, as well as avoid airstrikes in highly populated zones regardless of potential damage. Further, in the Levant we recommend that members of the regional and international community should help alleviate the burden of hosting Syrian refugees by increasing financial humanitarian aid and expanding domestic resettlement programs, we recommend that the governments of the Levant increase the right to freedom of expression. Harsh consequences and even jail time for individuals expressing their frustrations with the current government has led to fear and silence. This in turn cuts off the voices of those that could affect positive change in the states of the Levant. Finally, we also encourage Israel to listen to the

international communities' grievances concerning the current crisis in Israel/Palestine, to take steps to normalize relations with the Palestinians, and to adhere to the UDHR.

In the Arabian Peninsula and the Gulf region, we urge responsible stewardship so that International coalition military aid to Iraq should not end up in the hands of any paramilitary forces. We recommend that the coalition should instead focus on assisting the Iraq national army to become a humane fighting force. We also urge the U.S. and the EU to continue diplomatic dialogue during the formation of the new government in Yemen. The international community should be encouraged not to retreat from Yemen, but to create new bonds of diplomatic cooperation and understanding. We also recognize the efforts of local women's groups within the Gulf States, in particular Oman, and we urge regional women's rights groups to partner with Iranian activists to allow for increased cooperation and resources for all parties and to ensure that success in one nation can be matched in neighboring nations. Finally, an independent monitoring agency should be established to ensure labor regulations are strictly followed in Gulf Cooperation Council (GCC) states. The GCC should develop a standard contract for all migrant workers for its member states, as well as reform the ratified Joint Security Agreement in order to guard freedom of expression and privacy rights.

All OIC states are urged to support the OIC IPHRC in order to allow for greater human rights in the region. The governments and monarchies should receive the input from their own people, and they should allow for peaceful freedom of expression and assembly, as well as be open to the recommendations of the international community in order to bring an end to internal crisis and to start working towards perpetual stability. Regional actors should be reminded that internal fragility and conflicts have only served to open the door for opportunists, such as al Qaeda.

International actors should reexamine how their political and economic influence in the region is affecting the level of human rights. Foreign powers often neglect the brutality of oppressive regimes as long as the regimes fit their economic and political interests. For, example the Prime Minister of Iran, Mohammad Mosaddegh, was ousted by Western powers in 1953 because he was democratically elected on a platform to nationalize oil. These Western powers installed Mohammad Reza Shah, because he was willing to privatize oil. However, the Shah oppressed the people of Iran. This example shows that as long as a regime supplies affordable oil, international actors turn a blind eye to human rights violations.

Oil and water are limited resources that must be stewarded responsibly among the world's population. It is time to invest in the research and development of alternative forms of energy. The international community has to examine how we can increase accountability for oppressive economic practices, and instead to push for a living wage for all.

In order to improve the living conditions of people within the MENA region, and around the world, the UN should create a global standard for a living wage. The living wage is recognized in at least five declarations on human rights, including the International Labor Organization. This can be done by taking into consideration data realities in developing countries. This will require resources and expertise, and it must involve regulations on states and businesses to curb the use of power when it comes in conflict with human rights.¹⁰⁴⁰

In conclusion, no country is exempt from upholding the dignity and worth of its citizens by implementing universally recognized human rights. There must be a limit to the power of the state, and all states of the world must be called on to uphold human dignity and autonomy.¹⁰⁴¹ While the task of identifying universally recognized human rights seems to be one of the more difficult questions of our time, it is a conversation worth having. The benefits of such a conversation pays dividends in lives; not just lives lived with barely enough to survive, but enough to thrive.

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