HUMAN RIGHTS AND POLITICAL REPRESSION

Human rights in the Maghreb and Mashriq

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Two destroyed tanks in front of a mosque in Azaz, Syria. Photo by Christiaan Triebert/Flickr

Assessing the state of human rights in two regions the size of the Maghreb and Mashriq entails analysing disparate societies stretching from the Atlantic coast of Mauritania and Western Sahara to the Persian Gulf. While Israel is not considered part of the Mashriq on cultural grounds, our report would be incomplete if we omitted any reference to the impact of the Israeli-Palestinian conflict. Accordingly we have included Palestine in this section.

1. Human rights infringements

Political regimes in the Maghreb and Mashriq are a relatively uniform collection of dictatorial governments or low-intensity democracies. Their very existence is in itself a violation of the human right to political participation. Generally speaking, it is not only the right to vote and stand for election which is infringed but also other civic and political rights together with other personal freedoms, as will be discussed in the next section. As in other regions around the world, where the rule of law is weak or non-existent the absence of legal certainty means that over and above legal systems featuring provisions running counter to human rights, officials or simply private individuals also violate the human rights of others on their own initiative.

In spite of the considerable variations across countries and the type of human right we are addressing, violations of women's rights may stem from established cultural traditions and

legislation. These are not mutually exclusive sources. There is nothing unusual about customs rooted in the history of a society becoming institutionalised as part of a country's legal system. Likewise, preserving traditions generally deserves to be protected as part of the heritage of human cultural diversity. Yet notwithstanding this principle, human dignity ought to be safeguarded in preference to any social custom. Hence no legal sheltering of traditions which violate human dignity is acceptable.

However, the state in the Maghreb and Mashriq is far from being a social transformer working towards greater tolerance or equality. On the contrary, state power often draws on these oppressive traditions to win popular support. This results in the preservation of traditions such as female genital mutilation, child marriage and the husband's right to punish his wife.

Domestic social tensions lead to a climate of hostility between the groups bound up in them. Ethnic and religious diversity often becomes a breeding ground for social tensions which may either spiral into violence or enforce legislation oppressing one part of the country compared to the other, thus enshrining discrimination as a matter of law.

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Social rights in both regions are breached for the majority of the population who are deprived of health services, basic infrastructure, sanitation and other conditions. The existence of poor states which have insufficient economic resources to become welfare states does not negate the fact that at least minimal wealth redistribution is always possible. There are also endogenous factors at play in the Maghreb and Mashriq including widespread domestic corruption and the perpetuation of economic and social systems securing the interests of one or more elites, such as a number of families, the army or a religious caste.

Likewise, the two regions have seen more than six years of armed conflict in Yemen, Iraq, Syria and Libya. At present, at least Yemen and Libya have to be considered as failed states in their own right where there is no authority wielding power within their borders. Human rights violations in the form of infringements of humanitarian law are frequent and daily occurrences in these wars.

2. Specific human rights violations

2.1. Discrimination, civil and political rights and freedoms

The states in the area can be divided into: a) authoritarian monarchies, b) dictatorships, c) low-intensity parliamentary monarchies, d) formally democratic republican regimes, e) democracies with consolidation challenges, and f) failed states. Democratic means a regime in which the outcome of an election is neither predetermined nor vulnerable to major fraud. The consolidation challenges referred to here concern security along with employment and economic opportunities for their citizens. In this context, Israel is an exception as the only established democracy with an independent and strong judiciary. This year's repeat elections have not weakened its institutional stability.

The Saud monarchy is the ultimate expression of monarchical authoritarianism. Moves over the past two years towards a purported relaxation of fundamentalism, such as allowing the country's women to drive, do nothing to ease the climate of widespread political oppression. Saudi Arabia, Oman, the United Arab Emirates and the other Persian Gulf monarchies do not allow for a body of civic and political rights which meet minimum international human rights standards. Freedom of speech, press, assembly and association are severely restricted. The same is true for freedom of religion. Only in the United Arab Emirates does the Christian minority have some legal coverage for the public practise of their faith. Similarly, political participation is also confined to a number of more or less official parties. In the case of the Al-Riyadh and Muscat regimes, all political power is vested in the royal family, defined more broadly than in European monarchies as a clan made up of thousands of people.

In the case of Jordan and Morocco, while their monarchies have progressively ceded power to parliament, there is still a long way to go in entrenching civic freedoms. The regimes in Egypt, Mauritania, Algeria and Syria are forms of authoritarianism under the relative guise of democratic formalities. By contrast, Iraq, Lebanon and Tunisia are hampered in their efforts to consolidate democracy by economic recession and high unemployment rates. These factors make it impossible to achieve the minimum level of prosperity needed for social peace without which democracy cannot be consolidated in society.

In lockstep, the human rights of specific ethnicities or religious denominations are infringed. Syria and Bahrain are good examples. Although the former is majority Sunni, the political and military elite headed by the Assad family clan are Shia. The position is reversed in Bahrain; with a majority Shia population, the royal family and the financial and political elite belong to the Sunni creed. In geopolitical terms, these situations should be analysed against the backdrop of rivalries between Saudi Arabia and Iran. Notwithstanding the importance of this context, as human rights advocates we would stress our condemnation of the violation of the right to political participation on grounds of religious discrimination.

Other religious and ethnic groups or minorities whose rights to political participation, the free practice of their faith and other civic and political rights are violated include Christian minorities in the Mashriq. In particular, Egyptian and Syrian Christians have become

targets of terrorist groups in recent years. In a similar situation are the Tuareg peoples of Algeria, whose government has made no effort to integrate them or ensure their political integration into the state.

Special mention should be made of the violation of procedural rights. Access to a freely chosen lawyer and privacy in devising defence strategy or the presentation of evidence are not respected. There are often long periods of pre-trial detention and also detentions where the person may be held for an extended time – between days and months – until charges are brought. Some legislation in the region also allows for detention or house searches without the authorisation of a judge. Special courts are proliferating; in cases such as Syria, Iraq, Saudi Arabia and others, there is an unjustified extension of military jurisdiction which has the power to prosecute any crime considered a threat to national security. Furthermore, public disorder and so-called crimes against morality and/or against faith are left to other special courts. It cannot be overlooked that Sudan, Saudi Arabia, Qatar, the United Arab Emirates and Yemen all have in place corporal punishment penalties, consisting mainly of a certain number of lashes. Often these punishments are additionally degrading for the moral integrity of the person concerned as they are carried out in public. The aim is to humiliate the offender. When the number of lashes handed down is too high to administer the entire sentence in a single day since the risk of killing the prisoner would be almost assured, it is customary to split the sentence, giving the offender time and, if need be, medical treatment to recover with the ensuing increase in their psychological distress. The case of the Saudi blogger Raif Badawi epitomises the imposition of a corporal punishment sentence in these terms.

When discussing instances of ethnic discrimination or tension, we cannot leave out the cases of the Palestinians and the Saharawis. In 2020, Israel has kept in place its settlement policy in the West Bank. This initiative of Prime Minister Netanyahu’s government compounds the breakdown of the Camp David Accords and the resulting international status quo seeking the two-state solution. At the same time, living and health conditions in the Gaza Strip have worsened. Israel’s armed forces and its government continue to conduct operations in this area which may constitute infringements of international law and even entail international criminal responsibility for senior members of its government under the Rome Statute. Although Israel does not recognise the jurisdiction of either the International Court of Justice or the International Criminal Court, it should be borne in mind that, at least theoretically, the UN Security Council can extend the purview of these jurisdictional venues to a country which does not recognise them, as was done with Sudan in the aftermath of the genocide in Darfur.

Ethnic and religious tensions are also a source of hostility which can lead to intra-social violence, escalation of tensions or even armed conflict. Of course, there are other issues at play, yet conflicts such as the ones in Syria, Libya and Yemen and the speed of Daesh’s expansion in Iraq shortly after the proclamation of the Caliphate can be explained by pre-existing ethnic and religious animosities. It should also be borne in mind that when war breaks out, ethnic tensions may be a risk factor for genocide or war crimes.

Without constructive action by states to implement a climate of greater tolerance and

fostering of religious and ethnic groups historically discriminated against, it does not seem possible to overcome existing social tensions. As long as they persist, the potential for further escalation of violence and conflict will remain unchanged.

2.2. Migrants, displaced persons and refugees

In the regions studied, a clear distinction can be drawn between migratory flows in transit, mainly on their way to Europe, and settlement migrations. Examples of the former are the migratory movements across the Mediterranean and the embarkations on the Atlantic coast bound for the Canary archipelago. Most of the members of these migratory groups hail from Sahel Africa, although it is not uncommon for them to come from further afield.

By contrast, the Persian Gulf monarchies, especially the United Arab Emirates and Qatar, are destinations for migrants from Asia, mainly India and Pakistan. Generally speaking, they are young men who will spend between five and ten or fifteen years in the Arabian Peninsula with the aim of earning income to send back to their families and often to save up capital with which to return home. The living and working conditions of these people have been condemned by a large number of international organisations including Amnesty International. Without access to healthcare or decent housing and exposed to harsh wage discrimination, they are a source of cheap labour for the construction industry and also for the primary sectors, in particular fisheries and livestock farming. Apart from low wages compared to the natives' salaries, their working conditions and long working hours, standing at more than ten a day on average, constitute widespread exploitation with the complicity of the authorities in these countries. In spite of the lack of transparency of these states, which makes it impossible to ascertain to what extent criminal gangs linked to human trafficking are involved, the evidence pointing to their involvement in migration from the home country to the Persian Gulf is undeniable.

In addition to the movements of internally displaced persons in the three countries in civil conflict, Syria, Yemen and Libya, there is also the displacement of the Palestinians. The settlement policy pursued by Prime Minister Netanyahu's government is increasingly pushing them into a corner in the West Bank. The displaced persons' living conditions breach their rights to health and hygiene along with their right to property and freedom of movement.

Refugees face a similar situation. Chad, Turkey, Lebanon and Jordan are currently the main recipients of people fleeing the armed conflicts in Syria and Libya. Yemenis account for a smaller percentage of the total number of refugees due to the geographical difficulty of leaving their country. It should be noted that neither the Sultanate of Oman nor the Kingdom of Saudi Arabia allows them to cross their borders. There are also some Afghans and Pakistanis among the refugees. Although it is more common for these people to stay in Iran, once again the country with the most refugees in the world according to the United Nations, they sometimes cross the Shiite Islamic Republic's territory to try to make it to Europe.

In Iraq, the crisis resulting from the civil war with Daesh and the country's economic meltdown make it difficult to distinguish between migrants driven by economic hardship and those fleeing violence. The case of Eritrea is very similar given the brutality of its regime. In recent months, neighbouring Ethiopia has experienced turmoil. The Addis Ababa government's response to rebel movements in Tigray in the north of the country has shocked the African Union's supranational bodies which raise concerns about the possibility of genocide. At all events, the region's population is beginning to join the migratory flows seeking to reach Europe. In their case, this is along two particularly dangerous routes: through the Sahel to the Mauritanian coast or through Chad and Libya to the Mediterranean coast.

For yet another year, EU member states have been unable to come up with a joint response to these migratory flows. No matter how often they are mentioned in political discourse, development aid in the countries of origin has not been translated into any tangible action plan. A joint force to rescue migrants crossing the sea in unsafe boats has not been set up either. Likewise, there are no policies to tackle the criminal networks which economically exploit and often physically and sexually abuse people trying to reach Europe.

As for European countries, the situations in the refugee camps in Greece and Italy breach a number of human rights, especially those of children; in particular, the right to basic education is inescapably infringed as soon as their life in the refugee camps becomes never-ending. Once again, violation of the right to asylum needs to be brought up, not just in terms of granting it but also the mere chance to seek it. In recent months, the pictures of the fire in the Moria camp on Lesbos reminded the world of the circumstances in which refugees are living despite the fact that European states have the financial resources to provide them with more dignified living conditions. The European Court of Human Rights, as noted for instance in its judgement in the case A.A., S.M., M.M. and A.B.M. –the applicants' initials– against Greece, contends that all conditions which "could have affected their physical and mental wellbeing" should be considered "degrading" under the European Convention on Human Rights. The living conditions of refugees in Europe rarely fail to meet this definition.

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By way of conclusion, we would note that even though migrants and refugees are mostly passing through the Maghreb and Mashriq regions, they may stay in these areas for months or years in particularly degrading and dangerous conditions for their integrity until they are able to raise the money demanded by the people-smuggling mafias in order to be able to embark for Europe. Accordingly, the journey of the migrant/refugee until their arrival in Europe entails regular risks to their life, physical integrity and/or sexual freedom.

2. 3. Women’s rights. Special attention to Female genital mutilation

In both regions, women’s rights are being severely breached in areas as diverse as political participation rights, labour rights, sexual freedom, physical and psychological integrity and other freedoms. It goes without saying that women obviously experience all of these infringements of their rights. In this section we will therefore unpack the violations they undergo on the basis of their gender.

There is a particularly acute conjunction in infringements of women’s human rights of the abovementioned triad of harmful causes: legislation, cultural tradition and state inaction. One of these three causes may be more prevalent depending on the country or law under examination. However, the customs ingrained in all Maghreb and Mashriq cultures to a greater or lesser extent accept women’s civic and intellectual inferiority as normal. Often, as exemplified by Saudi Arabia, the legal system reflects and bolsters these oppressive traditions.

By contrast, especially in the Maghreb it is more common that while they are not officially sanctioned by law, the public authorities and the judiciary de facto hold back in their duty to intervene in cases of violence against women. This encourages the continuation of these violations of rights, even though the law purportedly bans them. In these cases, the defencelessness of the victims is further aggravated as in the international arena the state claims to comply with standards which are not met in social practice. In the last year the Saudi Arabian regime has epitomised the unconvincing communication and publicity tactic of progress in women’s rights. This year Saudi women have been granted the right to drive without a male passenger. They have also been allowed to enter certain professions and stand in local elections. Yet objectively speaking there has been no significant progress, especially bearing in mind, for example, that women running for municipal elections had to speak to their electorate through their husbands, whispering in his ear what they wanted to say so he could repeat it out loud. The crown prince’s pro-equality and pro-women’s rights slogans can only be viewed as a strategy to gain international approval which has not brought about any genuine change in the position of women in the Kingdom of Saudi Arabia.

Areas of legal oppression include all the regulations which deny women management of their assets, getting a job, entrepreneurship and equality within the family. Sometimes women joining particular professions, such as the military, their occupational and business freedom and access to institutional posts is completely barred, as is the case in Saudi Arabia. Other countries, such as Oman and the United Arab Emirates, require women to be under the guardianship of a male relative, be it a father, brother, husband or son. Moreover, even when women are allowed to take up a profession, they run up against socially accepted discrimination; a patient may refuse to be treated by a woman doctor for instance. In short, a position of economic dependence imposed on women predominates, often with the support of a legal framework which ensures its perpetuation.

In health rights, we would note the right to terminate a pregnancy. All the countries in these two regions envisage legal grounds for abortion, at least when the woman's life is in danger. Severe foetal malformation is also often included. This is always a model of specified grounds, and no Maghreb or Mashriq state allows time limits for free choice. However, termination of pregnancy is only legal if it is approved by the woman's husband.

Similarly, a woman's right to privacy is violated in the case of particular illnesses, treatments or surgeries when by law the doctor has to tell her husband. Social practice also makes it rare for a woman to be alone with her doctor. It is not uncommon for women to have their right to decide about their health infringed by male relatives or even by doctors themselves, or for them to be unable to make such decisions about a family member including their children.

In terms of sexual and reproductive freedom, there are numerous bans on any form of contraception. Moreover, most criminal codes in both regions still consider sexual assault as a crime against the woman's honour – and her family's – and not against her sexual freedom and integrity. As a result, countries such as Morocco allow the assailant to be exonerated from criminal responsibility if he offers to marry his victim. In other countries, and even though this provision has been officially repealed, society has de facto kept it in place. A rape victim is socially repudiated by the refusal of the men in the community to accept her as a wife. It is therefore often the woman's parents who force her to marry her attacker. Apart from this case, forced and/or child marriage is not unknown in the customs and/or laws of these states. Pregnancies at this age can pose a serious risk to women. Sexual violence within marriage is also not a criminal offence.

As for physical violence, it is increasingly rare for laws to maintain the husband's so-called right of physical chastisement of his wife, in other words, to physically punish her. The United Arab Emirates is the only country in the region that retains this right by law, restricted to Muslim couples. Christian marriages between its citizens are not covered by this measure. However, once again it should be emphasised that these repeals are not accompanied by positive actions to bring an end to the normalisation of gender-based violence. Equally, police and court protocols are not put in place to help women who might wish to seek the protection of the public authorities against their abuser.

No legal system allows what are known as honour killings, e.g. a husband murdering his unfaithful wife or a father murdering his daughter who has lost her virginity. However, most laws in both regions, especially in the Persian Gulf monarchies, criminalise sexual relations outside marriage and in practice women suffer harsher consequences. Likewise, albeit less frequently than in other areas, in both the Maghreb and Mashriq the authorities passively tolerate honour crimes, especially when they take place in tribal, rural societies or in towns where such practices are arranged.

Female genital mutilation (FGM) victimises a high percentage of women in the Maghreb and Yemen. This practice does not stem directly from Islam, but rather from a tradition whose origins go back more than 3,000 years in the territories that today are Sudan, Eritrea and Ethiopia. It is extremely rare in Arab monarchies notwithstanding their

religious fundamentalism. In this study we will examine the situation in the three aforementioned countries, where WHO figures suggest more than 60% of women are victims of this practice, reaching almost 70% in the case of Sudan.

This year, FGM has been made an offence in the latter state under the Criminal Code. This is one of the measures pushed through by the military junta which with significant popular support overthrew President Al-Bashir, who the International Criminal Court under UN Security Council Resolution 1593 of 2005 has for years sought to investigate in order to shed light on his and his government's responsibility for the genocide in Darfur. Although it is beyond dispute that this is a positive step, it is also true that in principle Sudan is a signatory to several international documents abolishing the practice, including the African Charter on Human Rights and the Maputo Protocol, which expressly refers to FGM. Furthermore, as a member of the African Union and under the international principle of good faith it should drive the Assembly of the African Union resolution of 22 September 2015 which called on its members to ban FGM. The international commitments made by Khartoum under the Omar regime were certainly never implemented in the country. In this respect, we might perhaps be somewhat upbeat about the new government if it delivers on its promise to democratise the country. However, it cannot be denied that whether due to lack of resolve or lack of means, in many countries the practice has not been curtailed even after it was formally banned. They include the Gambia, where after three successive declarations banning FGM there has been no decrease in the practice in the county. It would therefore be crucial to monitor any potential statistical variations and changes in the attitude of the country's public authorities to this issue over the next five years.

Besides being widespread, what the WHO calls Type III FGM is also practised in Sudan. In addition to cliteroctomy, this additionally involves the removal of the labia minora and labia majora of the vagina along with sewing up the vaginal opening until the wedding night. Type II FGM predominates in Mauritania and Yemen.

In relation to these violations of humanitarian law which are taking place in Yemen, Libya and Syria, it is important to note that women and children are a particularly vulnerable and victimised group in these situations. Exact figures are currently impossible to obtain, but there is circumstantial evidence for a sadly accurate prognosis of violence, especially sexual violence, against women in these three conflicts.

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Finally, we would like to take up a position on the role of the Islamic religion in the

oppression of women and/or other human rights violations in the Maghreb and Mashriq. The texts of the Qur'an and Sunnah date from the early 8th century AD at the beginning of the Umayyad Caliphate. Due to the context of the time, the understanding of relations between men and women in many of their passages is not founded on equality. Islamic legal schools [1] have explored a view of fiqh or customary jurisprudence which reflected pre-Islamic tribal customs and reinforced patriarchy.

However, the Qur'an does not lay down specific commandments or bans against women but rather suggests principles. Nothing in the Qur'an condones FGM. Thus, as with the Bible and other holy books, the Qur'an allows for a variety of diverse and divergent interpretations. Of course, many violent acts of Islamic fundamentalism are justified using the sacred text, yet there is also an Islamic feminism which sees in the Qur'an principles of rights for women which were revolutionary for the time in which it was written.

2. 4. Rights of minors and children

Gender and social class are crucial factors when it comes to the systematic violation of a child's human rights in these regions. Child labour is common, particularly in the Maghreb but also in the north of the Mashriq, especially in the lower social classes and even more so in rural areas. In terms of violation of rights, a distinction should be drawn between situations where the social and family context encourages or requires children to drop out of school early or not to start school at all – for example, around 40% of Egypt's population is illiterate – and ones where children are exposed to circumstances which are potentially harmful to their physical and psychological integrity and/or sexual integrity. The former practice is more widespread, although at the same time more difficult to redress. So while exploitation, in the sense of endangering a child, is a universally condemned idea, more traditional societies find it harder to understand the value of education and the need pursue it during adolescence and early youth.

Girls and young women are more often deprived of schooling. They also endure forced and early marriages. It should be noted that child marriage is still legal in Iraq, Saudi Arabia and other states, including under the age of puberty, and this also puts their physical integrity and their lives at risk in the event of pregnancy before full bodily development.

As pointed out above, children are particularly vulnerable in armed conflict. In this report we would like to draw particular attention to the case of what are called the children of ISIS or Daesh. As is well known, a number of Europeans of both sexes travelled to the regions controlled by the self-proclaimed caliphate. During this time many of them have had children who are full European citizens jus sanguinis. Despite the rights inherent to citizenship, no European state has made any moves to repatriate its child citizens, many of whom are only a few months old and are currently being held in concentration camps in Iraq or similar facilities in Syria.

2.5 LGTBI community

The rights of the LGTBI community are violated with respect to freely experiencing their sexuality, affective relationships and free development of their gender identity. Slight progress has been made in the legal arena. Only Mauritania, Saudi Arabia and the United Arab Emirates currently retain the death penalty for male homosexual relations. However, none of them use it but instead commute it to long prison sentences. Oman and Syria have shorter prison sentences, similar to the position in Iraq and the West Bank. In Jordan and Bahrain homosexual relations have been formally decriminalised. Only Israel recognises some limited rights – not comparable to the civil unions with which some European and Latin American countries are familiar – for homosexuals. The other Maghreb and Mashriq states as well as the Gaza Strip still have severe prison sentences for male homosexuality.

It is important to note that, at any rate in official terms, these states argue that it is not LGTBI orientation or desire that is criminalised but rather sexual relations. This means that at least for theoretical purposes, they avoid the accusation of applying offender-based criminal law. Equally, we have already noted that the criminal laws of these countries often only criminalise sexual relations between men. This should not lead to the conclusion that lesbian relations are decriminalised. Likewise, the word “transgender” is not to be found in the criminal laws of these countries, which means the expression of this gender identity is not allowed. Such conduct is usually criminalised under other names such as crimes against morality.

A social standpoint reveals that the main challenge for social change is ignorance about what homosexuality entails, i.e. the social invisibility of the LGTBI community. If we think of the West before the queer movement began its campaigns in the 1960s and 1970s, “paedophile”, “pederast”, “homosexual”, “sadomasochist”, “transvestite” and other coarser words were synonyms in society’s collective mindset. Mutatis mutandis, we might conclude that the average citizen of these regions does not have a very clear idea about what being homosexual means, associating it with an idea of sin, contrary to God and nature.

Today, Tunisia’s homosexual community is the most visibly organised in the Arab world. However, despite this movement’s professed fondness for European LGTBI organisations, it has declined to participate in events such as the Italian LGTBI Pride festival. They believe that the queer image would be counterproductive for traditional Muslim societies.

At all events, we would point out that over and above the specific legal framework, social hatred towards LGTBI people is the most dangerous threat to homosexuals in these countries. The risk of physical assault serious enough to endanger their lives increases exponentially when the community in which they live learns about their orientation.

2.6. Humanitarian law

As noted above, the ongoing armed conflicts in Libya, Syria and Yemen do not abide by international humanitarian law. The civilian population is often the victim of both aerial

bombardment and ground combat, since the heaviest fighting takes place in the cities.

We believe that it is essential, especially in the Syrian case, to conduct an international investigation, establish the facts and, if need be, ascertain criminal responsibility pursuant to the Rome Statute.

2.7. Human rights advocates. The case of Saudi Arabia

We would like to end this section with a special mention of the activists and advocates who seek to promote human rights in these regions where such activism severely endangers their lives, physical integrity and freedom. In the case of Saudi Arabia, ever since the Saudi Civil and Political Rights Association was founded in 2009, many activists and associated individuals have been imprisoned simply for advocating human rights. They include two of its founders: Mohammed Saleh al Bejadi, who tried to begin protests in 2011 in the midst of the Arab Spring, and Mohamed Fahad al Qahtani.

In 2020, the case with the highest international profile is activist Loujain al-Hathloul, one of the most visible faces of the Women to Drive movement campaigning for this right in Saudi Arabia. In May 2018, she was first detained for 73 days for crossing the border into Saudi Arabia from the United Arab Emirates driving a car. In June of the same year she was detained again along with other activists and was asked to sign a document renouncing and regretting her activism. She refused and has since been awaiting trial before a special court theoretically set up for conspiracies against national security and terrorism.

Although her hearing initially scheduled for March 2020 has been adjourned as a result of Covid-19, Alhathloul remains in jail and since the summer her family claims they have been unable to communicate with her and have no news of her condition. She has reportedly begun a hunger strike.

3. Measures in the time of Covid-19

Covid-19 has had a different impact in the Maghreb and Mashriq to the one we have experienced in Europe or in the countries of the political West. Under ordinary circumstances, some of the states mentioned in this report have in place legislation which is detrimental to various civil rights such as assembly, privacy/confidentiality and freedom of movement. From this standpoint, the restrictive measures some governments have taken to address the pandemic do not substantially worsen violations of these rights.

Israel is an exception in this respect, as it is in so many other ways. In little more than a year, the country has had three lockdowns. The restrictions and administrative abuses identified are no greater, at least for Jewish citizens, than the European cases of, for example, Italy, Spain and France. Apart from problems such as occasional abuses of authority and restrictions of freedom lacking indisputable scientific evidence that they have a direct impact on curbing the pandemic, the country’s government has enforced the regulations unevenly. In particular, there has been much greater leniency towards the

Orthodox Jewish community in terms of both acts of worship and also funeral rites. Several observers explain the public authorities' privileged treatment of Orthodox Jews by their political clout in the Knesset.

By contrast, the lockdowns and anti-Covid measures have been enforced more harshly against the country's Arab population and Palestinians in the occupied territories under Tel Aviv's control. In these cases, there have been a large number of abuses of authority against the Palestinians which unfortunately is not uncommon.

The violation of social and health rights has worsened or become particularly acute. The lack of efficient administration and the inability to access quality healthcare services has led to neglect of the sick in many of these countries. The WHO believes that less travel in Africa and developing countries and regions has led to significantly less transmission. Similarly, the immune systems of people who have not received much medical treatment will have been better able to resist infection. However, the dearth of accurate data does not hide the fact that in most of the societies studied, apart from the Persian Gulf monarchies, the most severely infected patients have been deprived of any access to medical services. This may have led to greater suffering, aggravating symptomatic conditions whose severity would have been lessened by medical measures. Likewise, avoidable deaths and painful moments are more than likely to have occurred in the absence of painkillers or sedatives. We would also note that although the consequences of the virus are not yet fully known, there is significant scientific consensus that the disease can have respiratory after-effects of varying severity. This means that in the coming years, people living in developing countries will have to cope with these adverse outcomes without adequate help which will entail a further violation of their rights.

> The inability to access quality healthcare services has led to neglect of the sick in many of these countries

Moreover, the economic impact of the pandemic in countries such as Egypt and Tunisia, which are heavily dependent on tourism, directly exacerbates the employment and family situations of thousands of people. There is also the indirect impact on sectors which are heavily reliant on tourism. Deepening poverty always entails the violation of the human right to a dignified life, which calls for access to certain goods and services. In the case of Tunisia, economic meltdown also poses a danger to the fragile, recently established democratic regime.

4. Measures to be adopted

We would now like to put forward some proposals which we consider essential to remedy these human rights violations in the above countries. We are aware that it is unlikely that these measures will be well received by their governments, and therefore we believe that the engagement of the international community is imperative.

- Repeal legislation upholding inequality between men and women and take affirmative action measures to progressively overcome social gender biases making for the inequality of women.

- Dismantle special courts and abolish degrading and inhuman punishments and the death penalty. Safeguard the right of defence and respectful judicial protection of the parties in criminal and non-criminal proceedings.

- Respect the rights of freedom of speech, press, publishing, assembly and association.

- Address a gradual process of democratisation in order to progressively discard authoritarianism and move towards a democratic state model. It is important to bear in mind that this process cannot be carried out automatically by convening a constituent parliament. Before democratic institutions can be set up, people need to embrace thinking tolerantly and respectfully of others. Otherwise, the constituent majority will not pass a constitution which protects the rights of minorities. A slow process of social transformation and tolerance of ethnic and religious differences should therefore be pursued.

- Provide financial support from the international community to weak economies so that all states can develop and entrench the rule of law. In particular, this aid should be prioritised for countries such as Tunisia which are seeking to strengthen democratic regimes.

- Decriminalise homosexuality.

- Encourage and legalise religious diversity, both as the right to have a religion and the right not to have one.

- Step up international cooperation to safeguard the rights of migrants and protect them from human trafficking. It is also essential to implement policies which secure their human rights, especially in employment issues, in the country of arrival.

- In terms of armed conflicts, access to arms for the actors involved in Yemen, Syria and Libya has to be cut off. An international reconstruction plan is also needed for all three countries. Finally, consideration should be given to setting up an international court or conferring jurisdiction on the ICC to investigate the most serious acts committed in these three conflicts which might constitute international criminal responsibility. In any event, we believe it is imperative to set up an international Commission of Inquiry under the auspices of the United Nations to establish the facts, help in subsequent conciliation processes between the opposing sides and

forestall future denialist narratives which would undermine the moral integrity and dignity of the victims and their families.

- As for the Israel-Palestine conflict, we think it is essential to go back and commit to the two-state solution without either state claiming Jerusalem as its capital. Tel Aviv should give up its settlement policy and, as it has already done in the Sinai Peninsula, step back and dismantle some of the settlements if need be. Equally, détente between Israel and the Muslim countries of the Mashriq including the establishment of diplomatic relations, as has been the case with Egypt since the Camp David Accords and in 2020 with the United Arab Emirates and Qatar, should not be at the expense of the rights of the Palestinians.

- In the case of the people of Western Sahara, we are of the view that as a colonial country, in this case under Spain until 1975, any solution to the conflict must include the application of Resolution 1514 (XV) of the United Nations Assembly, which enshrines the principle of self-determination for colonial countries. Likewise, Saharawis currently living in camps in Algeria must be allowed to return home.

We would like to close our report with something which we believe gives hope for potential improvements in the future and which, perhaps, may help us not to view the proposals set out here as unattainable utopian projects. This year, the International Special Tribunal for Lebanon has issued its ruling. This court was set up at Lebanon's own request to investigate the circumstances of the assassination of Prime Minister Rafik Hariri in an attack which killed several other people and seriously injured yet more on 14 February 2005. Among its findings, the tribunal notes that while there are connections between Hezbollah and Syria and the perpetrators of the attack, there was no evidence of their involvement.

The Lebanese authorities and many international observers feared that this verdict would reignite tensions between Shia and Sunni in an ethnically and religiously divided country, but this is not happening. The young witnesses in particular showed how these tensions are gradually diminishing and being replaced by interest in stamping out corruption in the country and improving the quality of democracy and living conditions. The case of Lebanon should not be an exception. Rather, with all the improvements and the way still ahead for this small country, it shows how even after a bloody civil war it is possible for people to gradually regain cohesion and for society to open up to a climate of tolerance and respect for others, an essential foundation for achieving the ideal of dignity which all human rights have in common.

NOTES

1 — In the Maghreb, the doctrine of the Maliki school of law predominates and has informed Moroccan law and Gaddafi's Green Book. The Hanafi school prevails in Egypt, Syria, Jordan and Sunni Iraq. Egypt, Yemen and Iraq also have communities rooted in the Shafi'i tradition. Shia Iraq and part of Yemen follow Shia schools, respectively the Jafari, official in the Islamic Republic of Iran, and the Zaidi. In Oman, by contrast, the reigning dynasty has promoted and supported the Ibadi school.

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