

NO SECURITY WITHOUT RIGHTS

Human rights violations in the
Euro-Mediterranean region as consequence
of the anti-terrorist legislations



International Institute
for Nonviolent Action

OPEV
observatory to prevent
extremist violence





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The report "Without rights there is not security. Human rights violations in the Euro-Mediterranean region as a consequence of anti-terrorist legislations" was possible with the support of:



**Ajuntament
de Barcelona**



Acknowledgments:

Institut de Drets Humans de Catalunya (IDHC), specially to David Bondía, Anna Palacios and Víctor Sakamoto

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CARAMES, A. [ed.]; FERNANDEZ, J. [2017]; "Without rights there is not security. Human rights violations in the Euro-Mediterranean region as a consequence of anti-terrorist legislations". NOVACT



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COMPARATIVE ANALYSIS

INTRODUCTION

The struggle against terrorism contributes to an alarming and constant retreat of the civil and political rights of people. In the context of a multipolar world scenario, which is strongly conditioned by an unprecedented evolution of national, regional and international responses to new terrorist threats, the principles of International Humanitarian Law and Human Rights seem to have been relegated to an opaque area between the “necessary and legitimate” fight against terrorism and the gross violations that it perpetrates.

After the 9/11 attacks in the United States, a growing wave of national and international promises of security was rolled on in a hegemonic way, as a response to the perception of a serious threat to world peace and safety. Since the beginning of the 21st century, the terrifying expressions and dimensions of the new terrorist threat at a global level, have led to the adoption of significant and unavoidable changes in the legal, political, economic and defensive agendas of states and international organizations, creating growing incompatibilities between many of these terrorist measures and the respect, protection and promotion of human rights.

The increase of defence and security capacities, like the protection of integrity and sovereignty of the states facing external threats, has conditioned and altered international relations in various action fields. The changes in the political and legal approach of the fight against terrorism after 9/11 led to the acceptance that respect for international legality could be dispensable when facing this new threat. Thus, certain behaviours in detriment of respect for human rights became “legitimate”

While under the auspices of the United Nations it has been right to repeatedly point out the need to assure and guarantee that the fight against terror should be effectively articulated with the international protection of human rights; the delegation of legal authority to sovereign States to impose such measures has hindered full compliance of internationally agreed conventions, protocols and resolutions.

The competence to criminalize terrorism-related offences and to develop the mechanisms required in the legal tools developed both in international and regional levels, rests essentially on the sovereignty of nation-states. It is through their domestic legal system and political practice that national governments acquire the legal capacity to prevent, combat and criminalize terrorism in accordance with their obligations under international human rights law.

As a fundamental part of the fight against terror in the last decade, the adoption of new national legislative frameworks on security [ambiguous in defining terrorist crimes but severe in defining punishments] has been characterized by a legal commitment to increase the state’s powers in matters of security, control,

surveillance, repression and punishment policies that have systematically violated the fundamental rights and freedoms of individuals and societies.

Human Rights Watch organization warns that since 2013, at least 47 countries have approved new measures against terrorism, becoming the wave of strictest measures approved since the aforementioned attacks in 2001.

The report “Without Rights there is no security: Human Rights violations in the Euro-Mediterranean region as a consequence of antiterrorist legislations” compiles various efforts to denounce the perpetrated human rights’ violations through the implementation of the new anti-terrorism normative tools that have been approved by the Euro-Mediterranean regions in the past years. The ambiguity in the definitions of terrorism which are included in the national legislations leads to an indiscriminate persecution of individuals and groups, as well as to the arbitrary criminalization of activities that are perceived as threats to the state’s security. Procedural safeguards in criminal matters, fair treatment to accused people, and fundamental rights and freedoms are being relativized in this framework of fight against terror; while the authorities’ powers, impunity, injustice and severeness of the penalties charged to the accused increase without restriction, need or glimmer of proportionality.

EVOLUTION OF INTERNATIONAL LEGISLATION IN THE FIGHT AGAINST TERRORISM

Despite the 9/11 attacks opened the doors to a wide process of legal reforms and renovations in order to fight terrorism, the United Nations had already started to draw some guidelines oriented to instigate the member States to adopt certain measures to prevent, repress and condemn this phenomenon through cooperation initiatives.

Since 1963, the international community has been developing a legal infrastructure with conventions and protocols relative to the fight against terrorism which specify the obligations that every State Member undertakes to fulfil when developing their own domestic legal systems. Other key aspects of the global legal framework to combat terrorism have been typified through the resolutions of the United Nations General Assembly and Security Council.

The international regulations on the matter include certain aspects linked to the terrorist phenomenon, such as those provisions aimed at criminalizing terrorist acts, protecting the victims' rights and adopting measures to promote and ensure effective sanctions and international cooperation.

The 1373 resolution, approved by the United Nations Security Council after the 9/11 attacks, set up the creation of a Counter-Terrorism Committee (CTC), which would be oriented towards strengthening the capacities of the member States to combat terrorism within their borders, and also at a global level. In March, 2004, through resolution 1535, the Security Council established the Executive Directorate of the CTC.

In 2006 they reached an unprecedented agreement on the creation of a strategical framework to combat terrorism with the establishment of the United Nations Global Counter-Terrorism Strategy. This strategy's objective was to intensify the global fight against this threat by founding conditions to prevent it and combat it, while developing the capacity of the member States to strengthen the role of United Nations on the matter. The universal respect for human rights and the rule of law was understood as a fundamental pillar in that struggle.

A decade later, the General Assembly adopted the UN Action Plan for the Prevention of Violent Extremism, based on the new configurations that terrorist groups like Daesh, Al-Qaida and Boko Haram had been provoking in the imaginary of the international community around the debate on the methods to face the threat of violent extremism. The Action Plan approved in 2016 is a call for concerted action by the international community that formulates more than 70 recommendations to the member States and the United Nations system to reorient the priorities of the fight against terror. In this sense, the Plan proposes the adoption of a wider approach, that transcends the exclusive implementation of permanent, essential and security-based anti-terrorism measures to address the drivers of violent extremism through targeted systematic preventive measures that approach the structural causes (social, politic, economic or cultural) and lead to the emergence and radicalization of these groups. In order to carry out such preventive measures, the Plan considers it necessary to take into account a series of areas of action, based on the application of justice and the reconstruction of the social pact between governors and governed by strengthening a good governance, human rights and rule of law, dialogue and conflict prevention and empowerment of communities, among others.

Regional tools

Like the UN, several regional bodies have also been articulating a whole legal framework related to the commitment of itself and of the member States to combat, in a coordinated and collaborative way, the phenomenon of terrorism.

European Union (EU)

The 9/11 attacks in the United States propitiated a legal impulse by implementing certain measures of judicial and police cooperation, advancing in the definition of the common strategy that had already started to form after the approval of the EU Treaty (TEU) in 1992 and the Amsterdam Treaty in 1999, through which certain competencies on the fight against terrorism were communised.

The acknowledgement of the existence of a terrorist threat in the EU led to the adoption of a set of normative instruments relating to the fight against terrorism incorporating considerations linked to the protection of human rights. Council Framework Decision 2002/584 / JHA1 on combating terrorism was adopted on 13 June 2002 with the aim of laying the foundations for a harmonization of national legislation and establishing a common definition of terrorism, which was considered a fundamental step. Subsequently, in 2008 was adopted a second Framework Decision, modifying and actualizing the previous one.

In December 2003, the European Council adopted the European Security Strategy, which described terrorism as a growing strategic threat for the whole continent. The 11-M attacks in Madrid prompted a reaction from the European institutions, which reaffirmed their willingness to provide a common and coordinated response to threats to internal security, and more technical stage, characterized by the adoption of concrete measures and the approval of a general coherent strategy against terrorism was drawn.

In March 2004, the European Council approved the Declaration on Combating Terrorism, through which the European Union member States committed themselves to take the necessary measures to combat all forms of terrorism in accordance with the fundamental principles of the EU, as well as the provisions from the UN Charter and the obligations established by the Security Council in the 1373 [2001] Resolution.

In 2005 the European Union Strategy on the fight against terrorism was adopted. This strategy acknowledged the importance of cooperation with third countries and international institutions, and was based on four pillars: prevention, protection, persecution and response. The aim of it was to combat terrorism on a global basis, building respect for human rights as an essential condition, and building a European space of freedom, security and justice.

African Union (AU)

The efforts of the AU to combat terrorism date back to the 1990s, when a Resolution for the Strengthening of Cooperation and Coordination among African States was adopted under the previous Organization for African Unity [AHG / Res. 213 [XXVIII]] in 1992. The resolution stated a total rejection to the use of violent extremism against states, and established the commitment to fight them. However, it did not establish the offenses that required to be codified under laws, and it was left to the states' will the criminalization of such acts, while avoiding to settle a political base to prohibit state support for violent extremism.

In 1994, the AU adopted the Conduct Code Declaration for Inter-African Relations [AHG / Del.2 [XXX]], which sought to reinforce the state behaviour regulation regime and address the growing problem of terrorism. This declaration condemned all terrorist acts, methods and practices as criminal, and emphasized the will to improve cooperation between states. Despite both decisions addressed key aspects to combat terrorism, such as the inter-state cooperation, their non-binding status led to little legal significance in terms of forcing states to comply with their international obligations.

These efforts culminated in 1999 with the adoption by the AU of the first continental tool of anti-terrorist criminal justice, the Convention for the Prevention and Combat of Terrorism. It established for the first time a definition of "terrorist act" and required Member States to criminalize terrorist acts in their domestic legal systems. The Convention came into effect in 2002, year in which it was also approved the Action Plan for

the Prevention and Combat of Terrorism through the AU High Intergovernmental Meeting for Prevention and Combat of Terrorism in Africa. The African Terrorism Study and Research Centre [ACSRT] was established in 2004, focusing on the centralization of information, studies and analysis on terrorism and terrorist groups, and the development of antiterrorist programs. That same year, an additional Protocol was added to the 1999 Convention, through which it was recognized the growing threat of terrorism in the continent, as well as the links between terrorism, drug trafficking, transnational organised crime, money laundering and illicit proliferation of weapons.

In 2015, the African Human and Peoples' Rights Commission, composed by heads of state and governments of the OAU, adopted the Principles and Guidelines on Human and Peoples' Rights on the fight against terrorism in Africa, developed on the basis of article 45 [1] [b] of the African Charter. This document asks the Commission to formulate rules, principles and standards on which African Governments can base their domestic legislations while taking into account the African legislation on regional conventions, jurisprudence, commission standards and resolutions, international law on human rights and resolutions of the United Nations Security Council.

Similarly, the Principles and Guidelines on Human and People's Rights on the fight Against Terrorism in Africa consider other international and regional decisions and mechanisms about human rights, the United Nations General Assembly resolutions, including the 2006 Global Strategy Against Terrorism and the views of the Office of the United Nations High Commissioner for Human Rights.

Arab League

The states of the Arab League have faced terrorism in the region since the 1990s, committing themselves to the United Nations' efforts and tools in the fight against terrorism. In 1997, the Arab Council of Interior Ministers approved the Arab Strategy to Combat Terrorism. A year later, the Arab ministers of justice signed the Convention for the Suppression of Terrorism. A year later, the Arab ministers of justice signed the Arab Convention for the Suppression of Terrorism, which stated the willingness to promote the mutual cooperation between states, rejecting all forms of violence and terrorism and defending the protection of human rights, in line with the principles of international law. It affirms the right of peoples to combat foreign occupation and aggression by any means, including armed violence, in order to liberate their territories and secure their right to self-determination and independence. It also includes a definition of terrorism and terrorist offense, imposes obligations on states, establishes prevention and suppression measures, and provides cooperative relationships for the exchange of information, assistance in investigations and exchange of experts, and coordination for judicial efforts.

According to the Arab's League anti-terrorist committee, the Arab Ministerial Council fights against terrorism in the region while respecting the security, economic, ideological and social dimensions of threats. The Arab League has a team of anti-terrorism experts in order to follow and implement the United Nations Global Counter-Terrorism Strategy in the Arab States, whose recommendations contribute to the constitution of the League's action framework in prevention and combat of terrorism.

THE LEGAL AND POLITICAL CONSTRUCTION OF TERRORISM: FERTILE GROUND FOR VIOLATING RIGHTS AND FREEDOMS

The current relation between terrorism and human rights is very present in the international politics and legal order, constituting a controversial issue not particularly without a paradoxical nature.

In order to ensure that the fight against terrorism does not violate the values the fight itself destroys, and that human dignity continues constituting the insurmountable limit of anti-terrorist policies, the respect and protection of international human rights' law has been erected, under the auspices of the UN, in an inescapable guideline among the recommendations of the global counter-terrorism strategy.

However, the centrality of these guidelines in the international adopted legal tools has not been proportionally translated in the domestic legal systems, nor in the political practice of a large number of Member States. The flagrant violations of international human rights' law that are still observed and reported are a good indicator of non-compliance of the Member States. The delegation of authority to implement the necessary measures to prevent and combat terrorism in state sovereignty has incurred in the generalization of practices that are completely intolerable under international law.

The changes in the political and legal sphere of the fight against terrorism that took place specially after 9/11 led to the beginning of the development and start up of a whole belligerent structure in the US. Under the pressure of others and allying themselves in the fight against terror, many States increased their military capabilities and security arrangements, as well as the extent of executive powers and a culture of impunity. This required the adoption of a militaristic logic and a normative translation of a conceptual framework around terrorism, according to which the suspects are identified as the combatant enemy, while the legitimate defence is erected as an excuse to justify the violation of fundamental human rights.

As recent history of the hereby analysed countries show, many of the changes in internal regulations around criminal matters, as well as the exceptional measures in defensive military and defensive matters, have been adopted and implemented after the perpetration of a terrorist attack, and the subsequent intensification of the perception of threat.

In the context of this militarized logic based in the confrontation with an enemy, its natural definition is an unavoidable condition for the application of allegedly justified self-defence measures. The protection of the integrity in the state territory [status quo of power, values that underpin it, capacity to exercise the violence monopoly, etc.] requires the definition of a common enemy, the concretion of a certain threat which usually transcends the delimitations of terrorism and mere violence. In this sense, political opposition, criticism of the regime, subversive ideas, denounces of the abuses of the authorities, presence of migrants and refugees whose characteristics move fears and perceptions of insecurity; can be identified as terrorist offences.

The supposed legitimacy of the goal - to prevent and combat terrorism - transcends the need to respect legality in the media, and includes the capacity to criminalize any act that breaks the stability of a certain state of things. At the same time, anti-terrorist laws set above the state's legality not only on obligations in international law but also on the legitimacy of change, difference, resistance or subversion.

The war against terror seems to give carte blanche to abuses and violations, while the international legal order on the matter continues dragging the lack of a consensual definition of terrorism that would prevent an indiscriminate and arbitrary abuse that is stuck to interests and subjectivities of the possibilities of defining "terrorism" and the adoption of policies that undermine human rights.

Nowadays, while there are numerous international legal instruments that include the definition of certain actions as terrorists, there is no accepted definition within the United Nations of what terrorism is, making

difficult to establish mechanisms for judicial review of the legality of counter-terrorism measures adopted at national levels.

There is a concerning conceptual fragmentation in the definition of terrorism and the categorization of terrorist offences, that has resulted in the development of a disharmonized multiplicity of internal legislations within states that do not respect the principle of criminal law, and that show very negative impacts to the maintenance of the rule of law, democracy and human rights. Nowadays, the international community worries about the prevention and combat radically different phenomena which fall all under the spectrum of terrorism.

SUMMARY OF VIOLATED HUMAN RIGHTS

The states of the Euro-Mediterranean region come from diverse historical, political, social, cultural and economic contexts, from opposing positions in historical relations of domination and oppression and of different situations in the geographic territory and in the geopolitical space of world power, but they share a common set of issues: the violation of human rights as ordinary, illegal and unpunished practices in the framework of the adoption of anti-terrorist laws and the adoption of disproportionate security policies.

The definition of terrorism included in anti-terrorist legislation adopted in recent years by the governments of the Euro-Mediterranean region is generally constructed on a vague, arbitrary and subjective use of the terms; usually ambiguous and broad enough to cover the whole range of people, groups, ideologies, actions, opinions, etc. which respond and synthesize the set of threats perceived for the security of the State.

Currently, civil and political rights such as freedom of expression, association and peaceful assembly, as well as freedom of opinion and political participation are strongly attached to the capacity of States to tolerate criticisms that may challenge the legitimacy of the social contract between governors and governed in each country. Likewise, the used measures to prevent the expression of any threat included in the security framework of the defence of the State's integrity, generally imply an excessive use of force and an abuse of power by security forces and authorities. Individuals and groups that undermine this idea of security –be it by denouncing the abuses of the regime, taking part in the political opposition or publishing a cartoon of the head of the State on the media- are subject to severe violations of their rights and fundamental liberties. Arbitrary arrests constitute a day-to-day regime of order and public peace –usually considered states susceptible of being altered by terrorism-, while conditions of detentions –isolation, excessively long- often contradict domestic and international criminal law procedures. In fact, many of the anti-terrorist legislations include provisions concerning the treatment of detainees under suspicion of terrorism which violates the constitutionality of the country itself.

Inhumane, cruel and degrading cases of torture and inhuman treatment are a constant practice throughout the present report and are often used as means of extracting false “confessions” in order to prosecute detainees accused of terrorist offences. Death penalty is a matter of concern among human rights organizations, as hundreds of individuals are still sentenced to death under terrorism charges in several states of the region.

War crimes, forced displacement, illegal executions of civilians, among other violations of international humanitarian law and human rights, are carried out in the context of the fight against terrorism.

Human rights' violations perpetrated in the name of the fight against terrorism, within the framework of security strategies and military reinforcement of population's control and surveillance and absolutisation of hegemonic power of States, take place in a general climate of impunity, in which the denial of the right to

reparation and the lack of investigation and prosecution of perpetrators becomes common among the Euro-Mediterranean countries.

The European states included in this report, such as France or Spain, have passed anti-terrorist laws that Amnesty International called “Orwellian”, in the sense that they belong to a dangerous security strategy based on disproportionate, unnecessary and control-abusive measures that restrict the fundamental freedoms of individuals. France remains under a state of emergency that threatens to make exceptionality become the everyday life of people by normalizing human rights violations as well as cultural, structural and direct violence against migrants and refugees. Thus, perpetuating a regime of fear and insecurity among the civilian population. Spain has recently approved a series of amendments to the Penal Code, as well as other legislations on security and public order matters, that have severely restricted freedom of expression and peaceful assembly, among other rights. Antiterrorist measures implemented in these countries put into question the existence/survival of democratic systems based on the rule of law, showing what seem to be scenarios of regression towards authoritarianism and dictatorial regimes that preceded them.

Greece and Italy, being the main doors for asylum seekers and refugees towards Europe, undermine massively the international law of human rights, the international humanitarian law and other international obligations, applying hyper-restrictive measures in their migratory policies: hot “returns”, detentions and ill treatments to irregular foreigners, denying to properly pursue violent actions of far-right groups that have emerged and consolidated a disturbing popular power in recent years, etc. Indeed, the discourse of rejection of immigration and arrival of asylum seekers to Europe, which underpins every policy of border-securitization in the region, has been capitalised by far-right political movements, whose xenophobic discourse is louder and heard stronger in many European countries.

The United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms in the fight against terrorism presented a report in 2016 on the impact of counter-terrorism measures on the human rights of migrants and refugees, revealing the existence of an growing association between migratory movements and terrorist threat. Based on the fact that many people arriving to Europe come from territories where terrorist groups are in constant activity, and that other people emigrate from Europe in order to take part in these same groups, the European states are interpreting people’s mobility as a threat to national security, and consequently acting as such.

However, according to this report, the introduction of restrictive measures in migratory policies cannot be justified by allusions to the perception of a terrorist threat, since there is no evidence that migratory flows lead to an increase in terrorist activity. On the contrary, such security measures, as well as the application of anti-terrorist laws, lead to the violation of human rights and fundamental freedoms, especially of migrants but also of the European population.

In the Maghreb region, the countries that welcomed the Arab Spring with hopes of change and democratization are currently undergoing an absolute reversal of the terms under which they raised the expectations of popular revolution. The democratic impulse that led to the revolts in 2011 in the Arab world and which shook much of the rest of the world has been reversed in the exact opposite way: a process of de-democratization staged by the reinstatement and perpetuation of totalitarian regimes which justify, on the basis of the need to combat the terrorist threat, flagrant violations to the fundamental rights and freedoms to which they submit their populations. In Algeria, Egypt, Morocco and Tunisia, restrictions on freedom of expression, association and peaceful assembly are constant and widespread; security forces arbitrarily

arrest, detain, abuse and torture people who are exercising their rights, and are processed in unfair trials, with disproportionate sentences that degrade and dehumanize them.

Criticism of the authorities, dissent and political opposition are often included under the broad and ambiguous spectrum of the concept of terrorism present in legislation passed over the last few years. In Libya, while political fragmentation, the chaos of armed violence and the severe humanitarian crisis in the country make it difficult to identify human rights abuses as a specific consequence of the implementation of anti-terrorist legislation, military operations of pro-government forces against other armed groups like Daesh, help to reveal the perpetration of severe violations and abuses against civil population.

In the Mashreq region, countries like Iraq or Syria are still embroiled in an armed conflict in which the presence and military power of certain terrorist groups, such as Daesh, carries much of the domestic and international military response against terrorism. The bombing of the US-led coalition in Mosul and the ground fighting between the Iraqi army and Daesh have killed hundreds of civilians, committing war crimes, other violations of international humanitarian law, and flagrant human rights abuses. Security forces arbitrarily detain and submit to ill treatment and tortures to civilians that are considered suspects of terrorism both in Iraq and Syria, country in which interventions from third countries and Syrian army against armed and terrorist groups have provoked, themselves, war crimes, violations of the international and humanitarian law and abuses to the population. Israel keeps with its military occupation and apartheid policy against the Palestinian population, by enforcing severe control measures, restrictions on freedom of movement and other human rights abuses within the framework of their endless fight against the “terrorist threat”.

Jordan and Lebanon, although less affected by armed violence, suffer the consequences of forced displacements from neighboring Syria and the effects of insecurity and violence situations at the borders. Authorities restrict the rights of freedom of expression, association and peaceful assembly, arresting and detaining activists, human rights defenders and other critics or opponents through the application of anti-terrorist laws. Cases of torture and ill-treatment, as well as allegations of unfair trials are numerous in both countries. In Lebanon Syrian refugees are being subjected to arrest, arbitrary arrest and detention by security forces, who record settlements during security operations in response to the perceived threat of terrorism.

In Turkey, the crackdown against civil society, state officials and army officers after the 2015 coup has greatly aggravated the human rights situation in the country, which are violated in a context of total impunity and increasing authoritarianism. Under the state of emergency, protection of detainees’ rights has been suspended, and torture cases have increased significantly. In addition to the more than 3 million refugees and asylum seekers in the territory, currently hundreds of thousands of internally displaced persons in the south-east of the country survive in extreme conditions after having been forced to flee violence between government forces and the PKK. Despite the pressure from EU to Turkey to modify its current antiterrorist law, Turkey persists in its repressive strategy following the excuse of combating the threat of terrorism.

CONCLUSIONS: PRESENT AND FUTURE CHALLENGES FOR THE RESPECT OF HUMAN DIGNITY

The Euro-Mediterranean region is currently facing a huge challenge in terms of respect for human rights and fundamental freedoms. Without denying the importance and necessity of facing the threat posed by the growing presence of violence extremism in its multiple objectives, forms and methods, this is also part of the strategies of states to consolidate the hegemony of its power, to reiterate its monopoly of violence and to silence or to destroy all that puts it into question.

This report has offered a comparative analysis of the multiplicity of definitions and categorizations around terrorism, terrorist acts and terrorist groups that are approved in the framework of political strategy against terrorism in the Euro-Mediterranean region, revealing a clear conceptual disharmonization on the matter and expressing the profoundly negative impacts they have on maintaining the rule of law, democracy and human rights.

The presence of internal terrorist threats and the propensity of governments to use repressive methods to consolidate their power, has led to the creation of police states, to the militarization of public space -in the sense that the State adopts a military and security-based logic to intervene in the reasons of its alterations- and the adoption of completely dysfunctional policies in the fight against terrorism, whose increasing threat shows the inefficiency of the strategies and methods usually used.

The capacity of states to legally codify certain definitions of terrorism and categorize them into groups and individuals under the adjective of “terrorists” leads to arbitrary and illegal criminalization of dissent, denounce and demonstration against the illegitimate exercise of governments, which generally lack the democratic will and good governance. Both the adoption of legislation formulated on too broad and vague terms, especially as regards terrorism, and the declaration of states of emergency that explicitly invoke the suppression of rights and freedoms, contribute to materialize the continuity and the aggravation of the impacts. In relation to violations of the rights of the citizens that carry those policies essentially based on the security of the states.

Despite the fact that many countries refer to human rights in their antiterrorist initiatives, they adopt international and regional judicial tools that specify the importance of respecting and protecting them in the fight against terrorism, and ratify the international and regional conventions of human rights; the legal orders and the practice of domestic policies in this matter are in profound contradiction with the legality of the principles that they affirm to respect. Ending terrorism is not an easy challenge, especially if the strategies and policies used to circumvent it tackle the root causes of terrorism and motivate the persistence of its activities. Terrorism and violent extremism respond to deep social discontent, to the lack or prohibition of spaces that allow the channeling of demands, expectations, beliefs and pluralistic and diverse thoughts. The absence of effective methods of expressing their grievance situation, in contexts in which critical debate, freedom of expression or plurality of political options that can convey opposition movements and demands for change constitute scarce assets, has led to the existence of strategic voids that have been exploited by extremist groups in order to expand their action capacity and power.

The invocation of national and public security over and above the protection of the rights and freedoms of individuals and societies relies on the adoption of punitive and repressive actions, which particularly affect the voices criticizing the bad practices of regimes and which promote social transformation. In many cases, civil society has the greatest impact of anti-terrorism policies, while its spaces and its role as a vehicle for

demands, denunciations and needs of society are continually depleted and restricted, making it even more difficult to tackle the conditions that lead to the spread of terrorism.

In order to eliminate or fill the moral gaps that contribute to the increase of radicalization, it is essential that states respect the rule of law and apply conditions for social justice and good governance, seeking a comprehensive approach to the underlying factors and causes that lead to terrorism. In this sense, the protection of human rights and fundamental freedoms, in compliance with international law, must be an essential and priority premise in any counter-terrorism strategy, coherent with the construction of open and plural societies, inclusive and socially cohesive societies that promote alternatives Violent extremism and terrorism.

The identification of preventive strategies, which go beyond the application of monitoring and control methods aimed at the mere prevention of potential attacks and, on the contrary, include the causes and factors leading to violent extremism, is an imperative to generate effective alternatives to violent radicalization and the threat of terrorism.

To confront terrorist actions and to address the causes of terrorism should be simultaneous approaches, which implementation must be established in an indispensable way in line with respect for and protection of human rights, the maintenance of the rule of law and the application of justice.



ALGERIA

GENERAL SITUATION

The Western media portrayed Algeria as an exception in the Arab Spring because of its greater difficulties in dismantling the government. Indeed, the oligarchic coalitions that act as the political regime in Algeria were revealed as a resistant and fuzzy dictatorship with military powers, which created a situation where Algerians did not have a precise target to point their discontent at. Although not being the hottest topic in the media spotlight in early 2011, when it seemed as if Algeria was going to rise up to emulate what the Tunisians, Egyptians, Libyans, Syrians and Yemenis had done, an unprecedented and widespread number of demonstrations, strikes, occupations and clashes with the police undoubtedly took place in its streets. The riots did shake the country, which revealed that, like their counterparts in other Arab countries, Algerians have expressed the same aspirations to freedom and dignity. A piecemeal revolt that, due to many reasons, did not lead to the fall of the regime.

The reality is that social demands and popular demonstrations in Algeria are being repressed by state security forces, following the trend of recent decades. During the Algerian Civil War, the brutal repression against the civilians and the worst crimes against population were instigated by all armed actors involved in the dynamics of conflict, which inscribed in the logics of eradicating Islamic terrorism and materialized in a dirty war between government forces and opposition armed groups. The endemic political violence evolved security forces and Islamist armed groups in a climate of total impunity, in which the violence perpetrated by extremist armed groups justified the government abuses in the fight against terrorism. The government established a firm control over the media and silenced all published reports about the conflict and human rights abuses.

The experience of the State in the fight against terrorism since the end of the war was featured in the late 90s by the apparition of the jihadist group Groupe Salafiste pour la Predication et le Combat (GSPC) Al-Jama'a es-Salafiyya li Da'wa wa 'l-Qital in Arabic, was created from the GIA (Islamic Armed Group), which operated during the war. In 2007, the GSPC became Al-Qa'ida in the Islamic Maghreb (AQIM). Jointly with the other Islamist groups - the Mali-based Movement for Unity and Jihad in West Africa (MUJAO), al-Murabitoun, and Jund al-Khilafah in Algeria (JAK-A, Soldiers of the Caliphate in Algeria) - they dominated the scene of violence in Algeria since the late 90s. Authority's efforts to give a response, however, were based on national security

and did not incorporate a human security approach in order to tackle the roots of violent extremism and the connection with social, political and economic claims.

The reality of recent years, and more precisely since the uprisings of the early 10's of this century, is that fundamental human rights and freedoms continue to be severely violated. Algeria's government is plagued by corruption, nepotism, and bad governance. Authorities elude to resolve deteriorating socioeconomic conditions and opt for restrict civil and political freedoms. Although the 19-years old state of emergency ended in 2011, the emergency powers remained in place, impeding to achieve the positive result that was expected. Parallel to the issue of the decree which ended the state of emergency, the government adopted series of measures that gave the army free reign to combat terrorism, acquiring the primary position for all anti-terror and anti-subversion operations. The same methods enforced under the state of emergency were maintained under new provisions and also embedded into domestic laws.

Authorities have articulated for a strong security apparatus and expanded its security forces. In fact, they are currently initiating criminal prosecutions as a means of repressing and silencing peaceful protesters, while failing to introduce the reforms promised since 2011.

It must be noted that the authorities in Algeria continued to refuse visits to the country by UN human rights bodies and experts, including those with mandates to investigate torture, counter-terrorism, enforced disappearances and freedom of association and assembly. Responsible actors of human rights abuses during the civil war remain with impunity. Families of the victims, for long time stigmatized as "families of terrorists", suffer from repression and harassment on their peaceful protests and demands for truth, justice and reparation.

ANTI-TERRORISM LAW

II. Counter-Terrorism Legislations and Measures

Legislative Decree 92-03 "Relative to the struggle against Subversion and Terrorism" was made public on October 4th, 1992. It established trial procedures of the Special Court and set forth penalties for crimes of "terrorism" and "subversion" as defined in the decree. The decree, also known as the anti-terrorism law, is still not applicable nowadays, as it was cancelled in February 1995. Nevertheless, most of its provisions were incorporated into the Criminal Code and the Code of Criminal Procedure.

In the second part of the Criminal Code, relative to incriminations, the first chapter is dedicated to crimes against state security. Section 4 [Articles 87 bis-87 bis 10] contains the following broad definition for terrorist acts: a terrorist or subversive act is considered as "any act against the state security, the territorial integrity, the stability and normal functioning of institutions", and which has the aim of creating insecurity, attempting to disrespect the national symbols, violating public or private means, endangering the environment, obstructing the action of public authorities or institutions or laws, violating public liberties or worships or endangering the lives, security, liberties or the properties of people. [Article 87 bis]

In order to guarantee a series of minimum standards in the conditions of arrests and searches, the Code of Criminal Procedure imposes several restrictions on the criminal investigative processes. Nevertheless, for cases involving "terrorism" or "subversion", those guarantees could be suspended. Time frames for searches and arrests became widespread, temporary detention in custody during the investigative process can be

extended by up to twelve days and pre-trial detention –which is limited to a period of four months– can be renewed eleven times if the crime is classified as a terrorist act.

Legality of offences

Article 87 bis (new) of the Criminal Code in Algeria defines a “terrorist and subversive act” in broad terms and in a vague manner that can include a variety of nonviolent actions, such as peaceful demonstrations, practice of free speech, founding or participating in associations, among others. In fact, the practice reveals that acts as simply as participating in a demonstration could be easily deemed as an offence and prosecuted as a terrorist act.

HUMAN RIGHTS VIOLATIONS

Freedom of expression

Authorities in Algeria are stifling free speech, severely restricting the right to freedom of expression. In practice, Algerian authorities are not solely in deep contradiction with their own constitution, but are also violating international law of human rights and other international treaties.

According to Human Rights Watch, authorities are resorting to criminal prosecutions against bloggers, journalists and medias for non-violent speech. Aiming to prosecute political dissidence, criticism or opposition, the government uses articles of the penal code that criminalize “offending the president”, “insulting state officials” or “degrading Islam”.

The Law on Information adopted in 2012 places substantial restrictions on the right to freedom of expression, constraining the activities of associations and organizations to publish information.

Freedom of assembly

Although Article 49 of Algeria’s 2016 constitution guarantees the freedom of assembly and peaceful demonstrations, authorities are routinely criminalizing those rights. According to Human Rights Watch, they are suppressing peaceful protests by prohibiting all public gatherings held without prior approval. The Algeria’s penal code [article 97] makes it a crime to organize or participate in unauthorized gathering, even if it is peaceful.

Authorities are, on terrorism charges, banning protests and dissolving public demonstrations, but also prosecuting labour rights activists, human rights defenders, and other protesters who call for or participate in it. Some of the arrested activists are being prosecuted on charges including “unauthorized gatherings” or “unarmed gatherings” and other similar charges. As an example, in late January 2015, the courts imposed prison sentences to nine labor rights activists for engaging in peaceful protests to support unemployed workers. In January, 2016, a court in Tamanrasset imposed fines and one-year prison sentences to seven peaceful protesters convicted of “unarmed gathering” and “offending public institutions” for protesting in December 2015 about a local land dispute

Freedom of association

Freedom of association in Algeria is severely restricted by the Law on Associations [Law 12-06], which took effect in 2012. Through the application of this law, authorities acquired the power to arbitrarily block the processes of legal registration of associations and human rights organizations, even if Article 43 of the Algerian Constitution guarantees the right to freedom of association.

The law makes it a punishable crime to belong to an unregistered, suspended or dissolved association, also inhibiting the possibilities of work and existence of the said person due to the decisions of the Ministry of Interior.

The Algerian government monitors NGO activities and financing and the Central Bank is responsible for gathering and relaying information about UN lists of designated terrorist or terrorist entities to financial institutions. The 2012 Law on Associations, which was born from the original law of 1990, was adopted shortly after a period of violence and terrorism in Algeria. It requires all associations to re-file registration applications and obtain a registration receipt from the Ministry of Interior to operate legally.

Freedom of religion and belief

Authorities targeted members of the Ahmadi Muslim community, accusing them of “extremism” and serving foreign interests. From June 2016 and onwards, more than 50 members of this community were arrested on account of their faith, according to the sources of Amnesty International. In November, a court sentenced 20 Ahmadis to prison from one month to one year and also fines. Opinions about Islam may also be deemed as criminal offences for “denigrating Islam” or “insulting the Prophet Muhammad”.

Privacy

Chapter 4 of the Code of Criminal Procedure allows, under Article 65 bis 5, the Public Prosecutor to authorize interceptions of correspondence, recordings and image capturing of suspects of terrorism. Due to the broad and vague definition of terrorist acts, the law potentially allows violation of privacy of activists, human rights defenders, journalists.

Arbitrary arrests and conditions of detention

The Code of Criminal Procedure, which establishes the restrictions of the criminal investigative process, guaranteeing a minimum time frame for home visits and search and seizure operations. In addition, it also prescribes the suspension of such requirements in the case of terrorism.

Protesters are being arbitrarily arrested during peaceful demonstrations. Security forces use arbitrary arrests of people to prevent peaceful gatherings, as a form of political violence to silence and intimidate dissent. Most of them are released without charges after a few hours, others are held in detention under charges that fail to achieve international standards and which reveal that authorities fail to vague criminal accusations to prosecute dissent and critics.

Despite the fact that the constitution prohibits and punishes acts of arbitrary detentions, in practice, bloggers, human rights defenders, journalists and other activists are arbitrarily arrested because of their opinions and held in detention without evidence of criminal offences.

Article 51 of the Code of Criminal Procedure establishes the time frame of detention in police custody to 48 hours, renewable up to a maximum of 5 times in cases of terrorism or subversive acts. Detention for suspects

of terrorism after their arrest could last up to 10 days, extendable until a maximum of 12 under authorization of the public prosecutor.

Under Article 125 bis (Modified) of the Code of Criminal Procedure, pre-trial detention is limited to a period of four months, which can be renewed twice. However, when the offense is related to a terrorist act the pre-trial detention may be renewed five times, and if the crime is transnational in nature, it may be renewed eleven times. So, a person in Algeria could be held in pre-trial detention for more than three years before being convicted of any crime or found guilty.

Those conditions of police custody detention and extendable pre-trial detention fail to achieve international standards and could give rise to more human rights abuses, like torture and other ill-treatment. Pre-trial detainees face a great risk of suffering from torture, as they are entirely in power of detaining authorities, who often perceive torture and other ill-treatments as the easiest and fastest way to obtain information or extract a confession.

A number of activists and human rights defenders have been held in lengthy periods of police custody and pre-trial detention, exceeding international standards of conditions in proceedings before court. Following their arrest, many of them have been detained secretly and incommunicado, without informing their relatives of their location. There have been reports of torture and ill-treatment during detention.

Unfair trials

Many of the sentences carried out in Algeria relied on confessions or forced extracted confessions to establish guilt. The Algerian League for the defence of human rights denounced the anomalies of judicial proceedings, those which lead to journalist Mohamed Tamalt's death. Yet in 2012 Human Rights Watch denounced that the long delays in bringing terrorism cases to trial undermined the defendant's right to a fair trial and dramatized the continuing obstacles faced by those charged with terrorist offenses.

According to Amnesty International, authorities prosecuted peaceful critics, including human rights defenders, in unfair trials.

Torture and other ill-treatment

The president of the Algerian League for the Defense of Human Rights affirmed in 2011 that torture is practiced in Algeria. There are reported cases of torture, to extract forced confessions, as the sole method to establish someone's guilt. Torture is also practiced in places of detention and prisons, where inmates are beaten and medical treatment denied.



EGYPT

GENERAL SITUATION

The country, led by President Abdel Fattah al-Sisi since June 2014, and after the ousting of Mohamed Morsy, is still in crisis. The escalating violence and repression, lack of accountability for human rights violations and some draconian counterterrorism measures give continuity to a long-standing authoritarianism and oppression against the civil society and citizenship.

In January 2011, Egypt's civil society showed the reach of Tunisian revolutions influence by involving itself in the same social outburst that throughout the Arab world deposed eternal dictators, occupied streets and squares and elevated the following months with a climate of collective effervescence, social claims and hopes.

Even if many expected that protests and demonstrations –which led to the overthrowing of the dictator Hosni Mubarak– would bring political reforms and social justice, as well as more efficient protection of fundamental rights and freedoms, the reality revealed that Egypt is stranded in a violent dynamic of repression. The crackdown on dissent and critics has led to at least 34,000 people, and possibly thousands more, being imprisoned. Hundreds have been convicted with death sentences. Demonstrations have been banned and bloody dispersals of protests together with arbitrary arrests and detentions have been the feature in the last years of civil disobedience.

Facing a wave of international and national condemnation, Egypt's regime seems to be waging war against the young of the population, who dream of a better future, as the family of a detained political activist stated to Amnesty International. Addressing the social and political demands of large sections of Egyptian society or even countering real threats of terrorism through a more human security-focused approach has been a secondary objective for the state of Egypt.

Criticism against authorities' failure to investigate, and to ensure accountability, for the unlawful killings of hundreds of protesters by security forces since June 2013 has been strong. Among advocacy groups and human rights defenders' the impunity of perpetrators of tortures, as well as arbitrary arrests, prosecutions and imposing of death sentences after unfair trials are an object of concern.

The human rights situation has deteriorated as authorities have increased the intensity and the number of violations, using extra-legal practices and arbitrary violence against protesters and citizens. Arbitrary

detentions and arrests, torture, enforced disappearances, unfair trials, and other measures reveal a systematic infringement of citizens' fundamental rights and liberties, according to the EIPR. Moreover, beyond the severe human rights' abuses committed by Egyptian authorities, what is really happening due to the application of the anti-terrorism Law is that under the excuse of protecting national unity and social peace the acts of political revenge and terrorism are being aggravated instead of inhibited, according to CIHRS and EIPR.

Indeed, Law No. 94 of 2015 on "Combating Terrorism", as well as Law No. 8 of 2015 on "Terrorist Entities and Lists" and Law n° 107 of 2013 "Regulating the Right to Public Gatherings", Processions and Peaceful Protests has been the object of national and international criticism and debate since its approval, to the point of having been considered a blow to the constitution.

ANTI-TERRORISM LAW

Law on Combatting Terrorism

Egypt's President Abdel Fattah al-Sisi, who has ruled the country by decree since July 2013, enacted a new anti-terrorism Law on August 15, 2015, despite wide civil society outrage. Put together by 54 articles, Egypt's Anti-Terrorism Law No. 94 of 2015, known as the Law on Combating Terrorism, provides a broad definition to terrorism and retroactive enforcement. It also imposes death penalty for a broad range of acts and restricts fundamental human rights and freedoms, even if they are recognized and protected by international treaties and also by international law of human rights, latter which is ratified by Egypt. The Anti-Terrorism law increases authorities' power of prosecution and punishment, whereby its aim was to strengthen the efforts of combatting a rising terror insurgency.

The new legislation allows the authorities to take extreme measures that would usually only be invoked during a state of emergency, like the 30-year-long state of emergency imposed by former president Hosni Mubarak. That time showed that a permanent state of exceptionality brings about a situation where rights and freedoms are more easily subject to potential suspension.

Law on Terrorist Entities and Terrorists

The application of Law on Combating Terrorism particularly –or more seemingly– affects any person or group tried under Egypt's Law No. 8 of 2015 on "Terrorist Entities and Terrorists", which grants the Public Prosecution the authority to issue both a terrorist entities list and a terrorist list, designating organizations and individuals with previous criminal verdicts as terrorists.

The law on "Terrorist Entities and Terrorists" was issued in February 2015 by a decree by President Abdel Fattah al-Sisi, in the absence of a parliament, and received strong critics from the Egyptian human rights groups and civil society, as it reflects the authorities' indiscriminate use of broad counterterrorism law, relying on a vague and ambiguous terminology in defining terrorism and terrorist entities, leaving the door open to oppression of opposing voices of mobilized citizenship.

Law on "Terrorist Entities and Terrorists" constitutes a violation of several legal protections laid out in the Egyptian Constitution, ratified by Egypt's Supreme Constitutional Court, and international human rights law. The Law on Terrorist Entities and Terrorists, by providing a broad definition of terrorism, allows for the arbitrary prosecution and criminalization of suspects, who are not required to be found guilty of a crime and

are deprived of the right to a fair trial, according to Human Rights Watch. The advocacy group announced its concern about the law, which should be cancelled or amended to ensure due process guarantees and to provide a more specific definition of terrorism.

Protest Law

Dispositions provided by Law n° 107 of 2013 Regulating the Right to Public Gatherings, Processions and Peaceful Protests constitutes an important tool for the national strategy framework of counterterrorism. Through the application of this law security officials have the power to disband any peaceful demonstration regardless of their intent. It also restrictively determines the use of public space for such activities and enhance the power of officials to use excessive force against protesters, including lethal force.

The Protest Law allows for the suspension of several civil and political rights of the citizenship through the creation of a legal framework that goes beyond the restrictions permitted under international law. It severely curtails the exercise of the right to peaceful assembly and deepens the negative effects of the application of anti-terrorism Laws. The Protest Law of 2013 places a broad restriction on the right to freedom of peaceful assembly, granting security officials discretion to ban protests and demonstrations. According to Amnesty International, the law n° 107 of 2013 gives security forces unlimited powers to the use of force, a free rein to apply lethal force during acts of dispersion and arrest of protesters.

Legality of offences

Article 1 of Anti-Terrorism Law No. 94 of 2015 does not actually provide a specific definition of the term terrorist, terrorist group or terror crimes, in contrast with national and international standards.

Likewise, article 2 gives a large and overly broad list of acts deemed as terrorist. The inclusion of unclearly defined expressions such as "public order", "national unity", "social peace" or "national security" may give way to misinterpretation and enhance the risk of abuse of powers by the authorities.

The EIPR published an article, in which it expressed the undersigned organizations' assertion about the reliance of the law, on broad and vague definition of actions on the basis of which individuals or groups may be designated as terrorists.

Also, the law on Terrorist Entities and Terrorists, by providing a list of suspects of terrorism, hold all those individual groups to the consequences of being prosecuted by an illegally defined offence.

Egypt's anti-terrorist laws, contrary to the basic principle of human rights law, defines counterterrorism vaguely and thus has been the object of concern among human rights groups and civil society, both national and international.

According to Human Rights Watch, new counterterrorism law does not function as a safeguard against the arbitrary use of power, as it does not provide a precise and clear definition of terrorism and does not make it clear to people what actions constitute a crime, providing for easy prosecution of individuals and groups that the government deems as a threat to national security. Amnesty International claimed that such a wide definition has the potential to effectively ban and criminalize the legitimate exercise of human rights and authorities and security forces are likely to use the sweeping scope of it to muzzle their political opponents and critics.

HUMAN RIGHTS VIOLATIONS

Freedom of expression

Egyptian authorities have restricted the right to freedom of expression. They have prosecuted and imprisoned journalists, activists and others on criminal charges such as “defaming religion”, “harming national unity”, “harming the national economy”, “disturbing public order”, offending “public morals” or even disseminating “false rumours or news”.

The vague dispositions and the wide legal framework of the Egyptian Law on Combating Terrorism leads to the criminalization of legitimate exercises of the right to freedom of expression.

Article 35 of Law 94 of 2015 allows prosecution of those who promote or publish news deemed as false or contradictory with official statements released by the Ministry of Defence about terrorist acts or anti-terrorism operations.

Thus, due to the Law on combating terror, journalists are restricted from reporting on counterterror operations that contradicting official government statements and are put in high risk for publishing opposing information. Amnesty International documented several cases of journalists who have faced criminal charges for “broadcasting false news with the aim of disturbing public order and harming national unity”.

Law on combating terror sets a prison term for anyone who promotes or prepares a “terrorist” offence, whether orally, in writing, or “by other means”. Anyone who creates a website with the intent of promoting ideas of a “terrorist act” may be also charged and sent to prison. According to Amnesty International, the vague manner in which the articles of the law define those acts could allow authorities to use them as a pretext to target journalists, human rights defenders and others critical of the government simply for publishing information on the internet.

Freedom of assembly

The Law N° 107 of 2013, referring to public protests and gatherings, severely restricts the exercise of the right to peaceful assembly. It allows the Ministry of Interior, by granting him wide discretionary power, to ban protest on the grounds of “threats to security and peace”, “security or public order” and “influencing the course of justice”. The vague and broad grounds in which the banning may be founded lays out wide circumstances, in which demonstrators can be found, to violate the law. Indeed, security forces have free rein to ban and disperse gatherings using excessive and lethal force.

The new law to combat terrorism, by reincorporating offences from the Protest Law, have led to thousands of people facing criminal charges, trials and prison sentences for offences such as “disturbing public order” or “damaging public and private institutions”.

Civil disobedience appears to be within the scope of “terrorism” in Egypt, as the new law goes beyond the proposal of the UN special rapporteur on counterterrorism to countries adopting a more specific definition of incitement that criminalizes the public distribution of a message that encourages a terrorist act.

Under the new law, incitement to civil disobedience appears to be linked with a definition of terrorism that includes a wide range of offenses and also encompasses lawful activities like protesting and demonstrating in public spaces. Police are allowed to use shotguns and rubber bullets to disperse peaceful protesters, leading to several deaths.

Freedom of association

The new law on non-governmental organizations (NGOs), approved by the Egyptian parliament at the end of November, 2016, is the latest step that Egypt has taken in order to diminish the rights of non-governmental organizations in Egypt. It disrupts Egypt's social composition, restricting the work of non-political services, development organizations and human rights groups. This law, by replacing Law 82 of 2002 of Mubarak-era, in the framework of counter-terrorism, reveals itself as an important weapon to criminalize civil society and silence dissident and critical voices.

That extremely restrictive law on NGOs was described by the head of Cairo Institute for Human Rights Studies (CIHRS) as an indicator of the state's war with civil society. Egyptian human rights groups said they are being subject to a widening government crackdown targeting organizations accused of threatening national security.

Amnesty International reported that authorities have intensified their repression campaign in the first half of 2016, targeting independent civil society, as NGO workers, detaining them and subjecting some to enforced disappearance, ill-treatment, and charging them with "terrorism" offences.

Arbitrary arrests and conditions of detention

Arbitrary arrests and detentions have been revealed as constant and systematic practice in the framework of the revolutions and the subsequent political transition in Egypt. In fact, the past 18 months have seen the emergence of a new pattern of human rights violations against political activists and protesters, including students and children. Hundreds of them have been arbitrarily arrested, detained, and subjected to enforced disappearance. The application of anti-terrorism Laws currently constitutes as an aggravating factor and the needed legal framework of such practices.

The provision of a broad and ambiguous definition of terrorism, terrorist acts and terrorist groups (including the lists provided by Law n° 8 of 2015) and the broad circumstances in which demonstrators can be found to violate the law, has led to a more legal way to arrest, detain and prosecute citizens, organizations and medias while exercising their fundamental rights and freedoms. The law also gives the authorities increased powers to detain people without proper judicial oversight, breaching the Egyptian Constitution and international law.

National Security Agency officers and members of security forces have conducted house raids armed with automatic weapons. They have searched homes, seized computers and personal possessions, examined the mobile phones to find out contacts, messages and use of social media. Those targeted by authorities have been subjected to arbitrary arrests carried out during those raids at any time of the night and without judicial arrest or search warrants. Victims have been handcuffed and blindfolded while taken away. The families of those arrested were not told where their relatives were being taken nor why and consequently have been victims of threats if they protested or demanded to know the reasons of the arrests or the place of they were being taken.

Advocacy groups have repeatedly denounced the misuse of the new anti-terrorism law 94 of 2015 to arrest and imprison government critics and political opposition, as well as activists and social movements leaders, subjecting some to enforced disappearance.

According to the Assistant Minister for Public Security in Egypt, security forces arrested 11, 877 members of "terrorist groups" between January and the end of September of

Anti-terrorism Law in Egypt expands the powers of the security forces and the Public Prosecution to hold individuals in detention without charge, judicial review or trial for prolonged periods of time, failing to meet the required safeguards provided by international law. The law also removes the right of a detainee to be

brought promptly before a judge. The law allows the security forces to detain an individual in their custody for up to 24 hours if there is enough evidence that there is a risk of a terror crime, and further allows the Public Prosecutor or a relevant investigating authority to extend this period of pre-trial detention in police custody for up to seven days. The law on combating terrorism allows for complete removal of judicial acts from pre-trial detention for “terrorist” offences. Public Prosecutors are granted with greater power to order wide-ranging and potentially indefinite surveillance of terrorist suspects without charge or trial and without a court order, and to renew the pre-trial detention for prolonged periods. According to Amnesty International, such provisions severely hamper the protection of the right to liberty and the presumption of innocence, while removing important safeguards against torture and other ill-treatments, enforced disappearances and other human rights abuses. Human rights groups reported cases of individuals arrested and held in incommunicado detention, in conditions that may amount to enforced disappearance in some cases.

Excessive use of force

The excessive use of force [including lethal force] by security forces, allowed under Protest Law of 2013 and Law 94 of 2015, have been usual against protesters, being aimed to disperse “unauthorized” demonstrations and other public gatherings, resulting in deaths and serious injuries. In fact, it constitutes an effective tool in smothering peaceful demonstrations and large pre-emptive raids and arrests when police anticipated protests.

Law 94 of 2015 and Protest Law of 2013, give the security forces the right to use lethal force whenever they deem it necessary, without the proper considerations of the principles of necessity and proportionality established in international standards. The legal framework around “crime punishable by law” has been used as an excuse for excessive force against protesters. It constitutes a violation of international law of human rights, such as the right to life and to not be arbitrarily deprived of it.

The Ministry of Interior repeatedly announced that security forces had shot dead suspects during house raids, killing members of the Muslim Brotherhood and alleged members of armed groups. However, no police officers were formally investigated, which according to Amnesty International, raises concern that they may have used excessive force or carried out extrajudicial executions.

Unfair trials

According to Amnesty International, rather than being fearless upholders of justice, Egyptian courts operate as mere instruments of state repression. Hundreds of defendants are being convicted on charges such as “terrorism” or “unauthorized protesting” in unfair mass trials in which prosecutors did not establish the individual criminal responsibility of the accused. At least 3,000 civilians stood trial before unfair military courts on “terrorism” and other charges of alleged political violence. Courts accepted “confessions” extracted under torture as evidence. The NSA videotaped forced “confessions” and released them for local media broadcasting, apparently to convince both the Egyptian public and the international community that the supporters of Morsi and the Muslim Brotherhood were engaged in “terrorism” and that the security forces were combating such “terrorism” effectively. The NSA falsified detainee’s arrest dates in official documents, to make it appear they have not disappeared nor held in police custody for more what is allowed by law.

Law on combating terror states that a special “terrorism” court must look into and to issue verdicts in the cases before it in an expedited manner. The Supreme Judicial Court shall regulate the work of this court, and the law does not clarify the scope and proceedings to be followed before these courts. Thus, law on combating

terror undermines the right to a fair trial and contravenes both the Egyptian Constitution and international human rights law.

Torture and other ill-treatment or punishment

Several denunciations of tortures perpetrated by security forces and military intelligence have been published from advocacy groups and human rights organizations. Officers of the National Security Agency routinely torture and forcibly make suspects disappear all the while remaining unaccountable.

Beatings, electric shocks, stress positions of detainees are some of the usual methods of torture practiced in Egypt's detention centres and prisons. According to Amnesty International deaths in custody as a result of tortures and poor and unhygienic detention conditions had been reported throughout the last year. Forced confessions through tortures had also been reported.

In almost all of the cases documented by Amnesty International, detainees alleged that they were subjected to torture and otherwise ill-treatment during their enforced disappearance.

Enforced disappearances

Human rights groups reported cases of detainees being held in incommunicado detention in conditions that led to enforced disappearance. At least several hundreds of Egyptians have disappeared since the beginning of 2015. Amnesty International noted a reported average of three or four people subjected to enforced disappearance each day since January 2015. To identify an approximate scope of current abuses of enforced disappearances, Egyptian NGO determined several criterias to identify when someone may be a victim of this abuse: they were arrested by state agents, they were held in an undisclosed location for a period exceeding 48 hours without referral to the Public Prosecution and outside of the oversight of the judiciary; and the authorities denied that the individual was in their custody when the family inquired about them.

Some detainees have been subjected to enforced disappearance for a few days, but others remained missing for weeks or months. While disappeared, detainees were held in incommunicado detention, most of the time kept handcuffed and blindfolded, threatened and ill-treated.

Most of the victims of enforced disappearances have been supporters of the former President Morsi, but also included supporters of other political movements. Some of them have been subjected to enforced disappearance for up to several months by security officials solely or mainly because of their family connections, being used as leverage against their targeted relatives.

Between August 2015 and August 2016, the Egyptian Commission for Rights and Freedoms, an independent group, documented 912 victims of enforced disappearance, 52 of whom had not reappeared by the time the group issued its report.

It has been found that in Egypt children faced the same pattern of arbitrary arrests, detention, tortures and enforced disappearances like adults. Amnesty International found that children have been held in detention for periods ranging between 7 and 50 days in incommunicado detention, during which they have been tortured to obtain "confessions" or statements incriminating others. They were held with adults and remained in detention for prolonged periods, in some cases during months under successive renewals of their pre-trial detention. Thus, violate Egypt's Child Law, international human rights law and international conventions protecting the rights of the child.

Death penalty

Under Egypt's anti-terrorism Law death penalty constitutes the mandatory punishment for a large list of acts. It must be noted that courts have been sentencing people to death in unfair trials.

Even if death penalty is not prohibited by international law, sentences of death penalty in Egypt are the object of concern among advocacy groups and human rights defenders, as they do not comply with international standards and are sentenced to civilians after unfair mass and military trials.

Courts handed down hundreds of death sentences on defendants convicted of "terrorism" and other charges related to the political violence. In fact, since the overthrowing of Morsy, courts have sentenced hundreds of members of the Muslim Brotherhood to death. Egypt executed at least 22 people in 2015, some of them under charges of terrorism, and many of them following unfair trials.



FRANCE

GENERAL SITUATION

Following the November 2015 attacks in Paris, French authorities answered the provocation by launching a massive aerial offensive in Syria in order to destroy IS. They also responded to the threat by expanding its powers, reinforcing police, justice, army and intelligence services and imposing a state of emergency in their own country, leading to drastic restrictions of freedoms and human rights abuses.

Focused on national security matters, the state of emergency in France has been extended repeatedly, giving way to abuse of power and to indiscriminate and disproportionate use of its anti-terror measures. New law on December 15th, 2016 brought the prolongation to an additional seven months.

The state of emergency in France allows the Ministry of Interior and police officials to acquire exceptional powers and exercise them at their own discretion without a prior judicial authorization. In this way and based on vague evidences the fundamental rights and freedoms of citizens are severely restricted creating a climate of fear and insecurity.

Due to the vague wording of the law it is possible to disproportionately expand the application of the emergency measures based on ambiguous reasoning. Human rights groups have raised serious concerns about the poor efficacy of the exceptional measures, as it seems that the state of emergency has contributed very little to the fight against terrorism and also not improving security.

The living conditions of the people take a hit when the basic rights are restricted – provoking stress, fear and anxiety as well as traumatizing children, creating economic hardship and stigmatizing those targeted by the anti-terror measures.

The most severe impact that the state of emergency entails, is suffered by specific groups as the measures are executed in a discriminatory manner. Muslims are deemed as suspects, becoming victims of the arbitrarily implementation of anti-terror measures with no evidence pointing to their involvement in any criminal offense.

ANTI-TERRORISM LAW

Since 1986, the French government has been multiplying and strengthening the legislative arsenal to deal with terrorism. Law N° 2014-1353 was published in November 13, 2014, in order to reinforce the fight against terrorism, adapting the Penal Code to the new terrorist threats. In July 24, 2015, Law No. 2015-912, focusing on the intelligence service, was approved.

In the wake of January and November 2015 attacks, Law N° 2016-731 was approved in June 3rd, 2016, improving the efficiency of prosecution and the means to track terrorist finances.

The new anti-terrorism Law gives courts and prosecutors improved ability to use the new measures to carry out criminal investigations. Also, it increases the penalties for terrorist offences, incorporating new dispositions into the existing codes of French law.

The continued renewals not only extended the state of emergency for a significant period of time, but also expanded the already wide executive powers of search, seizure and detention. The state of emergency restricts certain civil liberties and collective freedoms. It allows the Ministry of Interior to limit or prohibit traffic in certain places, to prohibit certain public assemblies, to temporarily close certain public spaces, to requisition private property or services, to prohibit certain people to stay in French territory, to put people under temporary house arrest and to carry out searches without normal warrants [authorized by a judge].

Legacy of offenses

French counter-terrorism laws, even if they were already operating under non-emergency regime, contain dangerous, overboard language in terms of human rights. The law's vague and overboard definitions of terrorism may succumb to misuse, causing discrimination of migrants, refugees, human rights activists, Muslims and minority groups in its application.

HUMAN RIGHTS VIOLATIONS

Expulsions

The new emergency law introduces an amendment to the criminal code to increase the judiciary's discretion on expulsions and entry bans for foreign nationals convicted of terrorism-related acts. Mostly, the measures targeted migrants and refugees, with a special attention to the members of the Muslim community.

Discrimination on the grounds of ethnicity, religion or belief

There are grounds to consider that anti-terror measures in France are applied in a discriminatory manner. State of emergency's measures target specific groups or individuals relying more on their beliefs or religion rather than that of criminal behaviour.

Searches and raids can fuel further stigmatization of those targeted by the emergency measures, mainly Muslims, and lead to discrimination of their everyday lives. Some of the victims told Amnesty International that the searches had a negative impact on neighbours' or acquaintances' perceptions of them.

Migrants and refugees are suffering in extreme conditions climate and violence. Refugee camps have been destroyed, people have been resettled without being informed in advance and experienced harassment and abuse at the hands of the police.

Freedom of expression

The lawful exercise of the right to freedom of expression and opinion has been severely restricted, due to the security measures of the state of emergency. Due to the vague definition of the offense known as “public apology of terrorism” individuals are very often prosecuted, despite the fact that they may have been lawfully exercising their right to freedom of expression.

With the purpose of preventing terrorism, Law No. 2015-912 of July 24, is in flagrant violation of the right to free speech. Under this law, authorities have extensive powers to monitor what people say or write online and offline. Communications between people are within the reach of government institutions, which could easily lead to mass surveillance of what people express and thus be in danger of violating the right to freedom of expression and opinion.

According to Amnesty International hundreds of people were prosecuted in violation of the right to freedom of expression for offenses concerning the apology or glorification of terrorism, often through comments posted on social media.

Freedom of assembly

Authorities imposed restrictions of movement for climate activists and introduced a blanket ban on demonstrations during the UN Climate Conference, COP21 on November and December 2015. Those restrictions prevented citizens from exercising their right to freedom of peaceful assembly during the conference. This was justified by the authorities through the fact that the climate conference would attract violent protesters.

In order to prevent additional terrorist acts the authorities broadened the scope of restrictions on public assemblies.

After the attacks in Paris in November 2015 authorities banned all public assemblies in the Paris region, and renewed it twice. Prefects also banned public assemblies in other regions on the weekend of 28-30 November, with the exception of meetings commemorating the victims of the attacks.

The ban on public assemblies and demonstrations was not limited to what was strictly required by the state of emergency and authorities did not attempt to seek viable alternatives to the restrictions of the freedom of assembly.

Freedom of association

Emergency measures also include temporary bans on meetings and associations if they are deemed to be involved in the facilitation, incitement or perpetration of acts that constitute a serious breach of public order. Such restrictions constitute a violation of the right to freedom of association.

Since the state of emergency was issued several mosques and prayer rooms have been closed down temporarily, as well as organizations linked to them. Many people have been deprived of a place of worship, or a place where to assemble.

Privacy

New law on intelligence services and the current state of emergency allows for extremely intrusive surveillance practices which violate the right to privacy. Authorities are able to hack into computers and mobile devices; to search luggage and vehicles; to track people’s locations and movements; to place black boxes in the infrastructure of internet and service providers. What and when people write, speak, go or do could, through the installed systems, be known to authorities without needing court approval. In the purpose of

preventing further terrorist attacks and to prosecute terrorism, authorities are blatantly violating the right to privacy.

Arbitrary searches, curfews and residence orders

Police conducted night raids to houses, businesses and civil society organizations imposing nightly curfews and house arrests on unspecified grounds of “radical Islamism” or connection to it. For most of the searches no criminal investigation followed.

French criminal law restricts the police to conduct searches without the approval of a judge and limits the time frame of the searches to day. In cases of terrorism-related offenses the law establishes some exceptions. In those cases, the approval of a judge is not needed and searches may be conducted at any time of the day and the night.

A search could be authorized on vague grounds, if authorities have “serious reasons to believe that the location is frequented by a person whose behaviour constitutes a threat to public order and security”.

In December 2016, security forces conducted more than 4200 raids and 600 house arrests without charges for acts of terrorism, and 1600 identity checks or car searches. These measures have led to only 61 terrorism-related criminal investigations, 20 of them resulting in judicial investigations for “criminal association in relation to a terrorist undertaking”. According to Amnesty International, authorities have conducted searches that in many cases appeared to be arbitrary and with very little evidence that those targeted were involved in, or had information of, any crime.

Searches and raids conducted under the current state of emergency were reported to be abusive and traumatizing for women, men and children, having a significant impact on human rights of thousands of individuals. Many instances were reported to human rights groups, who denounced the impact that emergency measures had in people’s everyday lives.

The grounds on which many of the searches have been conducted violate the right to privacy and the principles of necessity and proportionality. The arbitrary orders violate the right to liberty, the right to freedom of movement, and the right to not to suffer from any form of discrimination.

Searches and arrests are conducted in a discriminatory manner against foreigners, especially migrants, refugees and Muslims. In the context of the UN Conference on Climate Change in Paris, environmental activists also suffered searches under state of emergency.

Assigned residence orders are imposed by judicial authorities on individuals when there is sufficient proof to suspect they have committed a crime. However, under the state of emergency the imposing of residence orders follows much less stringent criteria than under criminal law, and is imposed where “there are serious reasons to believe that a person’s behaviour constitutes a threat to security and public order”. In practice, it seems to include whole communities, which are targeted as suspects on religious grounds.

Assigned residence orders usually include night curfews of up to 12 hours, the obligation to report to a police station up to three times a day, and a ban to travel outside the territory of the municipality. Under the current anti-terror measures and following the December 15th extension of the state of emergency, the duration of house arrests can be issued to 12 months and subjected to further extensions of three months.

Pre-trial detention for children

One of the most appalling acts introduced by the emergency law is pre-trial detention for children. This measure adds an extra year to the maximum period of pre-trial detention for children as young as 16, from one to two years, to two to three, depending on the offense.

Excessive use of force

Police use excessive force conducting searches and arrests, as human rights groups documented from victims and witnesses. The reported cases have shown that the use of violence by security forces, against people and their property, is widespread and disproportionate.

Security forces burst into the houses, businesses and mosques, forcing the entrance doors open, causing material damage, handcuffing, pointing firearms at people, kicking them, causing panic among children and harming men and women.

On 10th of June, the UN Committee against Torture raised concerns regarding the allegations of excessive use of force by police and called for investigations into those claims.



GREECE

GENERAL SITUATION

Perceptions that refugee and migrant flows, fleeing from the conflict zones to Europe, may entail a security threat conducted to the adoption of highly restrictive migration policies and to serious abuses of international law of human rights against people in forced displacement. Greece has, for the last years, been one of the main migration entrances to Europe for the flows of people searching for a better and safer life. It has become an immense and intolerable prison for thousands of asylum seekers and migrants, after the European countries closed their borders and imposed highly restrictive measures on migration and mobility. The EU-Turkey deal has led to a containment policy in Greece, resulting in thousands of asylum seekers confined to the islands in order to be returned to Turkey.

The proliferation of large informal camps housing thousands of people in extreme conditions, waiting to continue their way to other parts of Europe, features the new scene of securitization and militarization of bordering countries. Greek authorities evicted some of those camps, like the one in Idomeni in 2016, and resettled their temporary inhabitants in unhealthy facilities administrated by the military. Exceptionality seems to be turning into a long-lasting state for the inhabitants of those camps in unacceptable inhuman living conditions. Even if Greece has been a gateway to the EU for decades, authorities have ignored the repeated and alarming calls to increase the capacity of its sheltering system. Migrants and asylum seekers, including those more vulnerable, face shocking conditions while they wait their asylum-seeker application to be reviewed by a completely dysfunctional system that fails to achieve the obligations in human rights and international humanitarian law.

International organizations and European civil society insistently demand the Greek authorities for an urgent political reaction including moving people to safer and less crowded facilities and facilitate international protection. However, overcrowding in refugee camps continued. The migrant flows increase and challenges of providing adequate reception conditions fail to be achieved, amid a context of mismanagement and growing intolerant political rhetoric .

Greece grapples with hate-motivated attacks and the worrying rise of ultranationalist, right-wing and anti-immigration movements, like the Golden Dawn. This far-right movement gained support rapidly in the political scene of Greece, due to deep recession that has led to a declining economy, salaries and to high levels of unemployment. Exasperating social divisions are leading to an increase of violence and hostility

against migrants and refugees. This, and accompanied by the fragmentation of the two-party political system and a profound legitimacy crisis, has led to the situation where the Golden Dawn became Greece's third most important political party. Members of the party are being prosecuted on the charges of creating and participating in a criminal organization linked to a range of offenses, such as hate-motivated attacks against vulnerable groups like refugees, asylum-seekers and migrants (including two murders), as well as attacks against solidarity spaces used by activists, volunteers and migrants. In August 2016, Notara 26, one of Athens' autonomously-run migrant squats was attacked with Molotovs and gas bombs, putting more than 100 lives at risk and causing serious structural damage.

ANTI-TERRORISM LAW

The most recent Law on countering terrorism, adopted in Greece, was passed by the Greek government on 26th August 2010 as Law 3875/2010, titled 'Ratification and Implementation of the United Nations Convention against Transnational Organised Crime and related provisions. Through the adoption of this Law, Greece integrated into its domestic law the United Nations Convention Against Transnational Organized Crime, also known as one of the three Palermo Protocols, which were ratified by the UN in 2000.

The law modifies certain articles on the Penal Code and amends former antiterrorism Law 3251/2004, which, in turn, amended the 2928/2001 anti-terrorism Law. Law 3875 expands the scope of the former anti-terror legislation, expanding the definition of terrorism. It introduces the element of collective objective intent, which criminalizes individual behaviours on the basis of collective responsibility. It sanctioned groups set to commit misdemeanours, classifying them as terrorist act, including any demonstration, squatting, damaging of property, obstruction of transport, etc.

HUMAN RIGHTS VIOLATIONS

Forced returns

On 18th March 2016 the EU and Turkey agreed to a deal requiring Greece to return every new asylum-seeker to Turkey. That migration control deal allowed those arriving to the European country to be systematically returned to Turkey without substantive examination of their claims for asylum. Such a deal, founded on the fictitious basis of Turkey being a "safe country", created great concern among civil society organizations and human rights groups.

The concerns pointed, first of all to the potential of fast-tracking or collective and arbitrary expulsions, which are prohibited under international law, and secondly to the risk that returning asylum-seekers to Turkey would entail danger of persecution and denial of international protection, contradicting the principle of non-refoulement to which Greece is committed.

Within the framework of the EU-Turkey deal, more than one thousand refugees have been forcibly returned to Turkey. Boats with more than one hundred people left the Aegean coasts of Greece to return people to a not-safe country. They were put at risk of arbitrary detention, torture or other ill-treatment.

Expulsions may be executed if the required individualized assessments are completed, through which the State must assure that the returned people will not be at risk of serious human rights violations upon return.

By forcibly and massively returning people to Turkey [where there are reported cases of refugees being forcibly pushed back to Syria] Greece is violating the principle of non-refoulement.

Freedom of expression

According to Human Rights Watch, measures criminalizing speech in Greece raise concerns on freedom of expression. Journalists suffer harassment and intimidation by the right-wing movements, who violently attack and prevent journalists from doing their job while covering protests and demonstrations. Authorities denied TV crew access to refugee camps, preventing them from covering a police operation against refugees in Idomeni.

Freedom of assembly

Police violence against demonstrators in Greece has been the subject of complaints in recent years. Since the beginning of the economic crisis of 2008 and in the face of the deep socio-economic impacts it has generated in the country, demonstrations and protests against abusive budget cuts and the lack of effective solutions have characterized the public space scene in Greece. In this context, state violence has been the general response to public expressions of social discontent, beginning with the murder of Alexandros Grigoropoulos and with a violent repression of civil disobedience in later years.

Arbitrary detention and conditions of detention

In the framework of the EU-Turkey agreement, thousands of people arriving to the Greek islands have been arbitrarily detained. The most vulnerable have been released rapidly, but the vast majority have been released gradually out of these “hotspots”. However, a large number of people have not been allowed to leave the island until their asylum applications were examined, provoking the detention of asylum seekers for months. Greek authorities, in coordination with the EU, automatically detain migrants and asylum seekers, often in deplorable conditions. Over-crowded facilities, which lack of basic services, are not able to provide the needed assistance to people and fail to comply with international humanitarian standards, violating the right to seek asylum and receive refugee protection.

Greece is violating its own and international law by denying detainees, including irregular migrants and asylum seekers, the right to be informed, in a language they understand, of the reasons for their detention and their rights. According to Human Rights Watch, not one of the people they interviewed had been given a detention order or were informed about the reason for their detention.

Unaccompanied minors seeking asylum in Greece are routinely and arbitrarily detained in prison-like conditions during weeks and months. Those detentions are justified by the government as temporary protection measures, but in practice are revealed to be an abusive and denigrating practice that undermines the lawful exercise of their rights and which is in deep contradiction with international and European human rights law, as well as Greek law. Greece’s chronic lack of suitable shelter for underage asylum seekers and migrants –combined with lack of action by other European countries– have led to unjustified, arbitrary and prolonged detention of children in crowded and unsanitary and child’s rights-denial conditions.

While Greek law allows the detention of unaccompanied children in protective custody, while waiting transfer to a shelter, for 25 days and up to 45 under limited circumstances, Human Rights Watch report found that children are being detained for longer periods. Their rights to medical care, protection, legal representation, education or recreation are systematically denied.

Torture and other ill-treatment and punishment

According to human rights groups' reports there have been allegations of torture and other ill-treatment by police and members of the security forces against migrants, refugees and asylum-seekers. Allegedly also children have suffered from ill-treatment while they were held in detention. Human Rights Watch interviewed many children who have been detained in police facilities. Some of them said they were subjected to abuse by police officers, who used physical and psychological violence against the minors.



IRAQ

GENERAL SITUATION

Iraq is the country with the highest level of terrorist activity in the world. Since 2006 Daesh has conducted devastating attacks and practiced brutal violence. The clashes between terrorist groups and the government and paramilitary forces provoked 9,153 deaths in 2016. Reported figures from 1 January 2014 to 31 October 2015 have revealed what actually is a continuation of the fierce dynamics of a long-term war. At least 55,047 civilian casualties have been reported, of which 18,802 were killings. Civilians are the one's suffering most from the armed conflict in the country. It has been a bloody war that follows extremely violent dynamics in which all the armed parties, that are taking part, are also responsible for the atrocities.

Systematic and widespread violence, against civilians and between armed groups, grossly conflicts with the international law of human rights. Moreover, the abuse of humanitarian law, war crimes, crimes against humanity and potential genocide are the overall result of the war in which the Iraqi government forces, the terrorist groups, the paramilitary militias and Peshmerga, supported by US-led international coalition air strikes, play a major role in.

Pro-government forces carry out indiscriminate air and artillery attacks on areas under Daesh control, while terrorists target not only opponents but also civilians fleeing from these areas. Jointly, armed actors have established a situation where extrajudicial executions, unlawful killings, forced evictions, abductions, enforced disappearances, restrictions on freedom of movement and arbitrary arrests, tortures on detained civilians and captives, mutilation of corpses, sexual abuses, slavery and other severe human rights violations are common and remain beyond count. Civilians are used as human shields and children are used as soldiers. People fleeing from conflict zones are targeted by militias, who torture, execute and forcibly make them disappear, preventing them from gaining access to safe areas.

Human rights in Iraq are currently under threat, not only because of the violent consequences of the conflict but also due to the institutionalized violations in which they are routinely carried out in. The endemic corruption of the government deprives the people of their basic needs, amid a context of a severe humanitarian crisis. Authorities carry out arbitrary arrests and detentions against peaceful protesters, political activists and their relatives. Detainees remain without trial for long periods of time, in which they are subject to tortures. When trials are carried out, they are usually unfair, based on forced confessions and leading to hundreds of death

sentences. All of those practices are enshrined in the “fight against terrorism”, in which the government and militias are involved, creating a climate of total impunity and unaccountability.

ANTI-TERRORISM LAW

The Anti-Terrorism Law No. 13 of 2005, of Iraq, was approved by the Council of Ministers in its session on 7 November 2005. The juridical process was conducted under the transitional government, which lasted until 20 May 2006, and was then replaced by the first permanent government. The Law has six articles which provide a broad definition of terrorism, terrorist groups and terrorist acts and imposes severe penalties for said crimes.

Article 1 defines the term terrorism, describing the characteristics that must be present to be considered as terrorist, including the aim “to achieve terrorist goals”. Article 2 defines specific acts of terrorism, including different forms of violence or threats which take place in the execution of a terrorist act and have terrorist motives, being equally circular and redundant than the first. The penalties for those convicted of the crimes defined prior are described in Article 4, including death penalty and life imprisonment.

Legality of offenses

According to the Iraq Anti-Terrorism Law nº 13 of 2005, the definition of terrorism in Article 1 is ambiguous, the concepts and descriptions often being unclear. Broad definitions are not only illegal but lead to the criminalization and punishment of minor crimes and even the exercise of certain fundamental human rights and freedoms.

HUMAN RIGHTS VIOLATIONS

Freedom of movement and forced displacements

More than 3,2 millions of people are currently forced displaced within Iraq. Since the capture of Mosul in 2014 by Daesh, more than one million civilians have remained in the city, with limited access to food, basic services and humanitarian aid. According to the International Organization for Migrations [IOM], 335,226 people have been currently displaced as a result of the on-going Mosul military operations which began on 17 October 2016. Civilians in Mosul have been caught in the crossfire between Iraqi forces, aided by US-led coalition airstrikes, and the Daesh, as the firsts continue to push west into the city in order to drive the second one out of neighbourhoods west of the Tigris. In the name of the fight against terrorism, the number of victims of forced displacements has even increased in Iraq, causing one of the most tragic situation of internally displaced people in the world. Kurdish authorities have also committed violations in the name of fighting Daesh and ensuring security, deliberately destroying civilian property, forcibly displacing Arab Sunnis and barring them from returning to their homes.

Freedom of expression, association and assembly

The vague dispositions and the wide legal framework, in which the Iraq Anti-Terrorism Law n° 13 operates, leads to criminalization of activities not related to terrorist offenses (reporting news and publishing opinions) or even any kind of violence.

The right to freedom of expression is severely restricted to the point that journalists are one of the most important targets of state and terrorist violence. Daesh executed over one dozen journalists in 2015, while the deaths reported between 1990 and 2015 amounts to more than 300 journalists executed, revealing Iraq as the deadliest country in the world for journalists.

According to Amnesty International, journalists work in a dangerous and at times deadly environment. They have been reports of suffering from physical assaults, abductions, intimidation, harassment and death threats usually to cover up certain topics deemed as sensitive by authorities. Public criticism of officials, reporting on militia abuses and corruption is prosecuted and severely punished, both by Iraqi and KRG authorities and Daesh forces. Since July 2015 massive and peaceful demonstrations occupied the streets, protesting against the lack of services and corruption. According to Human Rights Watch, several journalists reported that security forces instructed media to stop live coverage.

Arbitrary arrests and conditions of detention

The vague definitions of terrorism and terrorist offences, in the anti-terrorism law, carry the risk of criminalizing lawful activities and may lead to arrests and arbitrary detentions.

Amnesty International reported that Iraqi security forces and militias carried out arbitrary arrests of alleged terrorism suspects without judicial warrants, failing to inform those arrested or their families of any charges. According to UNAMI/OHCHR report on the death penalty in Iraq, in 2014, all arrests carried out under the anti-terrorism law were without warrants. The same report noted that nothing in Iraqi law described the procedures that needs to be followed in order to carry out arrests. Also it pointed out that there were no restriction on the time, nor the place, of where can the arrests take place.

Suspects are arrested in their homes, checkpoints and IDP camps. Detentions mean long periods of incommunicado captivity that, in some cases, lead to enforced disappearance. In many cases the relatives have not been informed of where they were being held, for how long and why. The detention facilities are ruled by the Ministries of the Interior and Defence and also include secret detention centres, where people are interrogated without lawyers being present. Tortures, forced confessions, lengthy periods of pre-trial detention, enforced disappearances and an absolute lack of procedural guarantees are common in those facilities in Iraq. Criticism of government and reporting abuses, that are happening in detention centres, could lead to arrest and detention, as is revealed by the Human Rights Watch report on abuses of women in detention.

Abuses on women in arbitrary detention

Human Rights Watch documented the severe abuses to which the criminal justice system in Iraq subjects' women to at every stage of the undue criminal processes. During arbitrary and warrantless arrests, abusive interrogations, unfair trials and undue imprisonment, women become victims of the routine practices of a

corrupted system that flagrantly violates international law of human rights and all the safeguards of due processes.

The report claims that security forces conduct random and mass arrests of women that are accused for alleged terrorist activities by male family members, while others have been arrested and sentenced for activities that are contradicting the state interests.

Authorities detain women under Article 4 of Law N° 13 of 2005 for allegedly “covering up” for their husbands or male relatives on terrorist activities. That constitutes a disproportionate exploitation of the vagueness of definition of terrorist acts contained in this law and severely violates international human rights law’s guarantee of the rights to liberty, security and life of a person, as well as the right to a fair trial. It also violates Iraqi laws protecting these rights, including provisions of Iraq’s Constitution and Code of Criminal Procedure. Iraqi women reported to HRW that they have been arbitrarily detained, beaten, tortured, threatened and sexually abused in order to intimidate or punish their male family members suspected of terrorism.

Confessions are reportedly extracted under torture or by threatening to hurt loved ones. Charges on terrorism carry a penalty of death under Article 4 of the Anti-Terrorism law.

Unfair trials

Not only through the application of Anti-Terrorism Law n° 13 [2005] but through the “not functioning” Iraq’s justice system –as United Nations High Commissioner for Human Rights Navi Pillay described it– Iraqi civilians suffer severe abuses and violations of their rights and fundamental freedoms. Anti-Terrorism Law of 2005 is an important aggravating factor of a flawed and totally corrupt criminal justice system that bases its sentences, mainly terrorism-related, on confessions obtained under tortures and ill-treatments and information provided by secret informants. Grossly unfair trials are carried out with total disregard for international law, and Iraqi obligations under various treaties, regarding the severe abuses on the rights of those subjected to criminal legal procedures. The Iraqi judicial system does not adhere to any of the basic international standards required for a fair trial.

Procedural guarantees for those suspected of terrorism, or charged with terrorism charges, are systematically denied. Their rights to an adequate and effective defence, not incriminate oneself and to a fair trial are violated. Their claims for investigations are ignored while confessions extracted under torture are admitted into evidence, even if they are exposed to the worst forms of inhumane treatments.

Torture and other ill-treatment

Torture and other ill-treatment are common, widespread and committed with impunity in prisons and detention centres. According to Amnesty International, the most frequently reported methods of torture, used against detainees, are beatings on the head and body with metal rods and cables, suspension in stress positions by the arms or legs, electric shocks and threats of rape of female, even if they are not suspects but only relatives of those suspected.

Torture is commonly used not only to punish detainees but also to extract “confessions” and obtain information, and caused the death of several detainees in 2016.

Human Rights Watch denounced in 2014 that Iraq’s security forces abused detainees with impunity, and UNAMI/OHCHR reported in 2014 the allegations from detainees and prisoners that were subjected to torture and other ill-treatment. The report noted that the courts often relied on confessions as the sole or most significant evidence upon which convictions are based, even if the accused claimed that the confession was induced through torture.

Enforced disappearances

Widespread and systematic practices of arbitrary arrests and abductions, by the Iraqi authorities and its affiliated militias, result, in most cases, in enforced disappearances. Despite the fall of Saddam Hussein's regime in 2003, disappearances in Iraq have largely remained unmentioned in human rights reporting. This violation has not stopped and may be on the rise, while militias and armed groups are controlling cities and towns across the country. Stories of disappearances are slowly emerging as the number of Iraqi displaced is increasing since 2014. According to Human Rights Watch and Amnesty International, pro-government militias carried out enforced disappearances during 2016, among other human rights abuses.

Unlawful killings

Paramilitary militias and Iraqi forces continue to perpetrate unlawful killings of civilians and extrajudicial executions of suspects of terrorism. People described to Amnesty International how they fled airstrikes that killed entire families inside their homes, revealing an alarming pattern of US-led coalition military intervention that caused a high civilian toll. The coalition forces leading the offensive in Mosul are failing to protect civilians, flagrantly violating international humanitarian law and amounting to war crimes. Hundreds of civilians have been killed as a result of the deadly strikes recently launched by the coalition, as on 17 March 2017, when up to 150 people were reported killed in the Jadida neighbourhood of West Mosul.

Death penalty

Due to the vague and broad definition of terrorism and terrorist acts and the provision for capital punishment, for a full range of offenses that cannot be considered as "most serious crimes", Articles 2, 3 and 4 of the Iraq's Anti-Terrorist Law violate the right to life and to not be subjected to torture. The government imposed a staggering number of death sentences, mostly for terrorism charges. Most of these were based on forced confessions and didn't follow due process. Around 100 sentences were handed out in the first two months of 2016. The arbitrary and widespread use of death penalty can be seen as an instrument against political opponents, journalist, activists or intellectuals, as Geneva International Centre for Justice reported. The implementation of capital punishment widely expands the legal basis of provisions of Anti-terrorism Law. Not solely the judicial authorities but also militias appear to be involved in the imminent threat to the lives of thousands of prisoners currently on death row in Iraq, threatening to carry out the executions by themselves and on public spaces as a means of example.

Amnesty International claimed that 40 death sentences were handed down on 18 February, 2016 after a fundamentally flawed mass anti-terror trial delivered in Baghdad. It was reported that during the whole year, there were 101 executions. At time of writing this report, 31 death sentences have been carried out.

Iraq's government has been called to comply with United Nations General Assembly resolutions 62/149 [2007], 63/168 [2009], 65/205 [2010] and 67/176 [2012], [there have been new resolutions - 69/186 [2014] and 2016] by establishing an immediate moratorium on the use of death penalty, and reducing the number of offences for which the death penalty may be imposed.



ISRAEL/ PALESTINE

GENERAL SITUATION

Israel has established an apartheid regime by occupying and controlling the Occupied Palestinian Territories since 1948 and oppressing its population. This historical military occupation of the Palestinian land carried out an ethnic cleansing through the construction of political structures of domination that subjugate and segregate the Arab population. There have been emerging groups and organizations that carry out the Palestinian struggle, both by nonviolent popular resistance and armed means. Numerous human rights groups, both in Palestine and Israel, as well as activists and civil society in general, continuously denounce the abuses Israel is committing against Palestinians under a state security-based approach which completely disregards the protection of human rights and the international law.

As one of the major perpetrators of state terrorism in the world, the principal purpose/strategy of the State of Israel resides on the diverse structures of political, economic and social domination, through a systematic dynamics state terrorism, that includes the territorial segregation and military occupation of the Palestinian land. Moreover, the marginalization and inhuman treatment of Palestinian civilians is evident due to continuous prosecution on the grounds of their ethnicity, deprivation of their resources, arbitrary arrests and imprisonments, ill-treatments and unlawful killings.

Through systematic practice of armed violence by Israel's Defense Forces, the complicity of the Israeli population, the proliferation of illegal settlements in the West Bank and the generalized silence and connivance of powerful states of the international community, Israel continues maintaining this structure of territorial segregation and occupation that may be interpreted as an apartheid, as UN's agency report noted.

Authorities currently continue to enforce severe and discriminatory restrictions on Palestinians' human rights, ignoring and violating international recommendations, UN resolutions concerning Israel and Palestine and other provisions of international law.

Authorities facilitate the occupation of the West Bank and simultaneously prevent the free movement of Palestinian population and goods into and out of the Gaza Strip, as well as hamper it due to the wall in West Bank, which signifies Israel's theft of Palestinian land and resources. Israeli forces arbitrarily arrest and detain thousands of Palestinians from the OPT who oppose the continuing military occupation, enduring

violent repression for any attempt to point to the Palestinian' rights and demands about an independent state. The main excuse being the concern about national security against a supposed threat of terrorism. Unlawful killings of Palestinian civilians, including children, are carried out by armed forces with impunity, as well as tortures and other ill-treatment of detainees who remain in facilities for long periods of time. Israeli forces maintain its blockade on the Gaza Strip and subjugation of its population to collective punishment. The last most important, lethal and destructive demonstration of state terrorism by Israel happened in July and August 2014. During 50 days, Israel conducted a military operation in Gaza known as Protective Edge. According to statistics of the organization B'tselem, 2202 Palestinians were killed, (around 600 of them were children and 1,391 did not participate in any hostile action). 70 Israelis (64 of whom were soldiers) were killed during the attacks

Palestinian civilians and organizations are habitually criminalized as terrorists by Israel, even if the means and tools they use to defend themselves or pursue their political fight –and even if they also produce unjustified fatalities- have no possible comparison with terrorism nor with the military resources and criminal acts of the Israel Defense Forces. The Palestinian organizations, which used arms, are responsible for hundreds of casualties of Israeli civilians in the course of history. However, while Palestinian armed resistance is widely known and even misused to attempt to justify the politics of occupation, the history of nonviolent popular resistance struggles in Palestine over the decades, haven't been acknowledged, specifically by the state of Israel. In fact, currently, the nonviolent resistance as a strategy is gaining powerful momentum among civil society and population of Palestine.

Israel's government politics have been involved in a national security strategy which upholds a permanent emergency state since 1967. Security is understood as military protection of the State of Israel, completely forgetting the importance of human security, especially that of Palestinian civilians. This permanent state of emergency, reflected by the military rule of the Palestinian civilians in the West Bank, supposedly justifies, on the grounds of terrorist threats, the suspension of fundamental rights and freedoms. In fact, Israelis have cultivated a culture of belligerence, fostering a number of strategies and tactics to counter the terrorist organizations of Palestine, dehumanizing the Palestinian society as a whole and consolidating an ideology which confused terrorism threat with Arab existence.

ANTI-TERRORISM LAW

The new Israel's on Combatting Terrorism Law 5776-2016 was approved on 15 June 2016 by the Knesset, backed by most parties. It was set to come into force on 1 November 2016. It supersedes the Prevention of Terrorism Ordinance, 5708-1948, the Prevention of Funding of Terrorism Law, 5765-2005, and criminal procedures regarding the Detention of Suspects of Security Acts 200614. It also incorporates and modifies the severe provisions of the Emergency Regulations, promulgated during the British Mandate1516.

The law provides new tools to the Israeli authorities, both criminal and administrative, significantly expanding their counterterrorism powers. It provides updated definitions of "terrorist organizations", "terrorist acts" and "membership in a terrorist organization".

The new counterterrorism Law modifies the earlier definition that appears in section 1 of the Israeli Prohibition on Terrorist Financing Law of 2005; defining an "act of terrorism" as an offense committed with a political, religious, nationalist or ideological motive, with the aim of stirring fear or panic among the public or coercing a government authority or a public international organization to take action or to refrain from taking

action. The terrorist act is also defined as an act that creates a substantial risk of inflicting serious harm to a person's body or freedom, disturbance to public security, safety or health, to damage property, religious artifacts or essential infrastructure, systems or services, the nation's economy or to the environment.

The law establishes new criminal offenses, such as public expressions of support or empathy for terrorist organizations, including organizing meetings, marches or training, and significantly increases the potential sentences for such offenses, leading to a generalized criminalization of popular resistance and national liberation movements. It allows the security service to conduct digitalized surveillance of those suspected of having a connection to terrorist activity, and authorizes the expropriation of money and property from individuals and entities suspected of terrorism-related offenses.

Israel's new Anti-Terrorist Law criminalizes and represses all the political demands of Palestinian people. It's possible to identify a large number of legal dispositions that systematically increase the scope of sweeping powers to justify the generalized violation of human rights and fundamental freedoms.

The coexistence of different legal systems in Israel and the Occupied Territories is one of not so widely known tools for the occupation and oppression system of the Palestinian people. Israel's legislation generally does not apply in the West Bank, where people are subject to a separate system of Israel's military courts. The existence and application of the military legislation in the West Bank has to be understood as a tool destined to legitimize oppressive practices and punishment to the Palestinian population.

As the new Israeli Anti-terrorism Law has been approved on 15 June 2016 and entered into force on 1st November 2016, there has not yet been time to publish reports that account for the specific violations committed by its application. However, the law is an aggravating element of a discriminatory judicial system which widely contributes to the perpetuation of an Apartheid system, through which several human rights and fundamental freedoms of Palestinian civilians are systematically violated.

New Law banning entry for supporters of Boycott, Divestment and Sanctions (BDS) movement was passed by Israeli parliament in March 2017, despite hard international opposition. Through this law, Israeli authorities are addressing nonviolent activism as a threat, by banning entry and denying permits and temporary residency to foreigners who promote or call for cultural, academic or economic boycott of Israel or who represents an organization that has called for it. Based on Anti-boycott law of 2011, which allowed to sue people who called for a boycott of Israel, the new law defines it as anything that is against Israel or territories under Israel's control, including boycotts of the settlements or being pro BDS, a Palestinian-led movement which has gained great support since its creation in 2005.

Some Israeli politicians publicly expressed that "anyone who calls for a boycott of Israel is engaging in terrorism" and described BDS as "political terrorism".

This law constitutes a new tool in the legal fight against nonviolent resistance and activism that aims to promote Palestinian's rights and denounce Israel's violations of international law.

Legality of offenses

The broad definition, that can be considered as a terrorist act and terrorist organizations, in Israel's counterterrorism law, lead to criminalization of Palestinian citizens simply for being Arabs. It seems to imply that any act committed with political, religious or ideological motive may lead to detainment or charge. Thus, the practice of several fundamental rights and freedoms will be subject to arbitrary suspension when the Defense Forces considers which act could be considered as an offense.

HUMAN RIGHTS VIOLATIONS

Self-determination, non-discrimination

The right to self-determination of Palestinian people is continuously violated within the general framework of an apartheid system, as their aspirations to end the abuses and achieve the protection of certain rights (refugees return home, build their own state, end the occupation, etc.) are systematically ignored and even violently repressed.

Anti-terrorism Law potentially exacerbates the abuses of the right of self-determination for Palestinians by increasing the authorities' tools to criminalize, punish and therefore prevent any demonstration. By applying any of the provisions of Law 5775 of 2015, and facing the application of the law might result in the structural discrimination of Arabs and deteriorate the conditions of protection of the right to self-determination.

Restrictions on movement and forced displacements

Although Israel has been controlling Palestinians' movement since its inception in 1967, it has been in the last decades that the system of control has become increasingly institutionalized and restrictive

Security restrictions imposed on Palestinians' right to freedom of movement are aimed to impede their free mobility, harshly hampering to carry out their everyday activities and preventing them from accessing basic services like health care, work, education and family life. Cumulatively, these violations of the right to freedom of movement end up undermining the right of Palestinians to self-determination and to an adequate standard of living.

Palestinians' freedom of movement (within the West Bank, between the West Bank and Gaza Strip and from Gaza Strip to anywhere) is restricted through a complex and multilayered system of administrative, bureaucratic and physical constraints that affects almost all facets of everyday life. Israel's military blockade of the Gaza Strip continues, amounting to collective punishment of Gaza's entire population. Authorities severely control the movement of people, goods and basic services into and from Gaza, hindering post-conflict reconstruction. Over 51,000 people were still displaced in 2016 from the 2014 war in Gaza Strip.

Palestinian livelihood is constantly impacted by established settlements in their territories. They are usually forced to leave their own homes due to constantly feeling insecurity which is produced by the highly militarized and coercive environment, as well as the deterioration of the living conditions.

Freedom of expression, opinion and political belief

Law 5775 of 2015 considers demonstrating solidarity with a terrorist organization, with an act of terrorism or a direct call for support of it as a terrorist offence.

By dramatically widening the spectrum of offences included in the antiterrorism law, Israel expands the scope of its power in order to use it on reducing a wide range of civil and political freedoms. Prevailing conceptualization of terrorism, among Israeli authorities, which include an unavoidable and dangerous confusion between terrorism and popular resistance and activism against occupation, increases the risk of criminalizing the lawful exercise of the right to freedom of expression and prosecuting those who express solidarity with certain activities, political beliefs or opinions referring to the Palestinian cause or the abuses of

Israel. Expressing ideologies or political beliefs, which are opposing those of the State of Israel, fall within the scope of terrorism.

Generally, Israeli government uses restrictive laws and sanctions to limit different narratives related to the conflict, including the Palestinian narrative and collective memory, known as “Nakba”. Activists and lawyers recently expressed its concern about restrictive new laws, noting that authorities were attempting to marginalize Palestinian narratives and push them outside of the political consensus.

The Israeli Military Censor had outright banned the publication of nearly two thousands articles over the past five years (until 2016), as part of government’s strategy to consolidate its own version of history as the single one and enforce its politics as uncontestable. The highest rates and frequency of censorship in press freedom took place in 2014, following the Operation Protective Edge.

Freedom of assembly

Broad provisions of the antiterrorism law may lead to the criminalization of political activities, including demonstrations of the arab population to achieve the protection of their rights, or of any ideology which expresses a critical opinion of State of Israel’s foundations and politics. By falling within the scope of terrorism, demonstrating solidarity with the activities of certain organizations may be criminalized.

Amnesty International noted that Israel’s military prohibitions of unauthorized demonstrations in the West Bank were used as a tool to repress the protests by Palestinians and incarcerated activists. These repressions, as part of the counter terrorism measures carried out by Israeli government, violate the right of peaceful assembly.

Freedom of association

Law 5775 of 2015 expands the definition of a terrorist organization, including organizations that, although not directly engaged in carrying out terrorist attacks, support and finance terrorist organizations, for example by raising funds to finance activities of other organizations or organizing community activities aimed at encouraging recruitment of young people and expansion of support for a terrorist organization. Demonstrating solidarity with a terrorist organization also constitutes as an offense of terrorism.

Anti-boycott law may be a threat to the right to freedom of association as it provides legal and highly restrictive measures that inhibits the work of organizations.

Other laws referring to regulations of NGOs, human rights organizations and political groups that criticize the current government severely undermine their existence by subjecting them to expensive, inconvenient and redundant requirements. Organizations such as Breaking the Silence, B’Tselem and Amnesty International Israel were targeted during 2016 by a government campaign to undermine their work.

Arbitrary arrests and conditions of detention

The new antiterrorism Law, by extending the definition of criminal offenses and supplying the unfettered power for arbitrary arrests or detentions for those who fall within the range of activities deemed as an offense, violates several human rights and freedoms.

The Israeli authorities continue to detain thousands of Palestinians who protest against, or otherwise oppose, Israel’s continuing military occupation. Holding hundreds (including hundreds of children) in administrative

detention. In 2015, Israel's authorities arrested more than 2,500 Palestinians following protests in October. More than 580 Palestinians remained in detention at the end of the year, including five children.

The UN Special Rapporteurs, on the situation of human rights, reported about a worrying number of complaints received in recent months, regarding human rights defenders who have been arbitrarily arrested and, in many cases, held in arbitrary detention. According to allegations, they face daily violations of some of the most fundamental protections by international human rights and humanitarian laws.

Palestinian detainees are held in prisons in Israel, in violation of international law. They are denied meetings with their family, due to them not permitted entry to Israel, which is a violation of international standards on procedural guarantees. Indeed, hundreds are held without charge or trial under renewable administrative detention orders, which are based on information that is withheld from them and their lawyers.

Detainees, including children, are often held in arbitrary detention for long periods of time, even months. Hundreds of them are held without charge or a trial date under renewable administrative detention orders, and some held hunger strikes in protests, lasting for months

Excessive use of force

Excessive and disproportionate use of force by Israel's defense forces, against Palestinian civilians, which have, reportedly, amount to collective punishment, have been routinely exercised for decades, in order to maintain Israel's control over the population and the occupied territory. By shooting and killing protesters and alleged attackers, destroying homes, violently restricting the freedom of movement, the outsized use of force has been, and currently is applied specifically, under the ideology of securitization, to justify the political and social consensus on the notion of Palestinians as a threat.

According to human rights' groups and the UN Special Rapporteur on the situation of human rights in the OPT, Israeli security forces use excessive and sometimes lethal force against Palestinian protesters in the West Bank and Gaza Strip, as well as against suspected attackers. Following attacks on Israelis, excessive use of force has, in many cases, resulted in extrajudicial executions and serious injuries, as suspected assailants are shot and killed rather than arrested.

Although many protesters use rocks and other projectiles against Israeli soldiers during protests, they pose no real threat to the lives of the well-protected and armored military, who shoot protesters with rubber-coated metal bullets and live ammunition.

OHCHR monitored several cases, which raised serious concerns, about the excessive use of force and unlawful killings by the Israel's security forces, including extrajudicial executions. Israeli settlers also act with violence and harassment against Palestinians, attacking them with impunity and no legal consequences.

Rights of children

Since 1967, Palestinian children in the OPT have been, and continue to, suffering abuses under Israeli military occupation and due to its discriminatory legal system. They are arbitrarily arrested from their homes and held in detention for long periods of time, on the basis of being a threat to national security, before being prosecuted in military courts after tortures and other ill-treatment. The vast majority of them are charged with throwing stones at Israeli soldiers or settlers in the West Bank.

While Israel prosecutes between 500 and 700 Palestinian children in military courts each year, large numbers of them have reported torture and ill-treatment by Israel's security forces. The UN Committee on the Rights of the Child found in 2013 that arrested and detained Palestinian children were systematically and routinely subjected to torture and degrading treatment, in violation of international law. They were subjected

to physical and verbal violence, humiliation, painful restraints, solitary confinement for a long time, hooding of the head and face in a sack, threatened with death, violence and sexual assault against them or one of the members of their family, restricted access to basic services as toilet, food and water. These crimes were found to be committed in order to obtain a confession.

Children also suffer from excessive use of force and even unlawful killings by IDF and from settler violence. Attacks in Gaza, full-scale offensives and indiscriminate shootings at the Gaza border fence have caused a high number of children casualties.

Unfair trials

Amnesty International denounced that Palestinians, from the OPT, who were charged with protest-related and other offences faced unfair trials in military courts

Torture and other ill-treatment

Practices of torture and other ill-treatment have been, and continue to be, the object of deep concern for human rights' groups and the Committee Against Torture. Israel's military and police forces, as well as Israel's Security Agency officers subjected Palestinian detainees, including children, to torture and other ill-treatment with impunity. The CAT expressed its concern in 2016 about allegations of torture and other cruel, inhuman or degrading treatment or punishment, which was mostly perpetrated by law enforcement and security officials, particularly during arrest, transfer and interrogation.

Methods of torture include beatings, slapping, painful shackling, sleep deprivation, stress positions and threats. The CAT criticized the authorities' failure to proscribe torture as a crime under the law.

According to Human Rights Watch, hundreds of Palestinian children have suffered alleged ill-treatment by Israel's security forces during arrest, custody and detention, including kicking, beatings and other physical violence.

Extrajudicial executions

Israel's soldiers and police routinely commit unlawful killings and extrajudicial executions against Palestinian civilians. Those unlawful killings include children, of whom some were shot while posing no immediate threat to other people's lives. Extrajudicial executions included Palestinians who were shot dead by Israel's soldiers in checkpoints or on the border fences. Most of the killings that have occurred since 2015 came during alleged, attempted or actual attacks of Palestinian individuals against Israeli soldiers, police and civilians, and included cases where Israeli forces used intentional lethal force against Palestinians who were not, or were no longer posing an imminent threat to the lives of others.

Unlawful killings also take place during protests and demonstrations in which Palestinians throw stones or firebombs without appearing to threaten the lives of the Israeli forces present.

Since October 2015, the number of unlawful killings by Israeli forces have increased, fostered by a culture of impunity. In 2015, Israel and the OPT witnessed the most significant wave of violence since the end of the

second intifada in 2005. More than 225 Palestinians were killed by Israeli forces in 2015, while at least 35 Israelis were killed by Palestinian attackers.

Israeli government treats suspects of attacks [a suspicion which may be extended in order to reach the Palestinian population as a whole] as “unlawful combatants” who can be killed regardless of their immediate activity, even if the Supreme Court rejected it in 2012.



ITALY

GENERAL SITUATION

Thousands of people continue the attempt to pass through Italy in order to seek asylum in Europe. Since some of the eastern European countries have closed their borders and the EU-Turkey agreement begun to be implemented, the crossing of the sea from Libya in order to reach European coasts seems to be the only possible alternative. Italy itself has become the main door of entrance to Europe for migrants and refugees. Amid an expanding climate of rejection and fears about perceived threats in migration flows, Italy struggles between the overwhelming arrival of almost 180.000 people from the North Africa in 2016 (and 37,000 more in the firsts months of 2017) and the lack of capability and political willingness to adequately protect them.

According to Amnesty International, the EU imposed a 100% fingerprint target on Italy, including recommending the use of force and coercive measures where necessary to obtain them, resulting in practices that have gone beyond of what is permissible under international human rights' law. While thousands of people try to cross Italy avoiding to be identified in order to seek asylum in other European countries, Italian authorities carry violent practices of identification in order to obtain the fingerprints, denying to migrants and asylum seekers their right to receive an adequate advice and to seek asylum and protection. As Amnesty International confirms, the hotspot approach reveals that European governments –such as the Italian–, instead of defend and support the respect and protection of human rights, had invested time and resources in securing their own national borders and reducing space for the protection of people who had risked their lives to get to Europe.

ANTI-TERRORISM LAW

Decree-Law No. 7 of 18 February, 2015 was converted into law through Law No. 43 of April 17, 2015, in order to strengthen the fight against terrorism in Italy, in the wake of the terrorist attacks in France and Denmark in January and February of 2015. It emphasizes the urgent nature of the new introduced measures to fight terrorism on an international level. It takes into account the extension of the international missions of the armed forces and the police, the cooperation initiatives for the development and support of reconstruction

processes and the participation in initiatives of international organizations for the consolidation of peace and stabilization processes.

It amends the Italian Criminal Code and the Code of Criminal Procedure with the aim to improve the existing legislative and regulatory instruments available to the Italian police and armed forces for anticipating, preventing and combating acts of terrorism. It stresses the “extraordinary need and urgency” of the fight against terrorism, and states that as a key aspect of that need is to strengthen police surveillance powers and handling personal data, creating a Black List of individuals suspected of radicalisation. It also mentions the need for an improved criminal punishment framework for crimes of terrorism (increasing prison terms for certain crimes), and introduces the foreign fighter as a new punishable figure, with a set of repressive tools against it, as well as suspected radicalised individuals and facilitators of terrorism.

HUMAN RIGHTS VIOLATIONS

Forced returns

The 2015 hotspot approach starts with a screening process which is designed to identify and separate refugees from alleged irregular migrants or people who are not in need of international protection. The latter are subjected to the issuance of expulsion orders, which may be executed autonomously by the individual within days, or through forcible repatriation. In many cases, according to Amnesty International, Italy orders the expulsion of dozens and sometimes hundreds of people at a time. They are not adequately informed and usually abandoned without any kind of assistance, including people with special care needs such as pregnant women and unaccompanied minors. According to the human rights’ group, it is feared that expulsion orders are being issued without adequate review and assessment of each individual situation. There are reported cases in which orders did not report any essential information about the individual circumstances, and were justified by generic sentences referring to that person “was not in need of international protection”.

Intentions of asking for asylum have been reportedly ignored in the first screening, as expulsion orders have been equally issued, in absence of individual assessment. Such expulsion orders are not in line with international law, including European human rights law. They have been issued without the required individualized assessments through which the State must assure that the returned people will not be at risk of serious human rights violations upon return, like it is stated in the principle of non-refoulement. It must be noted that the principle of non-refoulement is not in any way dependent on whether the person expresses an intention to seek asylum or not.

Likewise, while collective expulsions are also prohibited in international law, there are reported cases of such practices in Italy.

As States are obligated to grant protection to asylum-seekers, Italy is violating international law due to the expulsion of individuals and groups, denying them the right to ask for asylum while avoiding individual assessment. The lack of relevant orders for validation of the expulsions makes it unlawful.

According to Human Rights Watch report on 2017, Italy continued to expel terrorism suspects under a procedure that explicitly denied the right to an in-country appeal. 47 individuals were expelled in the first eight months of 2016.

Arbitrary and prolonged detention

After people disembark in Italy they are transferred to hotspots and detained while the identification and fingerprint processes are ongoing. While the majority of them apply for asylum in Italy, according to Amnesty International, others try to cross the country and go to other European countries to seek international protection. However, this choice is not always possible, due to the restrictions imposed by the Dublin system and Eurodac Regulations of prioritising the allocation of responsibility for asylum applications in the first country of entry. If people manage to do their trip across Italy without having their fingerprint taken just after their arrival, they could be arrested anywhere and coerced to do it.

Among increasingly aggressive strategies carried out against migrants and refugees, EU attempts to distribute asylum-seeker processing responsibilities. Arbitrary detention has been an usual practice in the framework of coercive measures taken by security forces to oblige individuals to provide their fingerprints in Italy. Many people reported to having been held in prolonged detention as a mean of coercion. Such practices resulted in serious violations of human rights and fundamental freedoms.

Under Italian law, if individuals refuse to give their identity they can be legitimately detained for the purpose of identification for a maximum of 24 hours. The Constitution allows the detainment of person for a maximum of 48 hours in “exceptional circumstances of necessity and urgency strictly defined by law”. However, in practice, people are usually detained for over 48 hours, as Amnesty International observed in multiple visits to the CPSAs of Lampedusa and Pozzallo between 2014 and 2015.

Torture and other ill-treatment

Many refugees and migrants have reported having been ill-treated and even tortured by police due to their refusal to give their fingerprints. Police officers use excessive force, cruel, inhuman and degrading treatment, even torture, while implementing coercive measures to oblige individuals to provide their fingerprints. Beatings,



electrical shocks, sexual humiliation and severe pain to the individuals. Children also reported having been subjected to

Such treatments, as those described by the testimonies, are considered torture [within the definition of the UN Convention Against Torture] and are against the international and humanitarian law.

JORDAN

GENERAL SITUATION

Due to the absence of large-scale protests and revolutions in the Hashemite Kingdom of Jordan, the country has been considered as an example of stability amid the chaos and violence of the neighbouring countries. However, that is not an indicator of people's desire for far-reaching economic and political reforms and the curbing of King Abdullah's power.

The weak and non-violent protests in Jordan were promptly allayed by the king's promises to take tangible steps towards real political reform, including the expansion of public freedoms. However, dissidence, criticism and political opposition [of the Muslim Brotherhood] has been silenced and prosecuted by the monarchy, whose security powers and authoritarianism have only increased in the last years.

Indeed, Jordanian monarchy's concern over its security situation has turned into the exercise of oppressing freedom of speech, prosecuting activists and journalists and criminalizing them as terrorists. Latest amendments of the counterterrorism legislation have been revealed as a violent response to the social and political demands of the society and a flagrant violation of the fundamental civil rights.

The perpetuation of the status quo in Jordan [which was the price for stability], after the 2011 uprisings, revealed a government security state which undoubtedly restricted the practice of human rights and freedoms.

In more than a decade there has not been more than two terrorist attacks, but the government has amended the anti-terror legislation of 2006 with a newer one [2014], broadening the scope of its power and

handing out severer punishments for terrorist acts due to the fear of a spill-over of the armed conflict in neighbouring Syria and the continuing flow of refugees into Jordan.

The underwhelming reach of the political reforms (enacted by the authorities to calm down the unrest) did not manage to guarantee the liberties and freedoms for which the civil society started and currently continues protesting for.

Strict counterterrorism measures and disappointing political and economic reforms proved to be the perfect environment for legitimate repressions, arbitrary arrests, detentions and prosecutions, denial of due process and unfair trials to imprison peaceful critics and government opposition. The prioritization of state security has led to harsh crack downs of the civil liberties and political freedoms. Impunity has remained widespread in a context where the lack of investigations of abuses and prosecutions of the responsible ones is common.

ANTI-TERRORISM LAW

After the 11th of September, 2001, attacks in United States [US], Jordan (as many other states in the world) implemented legislative reforms in order to increase state security measures. The legislative changes resulted in severe curtailing of basic political freedoms.

In 2006, following 2005 attacks in a hotel in Amman, Jordan enacted the “Prevention of Terrorism Act”, the anti-terrorism Law No. 55. In 2014, the law was amended and broadened, as a preventive act against the possible spill-over of the Syrian war. The amendments passed Jordan’s lower house of the parliament on April 22, and the upper house on April 30, replacing four articles of the 2006 Anti-Terrorism Law.

Before the amendments of 2014, the Anti-Terrorism Law No. 55 of 2006 defined what was terrorism, including acts that involved “harm to a person”, “serious damage to public or private properties”, “endanger public safety and security” or the “use of firearms or explosives”. That was a broad definition that could have led to a potential expansion of the law, but as a result of the amendments, the definition of terrorism became even broader, including a larger list of acts considered as terrorist and severer penalties for them. Therefore, the changes, passed in 2014, allowed for the criminalization of a wide range of activities that are not considered as such by the international law or related to any kind of violence.

In Jordan, trials of terrorism suspects take place in the State Security Court rather than in civilian courts. It should be pointed out that this judicial institution deals with cases regarding state security, among others, and it has faced criticism for failing to meet international fair trial standards resulting in serious violations of human rights.

Legality of offences

Broad and vague definition of terrorist acts and the large list of acts that may be considered as terrorism under the Jordanian Anti-Terrorism Law, potentially expand the legal scope for prosecution -making a wide range of lawful activities or minor crimes punishable and opening a door for abuse. In fact, political freedoms and civil liberties, as well as a wide range of lawful activities have been put under severe threat because the meaning and scope of certain terms is unclear (“indirect act” of providing, collecting or managing funds) and there is no legal definition of terrorist group.

Thus, the amendments of 2014 may be understood as an attempt to legitimize the government’s crackdown on peaceful dissent and protest.

HUMAN RIGHTS VIOLATIONS

Freedom of expression, association and assembly

Even if the government stated that the amendments were necessary to help authorities cope with an influx of Jordanian fighters, returning from the war in Syria, the definition of terrorist acts given by the law, actually provided the legal tool for the crackdown on peaceful expression and assembly, political criticism, human rights' defense and other activities not related to terrorism or any kind of violence. The manner in which the government could detain and criminalize people expressing themselves in public, publishing opinions, joining social or other kind of organizations not related to terrorism infringes the rights to freedom of expression, association and assembly.

Freedom of expression, assembly and association

Fall within the scope of "terrorism" under provisions of the Law, especially regarding political issues as threat to the state security. Jordanian authorities attempt to punish peaceful criticism of the political regime, the Islam or foreign rulers, as terrorism.

The inclusion of speech, either published in the internet or by other means, with the aim to support a group that is considered terrorist, or defend ideas that are allegedly linked to what government considers as terrorism, gives the authorities a legal tool to criminalize political opinion or opposition and detain and prosecute activists, dissidents, journalists.

Under provisions of the Penal Code and the anti-terrorism law, that was amended in 2014, tens of activists and journalists have been arrested, detained and prosecuted for published opinions deemed critical, or even defamatory, of the king, relations with foreign countries, government's officials and institutions and Islam. In 2015 Jordan detained and brought charges against at least nine journalists and writers, sometimes under the broad and vague provisions of the anti-terrorism law.

Authorities also restrict the rights to freedom of association and assembly, in order to criminalize peaceful protest and other means of expression. Some peaceful demonstrators and political opponents have been prosecuted under charges of "disturbing public order".

Arbitrary arrests and detentions

Jordan's amended anti-terrorism Law's extended definition of terrorist acts allows the arrest and detainment of people who commit acts not related to terrorism or violence but for minor crimes.

Advocacy and human rights groups have repeatedly expressed their concern about the arbitrary arrests, detentions and prosecutions of government critics, whether activists, journalists, human rights defenders, pro-reformists or members of the Muslim Brotherhood who have all been affected by the anti-terrorist legislation. Due to anti-terrorism laws authorities have held them under trial for criminal defamation and blasphemy.

Adam al-Natour, a 21-year-old Polish Jordanian student, who usually resides in Germany, moved to Jordan to learn Arabic in June 2015. On 12 August 2015, he was helping out his father in their garage in Amman, when 15 members of the General Intelligence Directorate (GID) arrived with three cars and arbitrarily arrested him. As he did not speak nor understand Arabic, his father asked the GID's officers the reasons for his arrests, but they did not provide any official reason for the arrest nor did they provide an arrest warrant issued by a judicial authority. Al-Natour was held in incommunicado detention for three weeks, during which he was tortured and forced to sign a confession in order to bring him to trial under terrorist charges. The UN Working Group on Arbitrary Detention released its report on the case of Adam al-Natour in October 2016, qualifying his detention

as arbitrary and requested the Jordanian authorities to release him and to open an investigation into his allegations of torture.

Torture and other ill-treatment and punishment

Amnesty International pointed out that the National Centre for Human Rights in Jordan said in 2015 that it had received 87 complaints about torture and other ill-treatment during the year 2014. The CAT third periodic report of Jordan highlighted several subjects of concern and recommendations including that the principle of absolute prohibition of torture is not yet incorporated in its legislation and that it should be strictly applied, in accordance with article 2 [2] of the Convention. There have been consistent reports of widespread torture and ill-treatment of suspects, perpetrated by security and law enforcement officials, especially in General Intelligence Directorate (GID) and Criminal Investigation Department (CID) detention facilities.

Jordanian intelligence services systematically arrest, detain and torture opposition figures, peaceful protesters and media workers under the Anti-Terrorism Law, in order to provide the State Security Court with forced extracted “confessions” that are used as evidences in unfair trials.

In some cases, the detainees have been found dead, while under custody, as a result of tortures. In January, the Adaleh Centre for Human Rights Studies reported that at least eight deaths in detention, resulting from torture, had occurred in the previous two months.

Unfair trials

Civilian suspects of terrorism, under the amended Anti-Terrorism Law, are referred to the prosecutor of the State Security Court, which is a quasi-military institution whose procedures fail to meet international fair trial standards. Authorities do not only prosecute alleged supporters of IS and other armed groups, but also journalists and opposition’s political activists under the Law and in the SSC. Fair trial is not guaranteed in prosecutions in front of the SSC.

Death penalty

Jordan’s anti-terrorism Law applies death penalty as a form of punishment for several terrorist acts. Death penalty sentences, according to the amended article 7 of Law No. 55 of 2006, are imposed on the people who commit a terrorist act which results in the death of another person; or in the full or partial destruction of a



building that had one or more people; or if the act is committed by means of explosives, radioactive products or epidemiological or bacteriological or radiological agents; or if the act is in violation of the definition of a terrorist act, its combination with the amendment to the criminalization and imposition of death penalty for crimes not related to terrorism.

According to Amnesty International, Courts imposed death sentences but there were no executions during 2016. In February 2015, following the killing of a Jordanian pilot by IS, Jordan executed two death row Iraqi inmates affiliated with Al-Qaeda of Iraq. In December 2014, Jordan hung 11 Jordanian, ending an eight-year de facto moratorium on the death penalty.

LEBANON

GENERAL SITUATION

The human rights situation in Lebanon is currently highly deteriorated. Authorities fail to protect fundamental rights and freedoms, thus establishing a backdrop of continuous abuse and a culture of impunity. The lack of political willingness to ensure and promote the achieving of international standards in human rights matters is added to the spill-over of the Syrian conflict onto its neighbouring country. It has rapidly moved beyond the humanitarian to the economic, political and social sphere. In terms of national security, the cross-border firing and the fact that many of Lebanon's political and paramilitary groups are closely related to, or involved in, the Syrian conflict constitutes a subject of concern. Moreover, tensions related to human security matters are continuously and unavoidably revealed. The precarious situation, in which Syrian refugees are trying to settle across the country and Palestinian long-term refugees continue to survive in extremely vulnerable conditions, uncover the severe effects of structural violence against foreigners. The ongoing degradation of living conditions for both Lebanese and Syrian population, amid a context of rising violence levels, are revealing an unavoidable security crisis, according to human security approach. In this sense, government's inability to build and support inclusive ways to address public security needs constitutes a critical threat for the construction of a human rights based society and an effective rule of law in the country.

Another dimension of instability, related to the social and economic situation, must be examined. After President Suleiman's term ended in May 2014 and political disagreements prevented the election of a successor, the resulting deadlock revealed a growing social and economic tension. Political institution paralysis, that lasted for 29 months (a new president wasn't elected until October 2016), led to deficits in public services and to the massive social protests. In June 2015 thousands of people expressed their discontent due to the government's inability to provide basic services, against the endemic corruption, lack of accountability and of

transparency. Following, the “trash crisis”, as the tip of the iceberg for deeper problems, pushed the people to protest and claim for a change of the whole system.

Social insecurity is now widespread, while protests against government’s failures continue amid violent repressions and silencing of the critics.

Suicide attacks in al-Qaa, near the Syrian border, in June 2016 reopened -or at least elevated- the debate of displaced Syrians in Lebanon.

Prior to those events migrant workers, as well as refugees, were already targeted by the increasing police violence. In the months following the bombings, repressive security measures against these groups have become commonplace. In order to increase national security numerous measures have been taken - illegal curfews, arbitrary arrests and political hate speech, together with the establishing of checkpoints targeting refugees and migrant workers.

Major human right’s violations, in the context of legitimacy crises, have been revealed to be intertwined with security measures.

ANTI-TERRORISM LAW

In the legislative field, Lebanon does not possess a specific document which refers to the body of law that should operate as an instrument of juridical regulation for terrorist acts.

Specific references to terrorism are contained in the Criminal Code and the Code of Criminal Procedure.

Lebanon’s Criminal Code, subsection 4, contains a series of articles specifically referring to terrorism and terrorist acts. They provide a definition of terrorist acts and sets the penalties for said crimes.

Article 314 defines terrorist acts as all acts designed to provoke terror which are committed by means such as explosive devices, inflammable materials, toxic or corrosive products and infectious or microbial agents that are liable to create a public emergency.

Article 315 establishes that a conspiracy aimed at the commission of one or more acts of terrorism shall be punishable by fixed-term hard labour.

The Code of Criminal Procedure [Article 108] establishes that the period of detention may not exceed six-months for a felony, excluding acts of terrorism, among others.

-Specialized Courts in cases of terrorism and major crimes

Lebanon’s ministry of justice put forward a bill titled “Establishing Courts and Departments Specialized in Cases of Terrorism and Major Crimes” and dated December 22, 2015 to the Council of Ministers.

The bill includes a broad definition of terrorism, expanding on the concept. An act, in order to be considered as a terrorist act, may be planned or not planned, and may even be perpetrated by a single person, by using any means.

The aim of the act, to be considered as a terrorist, may be referred to “harming the economic, social or political security of the state undermining civil and national peace”.

The bill uses loose terms, including “intimidating society”, “economic security”, “social security”, “political security”, etc., which can be arbitrarily interpreted, leading to undermined fundamental rights and freedoms.

The bill also includes the establishment of a structure, parallel to the judicial organization, which might give cause for alarm, considering that it can slide from specialization towards exceptionalism, which is a violation of the principles of due process. New specialized courts create serious concern that they may become an exceptional judiciary for examining crimes with political dimension, leading to human rights abuses.

HUMAN RIGHTS VIOLATIONS

Deportation of refugees and migrants

According to Human Rights Watch and Amnesty International, authorities deported large numbers of Syrian and Palestinian refugees back to Syria, putting them at risk of arbitrary detention, torture and other persecution. In January 8, 2016, more than 200 Syrian refugees were forcibly returned to Syria by Lebanese authorities without first assessing their individual risk of persecution.

Lebanon has not signed the 1951 UN Convention on the Status of Refugees, the first international instrument to place legal restrictions on State parties' power to expel foreigners, nor the 1967 Protocol Relating to the Status of Refugees. Lebanon also essentially lacks any meaningful domestic legislation and administrative practices to address the specific needs of refugees and asylum-seekers. Limited legal status for refugees and migrant workers increases the risk of human rights abuses on Lebanon's soil.

Freedom of expression

Although freedom of expression has usually been allowed in Lebanon, there still exists several restrictions on public speech referring to defamation or criticism of public officials and institutions.

Article 384 of the Lebanese penal code criminalizes libel and defamation of public officials, authorizing imprisonment of six months up to two years for insulting the president, the flag, or the national emblem.

Such type of expressions could be sentenced by a military court for "offending or undermining the authority of the State".

A report about arbitrary detention and freedom of expression in Lebanon pointed out in 2013 that in the last few years, journalists and media professionals faced several cases of arbitrary detention because of what they wrote, filmed or published.

Such laws are incompatible with Lebanon's constitutional principles and international obligations to protect freedom of expression.

Freedom of assembly

Demonstrations against the government's failures and corruption were severely repressed by police officers, both in 2015 and 2016. In August 2015 protesters were beaten and arrested, and security forces fired live ammunition in the air. In order to disperse the gatherings rubber bullets, tear gas canisters and a water cannon were used. It was reported that 343 people were injured and 59 more were hospitalized. Repression –and the use of excessive force– to ban protests and peaceful demonstrations constitutes a violation of the right to freedom of assembly.

Arbitrary arrests and conditions of detention

Security forces arbitrarily arrested people in Syrian refugee settlements. Police raids and patrols, as well as temporary checkpoints in some neighbourhoods of Beirut, were used to arrest –and later deport– undocumented people. Police raided private homes breaking down doors and mistreating personal belongings

of the detainees. Amid a context of insecurity, increasing security measures and in response to Al-Qaa attacks in June 2015, Lebanese troops raided Syrian refugee camps and arrested more than 100 Syrians.

Protesters were also arbitrarily arrested during demonstrations of 2015 and 2016. Fourteen protesters were arrested during gatherings of 2015 over government's inability to solve the waste management crisis, provide basic services and against corruption of the state. Arrested civilians were brought in front of a military court, facing three years in prison.

According to the Universal Periodic Review in multitude of cases individuals have been arrested without an arrest warrant. According to the data collected, between August and October 2014, over 6000 people (most of them Syrian and Palestinian) were arrested without a warrant following allegations of terrorism.

Arbitrary arrest and detention in Lebanon constitutes a systematic violation of all procedural guarantees. It also represents a threat to the right to freedom of expression and assembly and deprives a person of personal liberties.

The Lebanese Armed Forces and Internal Security Forces (ISF) arrested suspects in relation to attacks on civilians in Lebanon or for the involvement with armed groups in Syria and held them in lengthy administrative detention. Most of them were subjected to arbitrary detention as a result of the waves of raids and massive arrests carried out in response to security threats.

Although the Code of Criminal Procedure provides legal protection to suspects held in detention, human rights groups denounced the unlawful violation of their fundamental rights and freedoms. Under Article 47, Judicial Police officers may not detain a suspect for a period that exceeds 48 hours, which may be extended by a similar period only with the consent of the Public Prosecution Office. However, migrants are usually detained for unauthorized entry or presence in the country for an average initial period of 16 days. According to the report about the right for a fair trial in Lebanon suspects were routinely held in detention past the 96-hour time limit before appearing in front of a judge. Law of Entry and Exit provides specific legal ground for administrative detention of non-citizens, referring to the cases in which those individuals could be a threat to national security or public safety. There have been cases where migrants have been detained for years.

People detained for immigration reasons are generally held in Lebanon's immigration detention centre, located in a former parking garage of Beirut, where living conditions are dire. There have been numerous reports of tortures and ill-treatments in places of detention. People held during length terms in police custody and pre-trial detention could face the risk of torture and other ill-treatment or punishment.

Human rights advocates have expressed their concern regarding arbitrary arrests of against asylum seekers for matters related to lack of legal documentation or irregular entry, which leads to lengthy pre-trial detainment without committing any real criminal offense.

Journalists and activists have also been held in police custody and pre-trial detention while suffering serious violations of their fundamental human rights and freedoms. Going through interrogations without the presence of a lawyer, torture and ill-treatment, lengthy pre-trial detention, limited right to appeal and the use of confessions extracted under torture, etc.

If detained under terrorism charges, people may be held indefinitely. While normal period of pre-charge detention for a misdemeanour may not exceed two months (which can be extended by, at a maximum, a similar period), in cases of terrorism and other offenses, the period of detention may not exceed six months and can be renewed once, under Article 108 of the Code of Criminal Procedure. However, investigative judge can order a renewal for another 6 months indefinitely.

Unfair trials

HRW documented some cases in which civilians had been on trial in front of the military courts for acts of terrorism or security related offenses. They suffered human rights abuses and fair trial violations during the processes. According to HRW, the coerced confessions –extracted under torture– was the only evidence of guilt presented against the accused.

Torture and other ill-treatment or punishment

Sixty percent of the people arrested in Lebanon over a year are subject to torture and serious ill-treatment during their detention, according to the Lebanese Centre for Human Rights' [CLDH] report, published in December 2016.

Although Lebanon has recently taken some positive steps to oversee the implementation of international treaties for the protection of human rights, (ratifying the Optional Protocol to the UN Convention against Torture [OPCAT] in December 2008 and establishing a National Human Rights Commission, Lebanon's National Human Rights Institute [NHRI], including a National Preventive Mechanism [NPM]); the reality reveals that torture and other abuses continue to be common place, widespread and systematic.

Lebanon submitted its initial report to the Committee Against Torture in March 2016, with a delay of almost 15 years since the due date for submission was in November, 2001; and fulfilled it with doubtful claims about the issue of torture in the country. In fact, the CLDH stated that the report is in contradiction with the organization's and UNCAT's findings regarding the practice of torture.

In practice, treatment of inmates in detention and prison conditions reveals a critical situation in terms of human rights abuses. Conditions of detention at the Ministry of Defense are inhuman and degrading, particularly due to the lack of natural light and limited living space. Torture and other ill-treatment have been habitual practices in detention centres for years, as Human Rights Watch pointed out in its report. Physical violence is enforced not just to extract forced confessions but also as a form of punishment, discipline and behavioral correction, especially addressed at drug users, sex workers, homosexual, bisexual and transgender people. Vulnerable population, in the context of Lebanese prisons, also largely includes refugees and migrant workers.

Amid a context of security threats, arrested suspects who were accused of attacks on civilians in Lebanon or involvement with armed groups in Syria, suffered from lengthy pre-trial detention and reported ill-treatment and torture, according to Human Rights Watch. Security forces also targeted Syrian refugee settlements and tortured some of the arbitrarily arrested people. Human Rights Watch reported the testimony of a Syrian refugee who was detained by the Lebanese Military Intelligence officers and tortured over a five-day period.



Death penalty

In 2015 courts imposed at least 28 death sentences in some cases where the defendants were tried in their absence. No executions have been carried out since 2004. According to the Universal Periodic Review of Civil society organizations in 2015, there are still approximately 71 people waiting execution in Lebanon.

LIBYA

GENERAL SITUATION

Recent history of Libya is closely tied to the figure of Muammar al-Gaddafi, the authoritarian leader of a repressive and corrupted regime which ruled over the country between 1969 and 2011, and the popular uprisings that had Libya's population in massive demonstrations to contest it.

While Gaddafi governed Libya he failed to promote and protect the fundamental human rights and freedoms of its population. Despite the government's brutal and repressive methods to subdue the protests [causing hundreds of deaths], the crowds persisted amid a scene dotted by intense violence which escalated to an internal armed conflict. This was aggravated by an international military intervention that resulted in a severe humanitarian crisis of over half a million of displaced people and a fragmented and unstable political situation. The rebels declared Libya's liberation and executed Gaddafi some months after the beginning of the revolution.

Since the 2011 events, Libya has experienced a challenging transition process amid a scene of harsh political instability. Numerous armed actors became involved in the conflict while severe political, economic, social, institutional and security problems intensified. Political convulsions and elevated levels of violence and instability emerged around the polarization of two big centres of power and multiple focus of combats.

Human rights' situation in the country has deeply deteriorated in the last years, despite already being dire under the contested regime. War crimes and crimes against humanity have been committed in the harsh civil war, perpetrated by the Libyan National Army, numerous militias and other armed groups of an increasingly lawless country. None of them have been able to change the state of violence. Indiscriminate killings of the civil population, arbitrary arrests and detentions, kidnappings, tortures, summary executions,

property destructions, forced displacements and other forms of violence and human rights violations by all groups of the conflict have been documented by human rights organizations and the United Nations. The chaotic situation in Libya has been aggravated not only by regional tensions but also by the ability of terrorist and other violent extremist groups, such as Daesh and Ansar al-Sharia, to expand their areas of influence and control, taking advantage of the chaos to spread the scope of their violence. In fact, armed groups are out of control, committing serious abuses and war crimes.

According to human rights' groups, military forces affiliated to the two rival governments and other armed groups are responsible for war crimes and violations of the international humanitarian law and human rights. The military forces, terrorist organizations and other armed groups carry out abuses with brutal forms of violence, such as arbitrary detentions, kidnappings, forced disappearances, unfair trials and extrajudicial executions, tortures and other ill-treatments and punishments.

Amid this perturbing scenario of political polarization, institutional crisis and armed conflict causing severe violations and abuses of international human rights law and international humanitarian laws, the country lacks a functioning justice system as some courts are closed and judges and lawyers have been killed or detained for years without charge or trial. Rising criminal activity has led to a barely operating legal system, with the authorities unwilling or unable to investigate and prosecute the crimes. Militias operate above the law, without fear of reprisal or punishment, while government shortcomings and delays in providing accountability for abuses undermine the demands of justice which were expressed in the streets in 2011.

Despite the 14 months of negotiations, facilitated by the United Nations Support Mission in Libya, (UNSMIL) and the signing of a political deal between members of some factions and rival parliaments (even if the heads of rival parliaments opposed to the deal), the hostilities did not cease. Two rival governments continue to compete for legitimacy, control of vital institutions and international support, as the signing of a full agreement of the deal has not happened. The draft of a new constitution, issued in October 2015, failed to comply with Libya's international human rights law's obligations.

ANTI-TERRORISM LAW

Libya's House of Representatives, the elected parliament of Libya, promulgated the Law on Combating Terrorism 3/2014 on September 14 of 2014.

By announcing this law, authorities appear to express not only its own concern about the growing influence of extremist armed groups in Libya, but also aim to prosecute acts and individuals or groups who allegedly stand against the fragile government or public authorities' power. Vague definitions of terrorism can be used to arbitrarily restrict freedoms, apply disproportionate punishments and justify abuses. As UN Report on human rights situation in Libya noted, the adoption of such an overly broad definition appears to be a violation of the principle of legality and carries the potential of arbitrary and discriminatory enforcement of law.

Other provisions of Law 3 of 2014 are also an object of concern among human rights groups, as they are vague and broadly framed and could give rise to the risk of prosecution of the lawful exercise of fundamental rights and freedoms or misdemeanours, even if they are only an attempt. The law does not align with Libya's obligations under international law and the human rights treaties, which have not been ratified.

Legality of offences

Articles 1 and 2 of Law 3/2014 provide an overly broad definition of “terrorist acts” and “terrorist organization”, leading to a criminalization and punishment of people who have committed minor crimes or participating in public demonstrations, publishing opinions or being part of political opposition, curtailing their legitimate exercise of civil and political rights. Article 3, by potentially extending the reach of the new law to any crime under the Libyan penal code, may breach Libya’s international obligations. These vague provisions could be used to curtail legitimate exercise of civil and political rights.

HUMAN RIGHTS VIOLATIONS

Freedom of movement and forced displacements

Article 22 of Law 3/2014 allows the courts to prohibit anyone convicted under the anti-terrorism law from residing in a particular place or area or to restrict them to a particular area. These provisions, combined with the aforementioned effortless criminalization of individuals and groups committing a wide range of activities and legitimately exercising their rights, could lead to a potential restriction of the freedom of movement of the alleged criminal.

In practice, what has been occurring is that violence between armed groups has disrupted normal activity and freedom of movement of the population in Libya. Main airports have been attacked and destroyed and hundreds of thousands have fled by land to neighboring Tunisia and Egypt. About half a million people have been internally displaced, according to the statistics of the Internal Displacement Monitoring Centre [IDMC].

Civilians have suffered from severe restrictions of the right to freedom of movement, as they have been forcibly displaced and suffered sieges of their residences and restricted from moving to other areas within Libya due to the fights against militias and other armed groups.

At the peak of the conflict in Libya, nearly half a million people were reported to be displaced from their homes, according to the International Organization for Migration [the UN Migration Agency] report on internal displacement in Libya in 2016. Currently, some of them are considered to be in a protracted situation of displacement. Civilians have been forced to seek refuge in other parts of the country due to the harsh nature of violence, involving multiple armed groups throughout Libya. Amid the complexity of the hard security situation, military offensives from the government against IS and other groups have resulted in hundreds of thousands of internally displaced people, who fled from their destroyed places of residence and from the high levels of violence surrounding them.

Internally displaced people suffer from increased vulnerability, as their savings dry up and resilience dwindles, unable to afford rental costs or live in informal shelters. They have reduced access to basic services like health, food or education, and adequate and secure accommodation. Government’s antiterrorist offensives contribute to the exacerbation of the situation of insecurity and fear amid the population, failing to restore security and address deep-rooted social divisions, as well as needs of justice, reparation and resolution of the situation, in order to

Freedom of expression

Freedom of expression in Libya remains under a sustained threat, due to the adoption of restrictive laws and the lack of media regulation and the prevailing security situation.

Although free speech environment in Libya appeared to have featured a deep transformation in a relatively short period after 2011 uprisings, frustration soon arrived. Over the past years, transitional governments have failed to remove existing arbitrary restrictions to freedom of expression, making no progress toward the protection of this right. In fact, instead of strengthening protections for freedom of expression, authorities have reintroduced al-Gaddafi's repressive laws to silence critics. They even introduced new provisions which further undermine this right, like the Law 3/2014 or the amended version of article 195 of the Penal Code, which outlaws all criticism of the '17 February Revolution' or insults of officials.

Given the overbroad definition of terrorism, contained in Law 3/2014, which could be combined with other articles of the same law, as well as other legal provisions, a legal way to prosecute legitimate criticism of the government is made available, which can severely undermine the right to freedom of expression.

Armed groups and militias target media and NGO workers, human rights defenders, political and other activists, journalists and media professionals for speaking out for human rights issues or criticizing armed groups and implement severe abuses like harassment, abductions, tortures and unlawful killings. Direct and indiscriminate attacks on key freedom of expression campaigners have resulted in serious violations of the right to freedom of expression. According to Amnesty International, free speech is under attack as prominent voices, including those of human rights defenders, journalists and civil society activists have been silenced.

Freedom of assembly and association

Rights to freedom of association and assembly are severely restricted in Libya, as armed groups and unknown perpetrators target media, NGO workers and human rights defenders, carrying attacks against them and their properties. People attending public gatherings and demonstrations have suffered attacks during protests. Activists and journalists have been killed, abducted and threatened because of their jobs and activities. After the 2011 uprising appeared a multitude of domestic NGOs, as political civil society had been nearly banned under Gaddafi. The number of those active has declined due to the increased threat against activists, as well as due to the departure of international donors.

Arbitrary detentions and conditions of detention

UNSMIL/OHCHR has found that arbitrary detention and deprivation of liberty of civilians, by armed groups in Libya, is a continued and widespread injustice.

Fighters on all sides not solely arrested but also abducted civilians, including children, on the basis of their identity, family and perceived political affiliations or opinions. Those suspected of sympathizing with or having relatives associated with certain armed groups (such as Shura Council of Benghazi Revolutionaries) are abducted. According to the Secretary General, foreign nationals accused of belonging to terrorist groups have been detained without legal authorization. Detainees are allegedly tortured, while abductions lead to enforced disappearances and reports of deaths under custody.

Those abducted and detained included political, human rights and other activists, journalists and judicial and other public officials. Amongst the detainees are also ordinary civilians, including children, and migrants. There is an estimated number between 4,000 and 7,000 migrants arbitrarily held in detention centres that are

run by the Department for Combatting Illegal Migration. They are brought there by armed groups, individuals and security forces with no legal process, and remain deprived of liberty in inhuman conditions.

According to Human Rights Watch, prison authorities and militias continued to arbitrarily hold in detention thousands of Libyans and foreigners without charges, fair trials or due process rights – all of which may lead to crimes against humanity. Men, women and children have been held in long-term arbitrary detention, in conditions that have failed to achieve any international standards of medical procedure or hygiene. During the detentions being mistreated and tortured with impunity by guards and militia members is common. Amnesty International denounced, in 2012 the continuing arbitrary arrests of people by militias, who hold them for long periods in secret and unofficial detention facilities outside the reach of the central authorities. The human rights group denounced that thousands of detainees were held across Libya on suspicion of having fought for, or supported, the former government and, in the end, very few had been charged with a crime. Most of them were denied access to a lawyer and the possibility to challenge the legality of their detention.

According to the General Assembly, it is estimated that there are between 6,000 and 8,000 detainees and prisoners in Ministry of Justice's prisons, while it is unknown how many detainees are held in detention centres run by the Ministry of Defence, the Ministry of the Interior and armed groups. Among the identified number, over 90 per cent are held in pre-trial detention, often detained for years with no prospect of going to trial.

Unfair trials

Unfair trials, serious violations of human rights and a systematic lack of due guarantees in the processes have been carried out by the Tripoli Court of Assize against former officials of the administration of Muammar al-Gaddafi for allegedly committing war crimes and other offenses during 2011. The courts have failed to investigate allegations of torture and other ill-treatment of defendants.

Torture and other ill-treatment and punishment

Torture and other ill-treatment in Libya, especially in prisons and detention centres, constitutes a significant target of denounces by advocacy groups and the UN Council of Human Rights. Both, the internationally recognized government and the Tripoli authorities, as well as the multiple militias, are responsible for several cases of torture that, in some cases, have led to death. Armed groups routinely abduct people; men, women and children whose bodies are found some days or weeks later with visible signs of torture, some of them with gunshot wounds of which many in the head. Torturers remain with impunity, as authorities have failed to effectively investigate the crimes. Tortures, which may be practiced during detention of people, who can be held arbitrarily for years, include beating, shooting, cigarette burns, electrocution, suspending in stress positions such as upside down, enclosing detainees in small and suffocating spaces.



Extrajudicial killings

Armed groups, including some affiliated to the rival governments, reportedly unlawfully killed captured opposition fighters, as well as civilians they perceived as opponents. Beyond the current patterns of indiscriminate attacks of air strikes and imprecise weapons which have resulted in multiple civilian casualties, armed groups unlawfully and intentionally executed and assassinated people, being responsible for violations of the right to life and of international humanitarian law.

Libyan National Army forces may have committed war crimes, including killing civilians who were fleeing from violence and summary executing, mutilating and desecrating bodies of opposition fighters, as Human Rights Watch denounced in March, 2017.

MOROCCO

I. GENERAL SITUATION

Since the late eighties up until the present times, authorities in Morocco have been working on legislative initiatives that have successfully developed a certain human rights culture in the country. The 2011 social uprisings, which emerged in the wake of revolts in Tunisia, disrupted the Moroccan political landscape and achieved in addressing some surface issues. The government convoked parliamentary elections and initiated constitutional reforms in 2011, leading to the adoption of a new constitution. The ratifications of international treaties also signified a key point in the way of acquiring more efficient tools for the protection and promotion of fundamental rights and freedoms in Morocco.

Nevertheless, the legal achievements didn't resolve the underlying structural problems and failed to position Morocco towards democracy. The responses to the demands of freedom, dignity and social justice did not lead to real conditions of respect for individual and collective freedoms. Indeed, there are still several shortcomings in Moroccan legislation and practice related to protection of human rights.

In 2004 advocacy groups realised that the broader freedoms that the Moroccan society had enjoyed since the late eighties and the nineties, were never really institutionalized, thus easily reversible. In fact, that's what has been happening, despite the aforementioned positive developments in legislative matters (international

treaties ratifications, new constitution approval, progress on civil and political rights, certain efforts for restitution of past grave abuses, etc.).

In October 2016, in different parts of the country, protests against social and economic grievances began. The gruesome death of Mouhcine Fikri, a fishmonger from Al-Hoceima whose wares were confiscated by the police, sparked massive protests across the country. Despite in 2016 the new and significant legal reforms that were adopted allowed the improvement of the conditions of freedom of expression, the rights of domestic workers, the victims of human trafficking and of people with disabilities, currently the situation has revealed numerous contradictions that have led to continuous human rights abuses and violations.

Counterterrorism measures, which were developed after 9/11 events and grew under the threat that was introduced by the 2003, 2007 and 2011 attacks in the country, absolutely undermined the sprouting possibility to bring into effect and maintain the recently achieved greater human rights culture. In fact, measures taken in the name of counter-terrorism had provoked a real setback of the progress made in the protection of human rights and fundamental freedoms of the last two decades and a half. Since terrorist attacks in 2003, 2007 and 2011, the way in which authorities criminalize and punish thousands of individuals, allegedly accused of terrorist crimes, begs a note of worry.

Referring specifically to Moroccan anti-terror legislation, it is significant to note that the 2014 UN Working Group on Arbitrary Detention in Morocco referred to law 03.03 as a legal framework for numerous violations of human rights [its report is included in a legal text of Moroccan legislation].

As an enlightening argument, Human Rights Watch said that while Morocco has demonstrated the political will to adopt legal reforms in order to improve its human rights legislation, it lacks the political will to enforce it when it comes to terrorism suspects.

Western Sahara

Sahrawi activists and the general population of the Western Sahara occupied territories have suffered from high levels of repression and violence, including arbitrary arrests and imprisonment of innocents. Restrictions on the activities of local and international human rights groups, tortures and other types of human rights abuses and people's fundamental freedoms restrictions are common. It is necessary to point out the innumerable killings that constitute the silenced genocide of the Sahrawi people to see effectively the situation of grave violations of international law of human rights, that has been the reality of the Moroccan occupation since 1975.

Severe violations of fundamental rights and freedoms have been the never-changing story of the inhabitants of what Moroccan authorities call "their Southern Provinces". Counterterrorism measures, taken by the government during the last decade, which affect also -and in a special manner- the Western Sahara territories, have deepened and aggravated the poor living-conditions of its population. These measures give security forces even more incentive to crack down on dissent and on political opposition.

Militarized security conditions, under which Sahrawi population have been living for decades, are now causing a greater situation of insecurity, as the practice of their rights and freedoms appear to be more easily, arbitrarily and violently restricted.

The need to safeguard national security is instrumentalized by the authorities of the government, in order to deem anyone who challenges, criticizes or allegedly opposes the territorial integrity of the Moroccan state [that is, the Great Morocco which includes Western Sahara territories] as a threat to its national stability and security¹³, leading to a correlation between terrorism and the, leading to a correlation between terrorism

and the independence movement of the Western Sahara. This too has compromised the personal security and livelihood of the Sahrawi people. Activists who advocate for independence or report human rights violations are prosecuted and also the access to the territories for foreign journalists and human rights defenders is restricted. Amnesty International denounced Moroccan authorities for targeting Sahrawi activists who advocate for the self-determination of Western Sahara and reported severe human rights abuses as authorities prevented and dispersed peaceful gatherings, using excessive force.

The UN Working Group on Arbitrary Detention's report in Morocco noted that it received numerous complaints of arbitrary detention, torture and ill-treatment used to extract confessions and also remarked the existence of excessive force used in repressing demonstrations and arresting demonstrators calling for self-determination for the Sahrawi population.

ANTI-TERRORISM LAW

In January, 2015, as part of the strategy to strengthen anti-terrorist measures, the draft law 86.14 was approved by the House of Deputies in Morocco. It amends the previous Moroccan Law to Combat Terror (03.03) through the modification of certain provisions of the Penal Code and the Code of Criminal Procedure related to terrorism.

Law No. 03.03 already introduced a broad definition of terrorism and increased the severity of sentences for such offenses, but the current law 86.14 further expands the scope of the definition of terrorist acts and extends the jurisdiction of the national courts to prosecute terrorist crimes within or outside Moroccan national territories. Under these new dispositions, the act of joining terrorist groups, apology of and incitement to terrorism and joining training camps, inside or outside of the country, are criminalized. By launching this law, the Ministry of Justice and Liberties attempted to hold greater tools in response to the national and international security threats posed by the "foreign fighters" phenomenon, making an effort to implement the mechanisms of border control, reinforcing the international tools of cooperation and exchange of information, joining the unanimity of the international community in order to condemn such phenomenon.

The new law 86.14 includes a series of amendments which change the problematic aspects in the existing anti-terror legislation, including the provisions for lengthy pre-charge detention with delayed access to legal counsel and the vague and wide concepts through which some terrorism-related offences are defined.

Article 218-1 of the Penal Code, elaborated on by Law No. 03.03, defines terrorist acts as "any intentional individual or collective action with the goal to disturb public order by intimidation, terror or violence", and extends to a large list of acts which are considered as terrorism, including intentionally harming the life or the integrity or the liberties of people; or falsifying money; or destroying, degrading or damaging property; or extortion of goods; or fabricating, transporting and illegally using weapons, explosives or ammunition; infractions relatives to the automatic processing data systems; the participation in an association or agreement aimed to prepare or commit terrorist acts or intentionally occulting a terrorist crime.

Legality of offenses

A vague and broad definition of a terrorist crime, such as the one included in the Penal Code, following the dispositions added by both Law 03.03 of 2003 and Law 86.14 of 2015 may encompass the criminalization of the lawful exercise of rights and freedoms, such as fundamental civil and political rights. The UNWGAD noted with concern that the definition of the crime of terrorism is rather vague, as shown by Law 03.03 provisions of the Penal Code.

HUMAN RIGHTS VIOLATIONS

Self-determination

Morocco continues to violate the fundamental rights of the Sahrawi people, preventing them from lawfully exercising their right to self-determination, which is in violation with international law. "Harming territorial integrity" constitutes a crime punishable by law which is a major factor of motivation for Moroccan state-security operations.

Deputy Ahmed Thami, member of the opposition group, asked if Morocco understood "the direct correlation between extremism, terrorism and separatism in the Grand Sahara", while also congratulating Moroccan efforts in terms of adopting a strategic vision to adhere to international referents in security policy matters.

Directly accusing Sahrawi people of terrorism or national threat, or even reproducing the narrative of the direct correlation between terrorism and the struggle of self-determination and the liberation movement in Western Sahara, can be traduced in an attempt to distract the international attention from the Saharawi cause, or even to justify the abuses and human rights violations in Western Sahara through government's conducted security operations.

Freedom of expression

Vague and broad dispositions of the anti-terrorism Law 86.14, as well as dispositions of Law 03.03 amending the Penal Code, lead to a systematic criminalization of activities not related to terrorism, for example in journalism, where publishing and expressing opinions, that maybe don't correspond with those of the regime, or as free speech that denounces authorities' abuses, can suffer scrutiny.

Concern about the use of anti-terrorism Law [both the 03.03 and the 86.14] as a pretext to criminalization and punishment of journalists and other activists for their work or their political opinions has been an important topic of concern among human rights advocacy groups, as Amnesty International or Human Rights Watch's reports reveal.

Amnesty International accused Moroccan authorities for using anti-terrorism law in order to prosecute and imprison journalists following systematic patterns of arbitrary detentions. As the consulted reports show, the counterterrorism legislative measures targeted activists and journalists as threats to state security, giving power to security forces to arbitrarily arrest and detain them because of what they wrote, filmed or published.

On July 26, 2016, parliament adopted a new Press and Publications Code, which punishes [enhancing the measure of the former 2002 press code] many nonviolent speech offenses with fines and suspensions of publications or websites or even prison time. At the same time, however, the Penal Code maintains prison time as punishment for a variety of nonviolent speech offenses, pursuing journalists like ordinary criminals. Some of its provisions make reference to "causing harm to Islam, the monarchy, the king and the royal family and Morocco's territorial integrity [a reference to the Western Sahara's claims of self-determination] as crimes punishable by prison. In conclusion, legal reforms of the last years, in the press and publications related matters, didn't dismiss prison sentences as punishment for insulting state institutions and for "praising" terrorism.

Freedom of assembly

Authorities restrict the right to freedom of peaceful assembly, forcibly and violently dispersing peaceful protests. Activists and protesters are prosecuted and sentenced, after unfair trials, for participating in peaceful

protests. Peaceful dissent in Western Sahara is also severely restricted, as authorities disperse protests. Prosecuted Sahrawi activists, who advocate for self-determination or reported human rights violations, reveal that efforts and political will of self-determination falls in the same category as terrorist threats or harming national integrity.

Freedom of association

Authorities in Morocco restrictively interfere in the activities and the existence of many associations, severely hampering their process of legal registration and banning research missions on the field. Authorities are restricting the right to freedom of association, arbitrarily preventing them from obtaining a legal status for charity, cultural, educational and human rights associations. Some of them have been closed or their legal registration prevented on the unclear grounds of that they harm the country's "territorial integrity".

Arbitrary arrests and conditions of detention

Article 23 of the Moroccan constitution states that arbitrary or secret detentions are, jointly with forced disappearances, crimes of great seriousness, according to the UN Working Group on Arbitrary Detention [UNWGAD] in Morocco. However, the report of the UNWGAD noted that they have received allegations from credible sources of arbitrary detention, in violation with the Moroccan constitution and international human rights law. Members of the Sahrawi population are specifically, but not exclusively, victims of such violations.

Such patterns of abuse, under the counterterrorism measures, date back to 2003, when Moroccan security forces carried out a campaign of systematic and massive arrests due to the May 2003 attacks in Casablanca, violating the progressive legislation Morocco adopted, as well as international conventions which it has signed. Human Rights Watch's reports of the cases of terrorism-related arrests between 2007 and 2010 reveal a continued practice of arrests and incommunicado detentions, carried out in violation of legal procedures.

Article 23 of the Moroccan constitution provides that all detained people should get judicial assistance and ability to contact their families as soon as possible after the detention. The anti-terror legislation, however, extends the time limits of custody to up to 96 hours, renewable twice, meaning that detainees maybe held for up to 12 days in police custody before being brought before a judge

In fact, despite the Code of Penal Procedure gives the defendant the right to contact a lawyer after 24 hours of police custody to a maximum of 36 hours if the prosecutor allows for this extension. In cases related to terrorism offenses, the prosecutor can delay access to a lawyer for up to six days, as well as denying any contact with the outside world. Those provisions, which restrict crucial safeguards, violate the right to minimal guarantees and undermining the right to a fair trial.

The abuses committed through the application of such provisions and the conditions in which arrests and detentions are conducted (detentions which resemble abductions, in secret locations, delays in providing access to legal counsel, during extended time-frames) increase the risk of detainees suffering from torture and other ill-treatment.

In terrorism-related offences, it appears that suspects are often not officially registered, held for weeks without being brought before a judge and lacking judicial support. Incommunicado detention is also reported in detention facilities. The UNWGAD noted, in 2014, that suspects of terrorism are denied their right to reach out to their family, and families are not notified until such time that the suspects are already transferred to police custody in order to sign confessions.

Excessive use of force

The UNWGAD has received numerous complaints indicating that a pattern of excessive use of force in demonstrations, and in arresting protestors, or people suspected of participating in demonstrations calling for self-determination of the Sahrawi population, is prominent. People are beaten, insulted and forced to reveal the names of other protestors. Police forces regularly raid homes of alleged or known supporters of self-determination for Western Sahara and subject their inhabitants to beatings and other ill-treatment.

Unfair trials

Human rights groups denounced the courts that failed to uphold the fair trial principle in political and security-related cases. Courts accepted “confessions” extracted under torture as main evidence of convictions, and sentenced many people to long prison terms for political offenses. The UNWGAD in 2014, criticized the article 209 of the Code of Penal Procedure, which deems police statements inherently credible as evidence unless they are proven wrong and noted the importance accorded to confessions, in the context of a trial, as there were many cases that were submitted to the court solely based on confessions of the accused, in the absence of material evidence. The UNWGAD also noted that confessions used as evidence on trials were often being obtained as a result of torture and that courts and prosecutors did not comply with their obligations to initiate an ex officio investigation whenever there were reasonable grounds to believe that a confession had been obtained through the use of torture and ill-treatment.

Trials on terrorism cases are conducted by the military court, which is not the competent court with regard to terrorism cases and should only be competent to try military personnel for exclusively military offences.

Torture and other ill-treatment

Despite that torture and other ill-treatment have been explicitly prohibited and identified as a crime in Moroccan law, these practices continue in the country.

Although Article 22 of the Moroccan constitution provides that the practice of any form of torture is a crime punishable by law, and despite the government ratified the Optional Protocol to the Convention Against Torture in 2014, these practices continue in the country.

Due to the considerable extension of the time limit of police custody (the period during which the risk of torture is greatest) which is determined by the Criminal law and Counter terrorism legislation, the U.N. Committee Against Torture expressed, in November 2003, its concern about Morocco’s anti-terror legislation, followed by the UNWGAD’s 2014 report’s concerns of torture-related allegations. The extended periods of police custody of terrorism suspects, the conditions of incommunicado detention and the absence of lawyers during police interrogation create conditions that may lead to torture and other ill-treatment.

The UNWGAD found, in 2014, that in cases related to State security, such as terrorism, enrollment in Islamists movements or supporting of independence for Western Sahara, there were patterns of torture and ill-treatment during arrests and in detention by police officers. Many of the suspects that had been tortured were forced to sign “confessions” and had been sentenced to imprisonment on the sole basis of that “confession”. Practices of ill-treatment took the form of solitary confinement for periods ranging from several days to several weeks, overcrowding of places of detention which lead to serious violations such as denial of or insufficient access to medical care, nutrition, sanitation, security and rehabilitation services.

According to Amnesty International, Moroccan authorities failed to ensure the good treatment of detainees and prisoners, as well as the protection against torture and other ill-treatment and to investigate allegations or ensure accountability for those crimes.



Death penalty

Moroccan anti-terrorism Law establishes that the death penalty is punishment for several crimes and offenses, including some terrorism-related offenses that do or don't result in death. Despite the law, there have not been any executions since 1993. The abolitionism is only de facto, as there is no legal recognition of abolitionist dispositions and there are still 120 prisoners on death row as of May 2016.

SYRIA

GENERAL SITUATION

The armed conflict in Syria has its roots in the massive nonviolent social and political uprising against the Bashar al-Assad regime, which emerged in the framework of the popular demonstrations some months before.

In the context of the Arab Spring of 2011, which grew in scope, due to social protests demanding political and economic changes all around the MENA region, government's dynamics of brutal repression of the nonviolent popular mobilizations led to a severe crisis in the country. The crackdown on peaceful mobilizations, the emergence of insurgency groups confronting the long-standing repressive and authoritarian Syrian regime has led to a civil war. Since 2011, there have been thousands of deaths and high amounts of destruction, as well as millions of forcibly displaced people, which reveal the appalling impact of the war on the civil population.

This internal but internationalized conflict has involved not only government and anti-government insurgency forces (both brutally violent), but a number of different armed actors with different objectives and interests who significantly complicate and aggravate the conflict and limit the possibilities of a way out of the violence.

In this sense, the government forces (the Syrian Arab Army and the National Defence Forces) and their pro-governmental militias fight jointly with Shiite militias from Iraq, Shiite Lebanese militias from Hezbollah, Iran forces and the reinforcement of Russia. In the Syrian opposition, there're multiples divisions, fractures and external reinforcements, including a lot of non-state armed groups sometimes fighting each other. They include the Free Syrian Army (whose forces are falling); the Islamic Front or Ahrar al-Sham, formed by some allied Islamist and Salafist groups, which is openly allied with Jabhat Al-Nusra (Syrian Al-Qa'ida filial); Islamic State; among other rebellious groups. In the conflict are also participating the Kurdish militias YPG/YPJ of the Syrian Kurdish party, which, from 2015, are participating in the Syrian Democratic Forces supported by the U.S. with the aim to expel the Islamic State, and the international anti-IS (formed by Gulf countries and occidental allies) coalition, most of them participating in the bombings of Syria.

Among all of these groups, some of them are considered as terrorist organizations, mainly the IS and Jabhat Al-Nusra. They are carrying out direct and indiscriminate attacks on civilians and perpetrating brutal forms of direct violence against them, including chemical attacks, kidnapping, torture, rapes of women and children, and other severe abuses. Also, both the government, and their allied forces, and opposite forces are committing war crimes and other serious violations of international law, including direct and indiscriminate attacks on civilians and brutal forms of repression and punishment. While carrying out air strikes against IS and other armed groups, international actors, including US-led international coalition and Russian forces, have killed hundreds of civilians, violating international humanitarian law.

The Syrian government, represented by the Baath party since 1963, has repressed, oppressed and abused political opponents through a permanent nation-wide state of emergency, which has been articulated during the last decades through the creation of a repressive legislative apparatus, operated by repressive bodies of law (courts and security departments). The staff of these bodies have enjoyed the immunity from prosecution, committing countless crimes related to repression of civilians, that go unpunished.

ANTI-TERRORISM LAW

In April 2011[in the timeframe of the second month of the massive popular uprising in Syria], the government approved decree N° 161, following the decision to lift the state of emergency that had been continuously in effect since 1962-1963.

One year after, Decree 53 was approved, abolishing the Supreme State Security Court. In July 2012, the government adopted Anti-Terrorism Law N°. 19, shortly after establishing, by the enactment of the Law N° 22, the Counterterrorism Court. This court, based in the Justice Ministry, was appointed with the aim to apply the Counterterrorism Law, trying civilians and military personnel on “terrorism” related charges.

The Counterterrorism Law in Syria consists of 14 articles. It was issued with the aim to respond to the new social context in Syria, after the start of the protests, expanding the definition of what is considered to be “threatening the state security”. Included was, what must be understood as a terrorist act or a terrorist organization; as well as to set the penalties for committing or promoting the acts defined in the law.

Article 1 defines the meanings of the following expressions: The Law, the State, a terrorist act, a terrorist organization, financing terrorism, money freezing and confiscation.

It defines terrorism as “any act aiming to cause panic among people, disturb public security or harm the State’s infrastructure, that is committed by means of arms, ammunition, explosives, flammable materials, poisonous or burning products, epidemiological or bacteriological agents, regardless of the form of these means, or by means of any tools that serves the same purposes”.

Article 1 also defines what the legislation understands as terrorist organization: “A group of three or more people that aims to perpetrate one or more terrorist acts”.

It also defines which acts may be considered as financing and training terrorism, refers to conspiracy, to the penalties for terrorist acts, for the promotion of this acts, the applicability of the Law, the obligation to report information about terrorist acts, confiscation and related measures among others.

The new Counter Terrorism Law and the Counter Terrorism Court are, per Violations Documentation Centre in Syria, two worse sides of the same old coin, that is the recently lifted state of emergency and the abolished Supreme State Security Court. Arbitrary arrests, unfair judgments, tortures of detained civilians (mostly peaceful or nonviolent activists, human rights defenders or humanitarian staff), which are more often carried out under the new legislative and legal apparatus since its creation, revealing the continuation and the expanding of the scope of a repressive and human rights abusing system in a context of absolute impunity.

Legacy of offenses

The reference of “any tools and means”, included in the definition of terrorism, which makes the Law open the door for categorization of an indefinitely-wide range of acts as terrorist offenses, that way extending the capacity to criminalize a large number of activities that can mainly refer to political, social or humanitarian issues that have nothing to do with terrorism nor to violence.

The Violations Documentation Centre in Syria claimed that legal texts use vague words and expressions that may apply to anybody opposing the regime’s repression of the people’s uprising, accounting the large number and diversified cases of the detainees who have been referred to CTC.

HUMAN RIGHTS VIOLATIONS

Forced displacements

As a result of the high impacts of violence and human rights abuses on civil population in Syria, millions of people fled their homes in order to seek refuge in other countries or in more secure regions of Syria. Fleeing from both ISIS and other armed groups, as well as from pro-government forces, at least 5 million people have fled Syria since 2011, while around 6.6 million others remain internally displaced within the country. Indeed, according to the UNHCR data, 50 Syrian families have been displaced every hour of every day since 2011.

Those who have fled the country and tried to seek refuge in neighboring countries, or in Europe, face severe problems. While Jordan, Lebanon and Turkey host the biggest part of Syrian refugees, they do not offer adequate nor sufficient access to basic services and asylum seekers suffer from structural and direct violence, failing to achieve their international protection. Hundreds of thousands have tried to cross the Mediterranean in order to seek refuge in Europe, facing a dangerous trip in which many of them died and continue to die. Currently, we are witnessing a dreadful scene of human rights' violations of all those people in forced displacement, through what seems to be the deplorable return to an entirely militarized conception of security in Europe. States in Europe are seeking to increase military capacity as a protection of the integrity of the state territory in the face of this perceived threat. The over-securitization of European borders follows the generalized narrative of fear following terrorist attacks in European cities and to the confusing and dangerous associations between flows of asylum seekers and terrorist fighters.

Rhetoric of rejection and intolerance to refugees compound the official discourse of the States, who routinely fail to comply with their obligations on human rights law while fighting terrorism.

Freedom of expression, association and assembly

The vague dispositions of the Law N° 19 lead to the criminalization of political or social activities like participating in a demonstration, distributing pamphlets, providing humanitarian assistance, denouncing human rights abuses or publishing researches about human rights situation, missing or killed people.

Article 8 of the Law N° 19 prescribes imprisonment and hard labour for a "terrorism"-related offense that includes distributing information of any form that is "legally" considered as promoting terrorist actions, violating the aforementioned articles. Also, Article 10 of the Law N° 19 prescribes imprisonment from 1 to 3 years for those who know about any of the crimes stated in the law (so a widespread variety of activities) and fail to inform the authorities. That may lead to a criminalization of a wide range of activities related to freedom of expression, association and assembly.

According to Human Rights Watch, the indictments of the Article 8 of the Law N° 19 state that the punishable activities include monitoring online news of the Syrian opposition, publishing studies on the human rights and media situation in the country, documenting names of the detained, disappeared, wanted and killed within the context of the Syrian conflict and receiving funding from Western organizations. HRW urged the Syrian authorities to release and drop all charges against peaceful activists charged before the court for exercising these rights.

Arbitrary arrests and conditions of detention

The Counter Terrorism Law N° 19, by extending the definition of terrorist acts through an unclear and ambiguous description, allows for arresting people who commit acts non-related to terrorism and preventing the lawful exercise of fundamental rights and freedoms. Human Rights Watch denounced that the Syrian government is using its sweeping Counterterrorism Law and its special court against human rights defenders

and other peaceful activists, providing judicial cover for the arbitrary persecution and arresting of civilians non-related to the alleged crimes. Amnesty International said that tens of thousands of civilians, including peaceful activists, were detained by government security forces.

The Violations Documentation Centre in Syria reported that the number of cases referring to the Counter-Terrorism Courts exceeded 32,000, while the number of detainees in each case/file varies between 1 and 12. Authorities use an extensive network of detention facilities throughout the country to hold such an unreasonable amount of people in detention.

At the time of this research, the VDC noted that there were 1,500 women under arrest, while the estimated total number of women detained, since the beginning of the Revolution until late December 2013, was at least 4,000, many of whom were arrested with their children, in violation of international law of human rights, specifically treaties referring to the rights of the child.

Despite that a general amnesty was declared in June 2014, large number of people, including civil society activists, human rights defenders, media and humanitarian workers remain in arbitrary detention. Certain omissions and unclear provisions in the amnesty decree deprived thousands from benefiting from the amnesty.

The Violations Documentation Centre in Syria noted that acts of deprivation of liberty of civilians, in the context of pending proceedings before the terrorism tribunal, as well as the field tribunals, are carried out as part of the regime's policy to use both aforementioned courts to facilitate and justify individual acts of murder and arbitrary imprisonment, in a context of widespread attacks against civilian population in Syria.

Even if Decree 55 dated from April, 2011, stated that the period of pre-trial detention should not exceed 7 days [that may be extended to 60 days], most of those referred to the Counter Terrorism Court have stayed for months –from six months to two years- in places of detention under the authority of the security apparatus, according to the Violations Documentation Centre in Syria report.

Human rights' reports denounce that people in arrest or detention in Syria are habitually subject to a systematic denial of their right to legal assistance, to a fair hearing by an independent and impartial tribunal and to be entitled to minimal guarantees prescribed by international standards. Certain detention facilities, such as al-Qaboun Syrian Military Police headquarters, are notorious for closed-door proceedings that lack fairness.

Ill-treatment, torture and enforced disappearances by government forces are widespread and systematic in detention facilities, where deaths resulting from torture, abuses and disease are also common.

Because of the large number of cases referred to the CTC, instead of being referred to other civil or military courts, tens of thousands of detainees wait several months before appearing before the CTC judges. Civilians sometimes spend up to one year in detention, and the majority of those referred face lengthy proceedings and hearings.

Unfair trials

Frequent charges following arrests and detentions include financing, promoting and supporting terrorism, participating in demonstrations, writing statements on Facebook, contacting opponents abroad, smuggling weapons to insurgents, photographing or bombing checkpoints, kidnapping, or delivering food, aiding or sending medicines to opposition-held areas.

According to Amnesty International's annuals reports, both from 2015 and 2016, many of the detained suffered unfair trials before the CTC or Military Field Courts. Perceived opponents are prosecuted by authorities before both courts, in which proceedings are flagrantly unfair. Judges failed to order investigations into

allegations of defendants, denying the acknowledgment of their claims of having been tortured and ill-treated or even forced to make “confessions”. Such “confessions” were used as evidence against them at trials.

Extortions, bribes and threats are also common, as VDC reported, due to the great number of referrals and the deliberate chaos that characterizes the CTC proceedings. Many detainees and their families have been extorted and forced to pay large amounts of money to investigative judges in return for the judge accelerating proceedings or signing a release memo.

Torture and other ill-treatment

There are several documented testimonies of civilians who have been victims of torture and other cruel, inhuman and degrading treatment carried out by government forces under detention conditions. According to Amnesty International, torture and other ill-treatment of detainees by government security and intelligence agencies and in state prisons remain systematic and widespread, being the cause for the high number of detainee deaths. According to local activists, at least 890 detainees died in custody in 2015. These deaths



result from tortures and abuses, for example denial of medical care and severe diseases due to the extreme conditions of the detention facilities.

Human Rights Watch said that torture is used with the aim to extract “forced confessions” from the detainees to use it as evidences in trials. Deaths in detention facilities are common, deriving from practices of torture and abuses and severe disease caused by extreme conditions of the places. There are also documented cases of sexual violence against male and female detainees.

According to Amnesty International, there were at least 17,723 deaths in government custody between March 2011 and December 2015, resulting from torture and other ill-treatment.

Enforced disappearances

Thousands of detainees are held in detention without trial, often in conditions that amount to enforced disappearances, adding to the tens of thousands whose fate and whereabouts remain undisclosed, following their enforced disappearance by government forces, since 2011. Enforced disappearances include peaceful critics and opponents of the government, as well as family members detained in place of relatives whom the authorities sought.

Death penalty

The Syrian government has been imposing an aggravating number of death sentences, mostly for terrorism charges, since the creation of the Counter Terrorism Courts and through articles 5 and 6 of Law N° 19.

Articles 5 and 6 of Law N° 19 impose death sentences if the alleged terrorist act results in killing of a person.

Due to the vague and extended definition of terrorism and terrorist acts and the provisions for capital punishment for a full range of offenses that cannot be considered as “most serious crimes”, the application of the Anti-Terrorism law under the jurisdiction of the Counter Terrorism Courts violates international standards regarding death penalty.

SPAIN

GENERAL SITUATION

The financial crisis of Spain, which started in 2008, and the deep impacts it had on the socio-economic situation of millions of citizens, led thousands of people onto the streets. Massive popular demonstrations expressed discontent, protesting against the incapability and unwillingness of the authorities to manage the crisis, and opposing the general political agenda, which was put forward by a formally corrupt democracy, which prioritized the interests of the economic elite. Since 2011, and after, the social movements, like 15M, “indignados”, the Platform for People Affected by Mortgages [PAH] and others, acquired significant momentum in this socio-political scenario as was visible by hundreds of popular demonstrations. Those popular movements practiced nonviolent massive demonstrations, which propelled due to the new possibilities offered by social networks, and grew in popularity due to sharing a deep rejection of socioeconomic inequality, government corruption, criminalization of protests and repression, the impunity of officials and authorities and the severe abuses of civil and political rights of citizens. The response by the authorities, to these unprecedented mobilizations, was to increase the power of the security forces by allowing them to violently disperse and prevent protests criminalizing those who defended the rights.

As the book *Defender a quien Defiende* affirms, first it was the cuts on economic, social and cultural rights, and second, in order to silence those who rejected to conform to, repressive measures were adopted with the objective to disarticulate the right to protest. The gains acquired through social struggles across the decades in defense of fundamental human rights and freedoms are put in a big challenge, facing the criminalization of protests which is being imposed in Spain.

Among the legislative infrastructure the government approved in 2015 (including law on national security, among others), the new law on citizen security became object of concernment, as it infringes the right to protest, which includes the rights to freedom of expression, demonstration and peaceful assembly. The government also adopted numerous amendments to the criminal code in order to expand the range of offenses that constitute as acts of terrorism, contributing to disarticulate the peaceful protest and pretending to justify institutional abuses against civil and political rights and freedoms.

The construction of the enemy in Spain, fueled by those media that are closer to government’s authoritarian and repressive character, is currently acquiring a new dimension, more related to the social and libertarian movements than with violent extremism itself. In fact, anti-terrorism laws and practices belong itself to the own logics of terrorism, as in a certain way, express the self-denial of the rule of law.

Spain started to turn itself into a more repressive, authoritarian and conservative country, like it was decades before. By these actions, the country has been revealing itself as one still closely tied to the institutionalized violence of the Francoist regime. The long-term political struggle against the terrorist group ETA, which was active for 58 years and led to more than 860 deaths, was featured by a highly repressive and militarized use of force by the authorities, generating a mutually reproduced spiral of violence which led to campaigns of systematic reprisal against people who were deemed to sympathize with the nationalist Basque ideology. Arbitrary detentions, tortures and unlawful killings, against members of the ETA and the civilians, give form to the dirty war launched by the Francoist government against Basque nationalism and the democratic era didn’t signify the end of indiscriminate repression. Actually, the group finished its armament process after announcing the end of the armed struggle six years ago.

The end of the activity of ETA and other groups, such as GRAPD, conduced the State to reformulate its focus of attention, searching for new enemies whose objective may be to destabilize the constitutional order. As the main concern of the state in terrorism matters disappeared, the need to create a new one appeared in

order to justify legislative amendments and maintain the population distracted with apparently more severe threats to their rights.

Jointly with the state perception of threats that posed libertarian or nationalists movements, international terrorism posed also a threat of violent extremism in 2004 when numerous explosives killed 193 people in a train station of Madrid.

Currently, through the application of the anti-terrorism Law, the Law on the Protection of Public Safety and other amendments of the Penal Code, Spain violates the international law of human rights, even if the government ratified most international instruments for the protection of it. Reforms include offences which may disproportionately limit the legitimate exercise of fundamental rights and freedoms and are applied in a discriminatory manner that specially affects certain groups and activities. Through hilarious and out of proportion interpretations of terrorism, authorities acquire the sweeping powers to abuse human rights and curtail fundamental freedoms. Indeed, there are several criminal prosecutions and sentences which are a great failure of the constitutional order and the rule of law, as they refer to acts and behaviors which are completely lawful, with a lack of penal relevancy. These acts are conducted in the frame of a certain political strategy which is close to the repressive sphere.

International bodies for the protection of human rights, advocacy groups and civil society in Spain have insistently denounced the increase of abusive practices of repression [the misuse of institutional powers in order to criminalize political dissidence, materialized in arbitrary arrests and detentions, discriminatory behaviours, practices of torture and other ill-treatment of detainees and prisoners, among other abuses of fundamental human rights and freedoms]. They are alerting about the deterioration of democracy and the rule of law, as police antiterrorist operations seems to respond to an objective need to justify repressive strategies though the construction of new enemies.

Amid such economically critical context, political corruption scandals and the lack of socioeconomic opportunities, in which the exercise of the rights of freedom of expression, assembly and protest have become unavoidable and necessary in order to enhance civil society's power for change, Spain is currently experiencing an intensified and aggravated context of human rights violations and fundamental restrictions of freedoms.

ANTI-TERRORISM LAW

Since the approval of the Spanish Constitution, in December 1978, and most of all since the approval of the Penal Code in 1995, there have been series of legally disposed amendments which have affected anti-terrorism matters outside the military jurisdiction, developing a special regulation for the anti-terrorist penal legislation. Terrorist crimes are defined under the XXII Title of the Penal Code, which has been affected by some legal reforms in the recent years. On 26th of March, 2015, Spanish Congress of Deputies, of which a majority of the members are from Popular Party/Partido popular, approved a legal reform which led to the colloquially known as "gag laws", which included a Law on the Protection of Public Safety and reforms of the Penal Code.

Organic Law 2/2015, approved on 30th of March, 2015, and entered into force on 1st of July, 2015, amended the totality of articles 571 to 580 of the Penal Code, related to terrorism crimes, and modified Chapter VII of the XXII Title of the II book of Organic Law 10/1995, with the aim of actualizing the current valid regulatory dispositions, according to the preoccupation and commitment with international community facing the new expressions of terrorist violence and its global intensification. New anti-terrorism Law extends the definition

of terrorism, including a wide range of acts –as informatics activity- that would be criminalized, posing a threat to fundamental rights and freedoms.

Organic Law 4/2015 on the Protection of Public Safety was approved on 30th of March, 2015, and was enforced on 1st of July, 2015. It replaces former Organic Law on the Protection of Public Safety of 1992, known as “Corcuera law” and has been a subject of concern at international level, as it constitutes the other Penal Code reforms.

Organic Law 6/2002 of Political Parties is also important to take into account, as it establishes a judicial procedure to illegalize political parties which, accused by the government, give real and effective political support to violence or terrorism.

There are other current legal projects that also affect and restrict freedom of expression and information, like the Law of Criminal Prosecution and the Law to reform Judicial Power

Legacy of offenses

The vague and widespread definition of terrorism and terrorist acts included in Organic Law 2/2015 sets forth broad categories of infractions that constitute a violation of human rights and lead to disproportionate restrictions on the lawful exercise of fundamental freedoms. According to Amnesty International, the amendments of the Penal Code embrace a very extensive range of behaviours which could be interpreted as terrorist acts and be subject to the anti-terrorist legislation and respective punishment, although they may be posing no real threat to security matters. Antiterrorism law expands and creates an overlap between different offences, of varying gravity, that are deemed to constitute as acts of terrorism

Amnesty International noted before the approval of the amendments that if they were adopted, then they would threaten the rights to freedom of expression and association, also the presumption of innocence, freedom of movement, the right to privacy and the right to leave and return to one’s country.

In February 2015, four UN special rapporteurs issued a joint statement in which they expressed their serious concern about the broad and ambiguous definitions in the text of the reformed Penal Code, which, in their eyes, is paving the way for a disproportionate or discretionary enforcement of the law by the authorities and threatens to violate individual’s fundamental rights and freedoms.

HUMAN RIGHTS VIOLATIONS

Freedom of movement and non-refoulment

Among the numerous amendments of the Penal Code, that were made in the new antiterrorism law, was the proposal which refers to the outlawing of travelling or plans to travel outside of Spain to collaborate or train with militant groups. It severely restricts the freedom of movement even if the trip or training does not occur or so-called terrorist act is not committed in consequence.

The Spanish government extradited Ali Aarrass, a dual Belgian-Moroccan national suspected in Morocco of terrorist-related activities, from Spain to Morocco in 2010, without monitoring his safety of being subjected to torture or other ill-treatment or punishment. The prohibition of torture and ill-treatment contemplated in Article 7 of ICCPR includes, according to the interpretation made by the UN Human Rights Committee, the prohibition to return anybody to a country where he could be subject of tortures. This prohibition became a compelling law, being a decisive norm of the international law that all states should accomplish. The UN

Working Group on Arbitrary Detention stated in 2013 that on his return to Morocco, Ali Aarrass has been held incommunicado, tortured, and forced to confess under duress, and as a result should be immediately released. In May 2014, the UN Committee against Torture concluded that Morocco has violated the UN Convention against Torture by failing to protect Ali Aarrass from such abuse upon his return to Morocco.

Freedom of expression

The application of Organic Laws 2/2015 and 4/2015 lead to unwarranted restrictions of the rights to freedom of expression and information, as they allow discriminatory accusations of individuals and groups, depending on their political opinion and on the messages or slogans they distribute or publicly disseminate. The Antiterrorism law broadens the definition of the “glorification” offence to include spreading information or opinions that allegedly subvert institutional or public order, organizing a demonstration, or simply publishing messages that could incite others to commit to any of the acts.

Making a statement in social media, although it can’t be directly linked to an act of violence, could be perceived as inciting others to commit violent acts. The punishment for the already existing offence of “justification” of terrorism, which includes the “humiliation” of victims of terrorism or their families, has increased under the new antiterrorism law.

Freedom of assembly

The expansion of the definition of terrorism, which is included among the amendments of the Penal Code, through Law 2/2015 contain acts such as “subverting constitutional order or the functioning of public institutions” or “gravely disrupting public peace”, which may lead to the criminalization of the lawful exercise of the right to peaceful assembly.

The law of Public Security imposes limitations on where and when demonstrations can take place and restrictions on the right of peaceful assembly in order to “respect public peace and citizen security”. Anti-terror and public safety laws severely restrict the right to freedom of peaceful assembly, for the wide range and the vague definition of the acts could be combined with the vague and overbroad definition of terrorism and terrorist organization and, in extension, widen the legal basis for the authorities to abuse the fundamental rights and freedoms. There does not exist any disposition related to spontaneous assemblies, so the protests that have not been notified to authorities, may be dispersed and those who participate in them may be fined.

According to Amnesty International, the reinforcement of repressive legislation is a clear signal by the government to stifle peaceful protests. Authorities have branded the new social movements as “radicals”, “close to ETA” and “using Nazi methods” when peacefully demonstrating, in order to criminalize and discredit their struggle. The discourse of the right-wing authorities severely restricts the right to freedom of assembly.

Freedom of association

As the new reforms on the Penal Code led the concept of terrorism without specific concretion, depending on the judicial interpretation, it is being misused by authorities to criminalize individuals, groups and the activities which may pose a threat to the constitutional order.

The rhetoric of terrorism in Spain tags those groups which the State considers a threat to peace, as it happened with nationalists in the Basque country or anarchists in the last years. By conducting massive police operations which resulted in dozens of arrested and imprisoned, authorities are posing a threat to the right to freedom of association. Police conduct searches in homes and social centres, in an attempt to dismantle and disarticulate certain social movements and organizations. Accusing people of belonging to

illicit associations and of participating in “terrorist” organizations, authorities violate the right to freedom of association of Spanish civil society.

Arbitrary arrests and conditions of detention

The above mentioned unclear and broad definitions of terrorist acts lead to the criminalization of behaviours that would not otherwise constitute terrorism and which could result in arbitrary arrests and detention of people who lawfully exercise their rights.

Organic Law 2/2015 and Law 4/2015 include broad provisions that allow the criminalization of individuals and groups who may be expressing their political ideology or participating in lawful activities or doing acts not related to terrorism, leading to arbitrary arrests and detentions.

Human rights’ groups denounced arbitrary detentions and prosecutions of activists, social media users, artists or ordinary citizens under vague provisions of the amended Penal Code and Law 4/2015, which are repressive tools that lead to an increase of security forces’ and authorities’ power and legitimizes their abuses against fundamental rights and freedoms.

Prolonged incommunicado detention is currently used by penitentiary police in Spain for those suspected of terrorism and other similar crimes, which are regulated in Articles 509 and 520 bis of the Law of Criminal Prosecution, and the length of it is up to seventy-two hours, extendable to forty-eight hours more.

The amendments to the Law of Criminal Prosecution, through Organic Law 13/2015, do not introduce significant changes for the protection of detainees suffering from human rights’ abuses. The Committee Against Torture expressed its concern about reports of difficulties of obtaining medical treatment in police custody and shortcomings in the quality and accuracy of forensic examinations, as well as the lack of effective guarantees to protect the detainees against ill-treatment.

Incommunicado detention, considered a risk that can lead to torture or other ill-treatment and a situation in which the exercise of some fundamental rights and freedoms are restricted, is a criticized feature of Spain’s antiterrorism laws. Both the UN Committee against Torture and Amnesty International expressed their concern of the continuation of incommunicado regime.

While there is no prohibition of it under international law, there is significant consensus among international human rights bodies that should be prohibited as it can give rise to torture or other human rights’ abuses. The UN Human Rights Committee’s General Comment N° 20, adopted in 1992, concluded that incommunicado prolonged detention could constitute a form of torture or other ill-treatment and the European Committee on the Prevention of Torture (CPT) opines that the vulnerable situation in which the individuals in incommunicado detention are, requires a rigorous jurisdictional control, with the aim to protect the detainees from abuses.

Excessive use of force

The riot police practices excessive force in Spain, threatening the right to protest and assemble. They misuse the anti-riot gear during demonstrations and while detaining, causing serious injuries to peaceful protesters. Human rights groups have repeatedly expressed their concern about the excessive use of force by the police, as well as the authorities’ inaction to guarantee exhaustive and effective investigations on human rights’ abuses.



Privacy

In cases of terrorist offenses, Article 579 of the Code of Criminal Prosecution –following its amendment by Organic Law 13/2015 - provides the prosecution the power to interfere in the private correspondence of the prosecuted. Article 588 of Organic Law 13/2015 allows the prosecutor, in cases of terrorism suspects, to initiate digital surveillance in order to get access to the contents of computers, electronic devices, informatics systems, databases, without the knowledge of the one under investigation.

Such provisions of the Code of Criminal Procedure and Organic Law 13/2015 violate the right of privacy.

Unfair trials

Article 52 of Organic Law 4/2015, or gag law, regulates the evidential value of the declarations of authority agents [police], giving a lot of value to their word, compared to the one of the defendant. This breaks the principle of procedural equality of the parties, cancels the presumption of innocence and restricts the possibility of the accused to argue in his defense.

Torture and other ill-treatment

In its concluding observations of the sixth periodic report of Spain, the UN Committee against Torture defined a series of principal concerns, which included the persisting statute of limitation to the crime of torture, under article 174 of the Criminal Code, the maintenance of incommunicado detention for up to 10 to 13 days for alleged crimes of terrorism, the excessive use of force by law enforcement officials and the impunity and absence of effective and thorough investigations into complaints of torture and ill treatment committed by the State's security forces. Amnesty International reinforced UN's Committee against Torture's report on concerns, expressing its worry of multiple cases of torture and other ill treatment carried out by functionaries, despite the several sentences dictated by the European Court of Human Rights [ECHR] condemning Spain for violation of article 3 of the European Convention of Human Rights.

TUNISIA

GENERAL SITUATION

The Jasmine Revolution, also known as the wick that set fire to the Arab Spring, all across the Arab world in 2011, was characterized by an intense and widespread civil resistance that led to the ousting of President Ben Ali. Initiated by Mohamed Bouazizi's self-immolation as a form of public protest against the confiscation of his means of subsistence by the police, the uprisings in Tunisia ignited the streets with massive and intense popular demonstrations.

The social revolution, followed by a severe and systematic repression, that led to more than 300 deaths, expressed its discontent of severe political and socio-economical situation that included high-level unemployment, food inflation, political corruption, lack of political freedom and poor living conditions for almost all of the Tunisian society. Protests in Tunisia revealed the deep contradictions and debilities of an authoritarian regime characterized with high power concentration, the persecution of the political opposition and a rigid social control which contradicted their international image of stability.

Tunisian revolution signified a point of inflection after two-decades of repression and human rights' abuse, by a dictatorship, and the start of a political transition to democratic conditions. But the reality revealed that despite the steps taken towards a greater recognition and protection of civil, political, social, economic and cultural rights, since the uprising of the 2011 and the enactment of 2014 Constitution, the rule of a democratically elected coalition government and the achievement of a certain degree of justice for past crimes through the recently launched truth and dignity commission, serious violations of human rights and restrictions of fundamental freedoms are still an issue for Tunisian civil society, especially for human rights defenders, journalists, bloggers and other activists whose activities are deemed to discredit the regime. Grievances over unemployment persist and denounces on human rights violations are numerous from external and internal organizations. The goals of the 2011 revolution are continuously under threat.

Facing national and regional security threats from armed groups, authorities reinforced its state security-based measures, posing a major threat to civil society's human rights and fundamental freedoms and undermining the achievements of the revolution. In the aftermath of four major armed attacks perpetrated since March 2015, Tunisian authorities have conducted series of security operations, through legal amendments [Law 26 of 2015] and in practice.

Civil society and human rights' activists have criticized the new law for not complying with international standards and infringement of civil liberties. Despite the contents of Article 2 of Organic Act No. 2015-26, which emphasize the importance of respect for constitutional guarantees and international, regional and bilateral conventions ratified by the Tunisian Republic in the field of human rights and humanitarian law, the 2015 bill doesn't reflect any attempt to change or reform substantively the way in which anti-terrorism matters have been addressed during the last decades, being short-sighted and reactionary and failing to promote the protection of human rights while increasing the government's defence and security forces.

Various human rights organizations actively continue to denounce Tunisian repressive security measures and human rights abuses, five years since the overthrowing of the former regime. In 2012, Amnesty International

expressed its concern about the following evidence: progress on human rights in Tunisia, that followed the ousting of Zine El Abidine Ben Ali, is being rolled back by the current Tunisian Government.

Organic Act No. 2015-26, under focus of denounces from advocacy groups, doesn't change substantially the government's dynamics of the former regime. Oriented to a systematic repression and criminalization of those discordant voices who claim against the abuses of the authorities, blaming them of alleged terrorism charges, the new law, jointly with other counterterrorism and security measures [the state of emergency was declared on July 2015] threatens human rights and lacks the necessary safeguards against abuse.

Not only the renewal of an authoritarian and repressive anti-terror legal framework, but also the repeatedly extended state of emergency [in force since November 2015, even if Tunisia has been in a state of emergency for prolonged periods of time since the 2010-2011 uprising] and harsh security measures threaten to turn into a permanent state of abuse for its citizens. The implementation of these measures has often been arbitrary, discriminatory and disproportionate.

State of emergency

Just after the deadly attack in Sousse beach, Tunisian government declared state of emergency on 4th of July 2015, acquiring powers to ban strikes and demonstrations; control and censor print, broadcasts, other media and publications. As Amnesty International stated, security forces used excessive force to disperse and detain peaceful protesters who defied the ban. The state of emergency was renewed at the end of the month and lifted in early October, but following the attack on November 24, it was reinstated and remained in force, jointly with a curfew for the next months.

When the curfew was lifted, the state of emergency remained in place and was extended for the sixth time on September 16, 2016. Under this exception regime, based on a 1978 presidential decree, the state failed to protect several rights and fundamental freedoms, committing serious abuses. The decree gives the Interior Ministry the authority to take extraordinary measures to prevent and repress activities deemed to endanger security and public order.

ANTI-TERRORISM LAW

On July 25, 2015, following the terrorist attacks perpetrated one month ago in the Sousse beach, and observing the increase of terrorist threat, the Tunisian Parliament hastily approved a new counterterrorism law.

The draft of law N° 22/2015, being drawn up by four parliamentary committees, was submitted to the Assembly of the People's Representatives and signed as law N° 26, 2015 by President Beji Caid Essebsi on August 7, 2015. The law is related to the fight against terrorism and prevention of money laundering, replacing the 2003 law on the same subject that functioned under then-President Zine El Abidine Ben Ali's regime and which was systematically used to repress political opposition.

The 2015 counterterrorism Law gives a new legal framework to tackle national security issues through a 143-articles-bill which created great concern among human rights defenders and civil society organizations. It provides a vague and broad definition of terrorism and terrorist acts, increases security forces' powers, introduces the death penalty for some criminal acts, extends incommunicado detention, leading to an increase

of the risk of torture and other ill-treatment, and weakens the guarantees of fair trials and protections of detainee's human rights.

Chapter VI, Articles 66–70 of the law provides for the creation of the National Commission to Combat Terrorism. The bill also mandates [Section 4, Article 40] a unit of judges specialized in terrorism cases and the Tunisian Financial Analysis Committee [TFAC].

Legacy of offenses

According to Human Rights Watch the extended definition of terrorism in the law, together with other definitions, are ambiguous and too broad, allowing the repression of certain acts that are not terrorist by nature [as defined by international law]. For example, demonstrations that could have a certain amount of public disorder or acts of public expression or publishing opinions that have nothing to do with terrorist activities.

The law prohibits “praising terrorism” in such broad terms that fail to meet the requirements set by international law, restricting the right of freedom of expression. It also provides, from Article 13 to 37, a range of acts which are considered to be within the scope of terrorism. Those acts would be the ones that aim to spread terror among the population or to compel the State or an international organization to do something that is within their prerogative [or abstain from doing]. It includes, for example, the act of causing harm to private and public property, vital resources, infrastructures, means of transport and communication, IT systems or public services.

HUMAN RIGHTS VIOLATIONS

Freedom of movement

Authorities subject hundreds of people to administrative house arrest, assigning places of residence, travel bans, severely restricting the right of freedom of movement. Arrests are handed out for breaking curfews, appearances or only as a method of intimidation and harassment of families, to forcibly extract information about a relative suspected of joining or supporting terrorism. Sometimes, people appear to have been detained solely on the basis of their family connections and have been used to put pressure on those targeted by the authorities.

House raids conducted under the emergency state have a high impact on everyday lives of people. They are reportedly abusive, having a significant impact on human rights of thousands of people. The grounds on which many of the searches have been conducted violate the right to private life and the principles of necessity and proportionality. The arbitrary residence orders violate the right of not to be deprived of liberty, the right of freedom of movement, and the right of not to suffer from any discrimination.

These practices reveal the remains of a repressive, totalitarian and abusive regime that has made too little progress to achieve, in practice, the standards recognized by international human rights conventions on the matter of deprivation of liberty.

Amnesty International denounced that, in July 2015, the Tunisian authorities arrested over 1,000 terrorism suspects since the Bardo Museum attack in March, and banned 15,000 other suspects from leaving the country. Following the November attack in Tunis, the authorities carried out thousands of raids, hundreds of

arrests and placed at least 138 people under house arrest, while security officials harassed terrorist suspects' families.

Arbitrary arrests and other restrictions on freedoms under state of emergency curtail civil and political rights, as well as social and economic ones, including the right to work.

Freedom of expression

It is possible to find out several denounces from advocacy groups, like Human Rights Watch or Amnesty International, which bring to light the systematic repressions carried out by the government forces against public demonstrations, publications or any expression of dissident voices that incessantly denounced abuses of the regime. Authorities use counterterrorism measures to silence public opinions, through exploiting the wide and extended dispositions of the Organic Act No. 2015-26 and allowing the prosecution of civil society groups and individuals accused of discrediting the regime. According to Amnesty International, the authorities curtailed freedom of expression using laws enacted during the Ben Ali administration, including the former anti-terrorism law

Human Rights Watch pointed out that in 2015 Tunisian authorities prosecuted several people for alleged defamation or insult of state officials, for harming public order or public morals. They used counterterrorism legislations to prosecute and detain journalists and bloggers for publishing certain information or their opinions.

Freedom of assembly

Tunisian authorities used their emergency powers in order to ban strikes and demonstrations. As unemployment increased since 2011, people continued to take to the streets to protest against the lack of political will to ensure employment and facilitate the development in Tunisia's interior regions. Police forces forcibly dispersed gatherings deemed to threaten public order, reportedly using excessive force in some cases.

Arbitrary arrests and conditions of detention

Tunisian anti-terrorism Law extended definition of terrorist acts allows for the criminalization of a wide-range of activities not related to terrorism. The ill-use of counterterrorism law by the authorities, with the aim to prosecute, arrest and criminalize journalists, bloggers, human rights defenders and other civil society activists in an arbitrary way, to impute them with terrorist crimes has been denounced by human rights organizations.

Authorities used the renewed emergency powers to conduct thousands of arrests and house searches over the past two years. In many cases, security forces carried out them without judicial warrants and without informing people of the reason for their arrest and whether there are any criminal charges against them, nor informing about their rights and denying the access to a lawyer. Many of the arrests have been carried out in arbitrary, disproportionate and massive manner through neighborhood sweeps and home raids following one of the armed attacks.

According to Amnesty International, there have been night-time house raids conducted by security forces and members of the counter-terrorism brigades, wearing balaclavas and carrying rifles.

Organic Act No. 26 of 2015 extends incommunicado detention from 6 days up to 15 for terrorism suspects, and deny their access to a lawyer or family members, violating the rights which protect the well treatment (and set the minimum of procedural guarantees –in concordance to international standards) for all people deprived

of liberty. Prolonged incommunicado detention increases the vulnerability of detainees to torture and other ill-treatment.

These abusive practices were a reality during the ousted regime and currently remain so, under the rule of President Beji Caid Essebsi, even if Article 29 of the 2014 Constitution gives detainees the right to be represented by a lawyer upon arrest. In fact, the Code of Criminal Procedure allows detainees to consult a lawyer only after they have appeared before an investigative judge, up to six days after arrest. In practice, by that time many suspects have signed a police statement without the presence of a lawyer.

It is important to point out that on February 2, 2016, Parliament adopted a revision of the Code of Criminal Procedure to grant suspects the right to a lawyer from the onset of detention, and to shorten the maximum pre-charge detention to 48 hours, renewable once for a maximum of four days. However, it is still longer than the recommended international standards, which mandate that judicial review should happen within 48 hours of detention, and does not apply for alleged terrorist charges, in which last-minute legislative amendments to the law gave the investigative judge and the prosecutor the authority to delay access to a lawyer for 48 hours after the beginning of detention, according to Human Rights Watch's analysis.

Conditions in detention facilities and prisons are poor and the detainees fail to achieve hygiene standards and necessary nourishment and also minors are held with adults and suspects with the convicted. Facilities are overcrowded and lack basic amenities. According to Amnesty International, the UN Committee against Torture, in its review of Tunisia in May 2016, urged the authorities to increase the efforts in order to improve conditions to meet international standards. Individuals arrested on terrorism-related charges reported being subjected to particularly harsh conditions and ill-treatment as punishment for their alleged involvement in terrorist attacks.

Excessive use of force

House raids and searches have been carried out by security forces using excessive force. People have been harassed and threatened during interrogations about their, or their relatives, connection with terrorism. Security forces and members of counterterrorism brigades break down doors, destroy furniture and use weapons to threaten people. They terrify children, cause great fear and anxiety among the residents, and prevent people from leading normal lives, due to lack of accountability for the violations.

Unfair trials

Organic Act No. 2015-26 allows courts to conduct closed hearings and to withhold the identity of witnesses from defendants. These measures severely weaken fair trial guarantees. Courts also use confessions extracted under torture as evidences to convict terrorism suspects. In June 2014, the UN Committee Against Torture criticized the lack of independence of the judiciary investigation of judges not always transmitting detainee's allegations of torture to the public prosecutor. According to Amnesty International, those accused of terrorism-related offenses risk conviction without substantive and convincing evidence in courts.

Privacy

Article 54 of the anti-terrorism Law allows for communication interception, which includes hearing of and access to the contents of someone's communication and its reproduction and recording. Article 61 allows for audiovisual vigilance of the suspect, by introducing secret software on their personal objects or both on

public or private places or vehicles with the aim to transmit and record words and photos of the suspects and localize them.

Allowing the security service to conduct computerized surveillance of those suspected of having a connection with terrorist activity, Organic Act No. 2015-26 [Article 54 and 61] potentially violates the right to privacy, family, home or correspondence of an arbitrary number of people who may be deemed as in connection with a terrorist group or activity.

Under the November 2015 reinstated state of emergency, authorities have carried out thousands of raids across the country. They have searched homes without warrants at any time of the day and the night and intimidate the people, who were arbitrarily deprived of their right to privacy due to no reasonable grounds to believe their relation to terrorist acts. Family members of those suspected of terrorism have been subjected to surveillance.

Property

Following Article 45 of Organic Act No. 2015-26 the investigative judge may, on his own initiative or at the request of the public prosecutor, order the freezing of the movable or immovable property and the financial assets of the one who is accused of terrorist charges, lay down the procedures for their management, or order their sequestration, if necessary. These procedures violate the right to own property and the right to not be arbitrarily deprived of it, as ambiguous and broad provisions of law N° 26 of 2015 allow for arbitrary prosecution of activists and other people deemed as terrorist.



Torture and other ill-treatment or punishment

Torture and other ill-treatment or punishment has been inherited by the current ones, who are failing to investigate all alleged cases of torture and ill-treatment, bring to justice the perpetrators and ensure moral and material support to the victims.

Tunisian human rights organizations have claimed that there have been hundreds of cases of torture and other ill-treatment since the 2010-2011 uprising.

According to Amnesty International, new reports of torture and other ill-treatment of detainees, mostly during interrogation and pre-trial detention of those arrested on terrorism-related charges, have been reported in the last two years. The methods of torture were similar to those used under Ben Ali. Amnesty International documented the cases of 23 individuals who were arrested on terrorism-related charges. All of them alleged that they were subjected to torture and other ill-treatment, most of them during interrogation by officers belonging to the al-Gorjani counter-terrorism brigade or the al-Quina investigation brigade in Tunis. Both of which fall under the jurisdiction of the Ministry of Interior. Lengthy time of pre-charge detention (up to 15 days for terrorist suspects) increases the risk of suffering from torture.

Even if the Tunisian government accepted 2012 Universal Periodic Review recommendations related to ill-treatment and torture, and took some legislative and other measures to give effect to the Convention Against Torture (which were recommended by the Committee Against Torture in its concluding observations on the third periodic report of the country), in practice the state is not putting enough effort in ensuring the safeguards of the right to not be subjected to torture and other ill-treatment or punishment, especially in cases of terrorism suspects, as Amnesty International pointed out.

Death penalty

Organic Act No. 2015-26 introduces the death penalty for a wide range of acts that result in the killing of a person. This punishment was not abolished by the 2014 constitution and is still enshrined in the penal code for several crimes.

Human Rights Watch has expressed and joined the concern of organizations about the imposition of the death penalty through the new counterterrorism law, which application is oriented to defendants convicted of a terrorist act resulting in death, or for rape. Death penalty represents an abuse of excessive force, a punishment that goes against the right to live, and those related to the security of a person not to be submitted to cruel or to other ill-treatment or punishment. The introduction of death penalty, in the counterterrorism law which systematically imperils and fails to protect human rights, like the Tunisian Organic Act No.

2015-26, committing arbitrary arrests and detentions, unfair trials, and establishing a wide range of terrorism offenses, greatly contradicts UN resolutions, as the above mentioned 1996/15.

Imposition of death penalty under the conditions provided by Organic Act No. 2015-26 violates the rights mentioned above, and the articles which protect it.

TURKEY

GENERAL SITUATION

During the last two years, the human rights situation in Turkey has been revealed to be in deep deterioration. Following the parliamentary elections in June 2015, which saw the victory of the People's Democratic Party (HDP), and the breakdown of the Kurdish peace process, Turkey's political stability was seriously shaken. Severe human rights abuses were committed amid a context of complete impunity and increasing authoritarianism, including unlawful killings of civilians, mass prosecutions under vague and broad anti-terrorism provisions, waves of detentions followed by tortures and other ill-treatments and crackdowns on media and political opponents of the ruling AKP party.

President Erdogan reversed a decade of progress on open dialog, resorting to measures reminiscent of the military-dominated 1990s, routinely jailing Kurdish nationalists, initiating criminal action against HDP leaders for inciting violence and carrying out terrorist propaganda. On top of that, conducted highly militarized antiterrorist operations that resulted in serious casualties and human rights abuses. The clashes between the PKK and the Turkish armed forces took a heavy toll on the lives of the country's residents.

The failed coup attempt in July 2016, carried out by the elements of the military, against President Erdogan, was instrumentalized by himself and the government, to muffle human rights and dismantle basic democratic safeguards. It resulted in a purge of functionaries and the prosecution of thousands of civilians. A three-month state of emergency was announced and later extended for another three months, derogating a series of articles of the International Covenant on Civil and Political Rights and the European Convention on Human Rights. Following its approval by the Parliament, the government started a legislative process through emergency decree laws that failed to uphold the already reduced standards after the derogations of the ICCPR and the ECHR. The limits to the government's emergency powers are set out in Article 15 of the Constitution, which allows, according to the Venice Commission, for partial or total suspension of the exercise of fundamental rights and freedoms, but only to the extent required by the exigencies of the situation, provided that obligations under international law are not violated. Article 15 also includes a list of rights, such as the right to life or physical integrity, that are non-derogable.

Thus, in the wake of the coup attempt, nearly 100,000 functionaries were dismissed from their positions on the basis of possible links to a terrorist organization, and over 40,000 people were remanded in pre-trial detention during the six months of state of emergency. The government targeted all the people accused of being linked to the coup or the Fethullah Gülen movement, classified by the authorities as a terrorist organization and accused of being responsible for the coup attempt. The crackdown on opposition extended to the pro-Kurdish party and led to the arrest and detention of members of the pro-Kurdish democratic opposition in the parliament, along with many of its elected mayors. These actions of the authorities are neglecting Turkey's responsibilities written in the international and regional human rights law, including the

rights to political participation, the right to free elections, the right to freedom of expression and the rights to freedom of association and assembly.

Human rights abuses persist amid the continuing context of unaccountability and impunity. Civil and political rights and freedoms are severely restricted, and alleged offenders suffer from prosecution and abuses under unfair criminal processes. The cases of tortures of detainees have increased as their protections were removed under the emergency rule. The crackdown on Kurdish voices has resulted in hundreds of thousands of people in the southeast of the country being displaced from the areas under curfew, suffering government's onslaught that led to collective punishment. Since July 2015, the OHCHR have been receiving detailed and credible allegations of serious human rights violations taking place in the southeast of the country, particularly in relation to the counterterrorism operations conducted by the Turkish government. In fact, as part of the government response to "terrorist activities", allegedly conducted by the PKK, the authorities have been conducting security operations in a number of provinces of South-East Turkey, involving thousands of troops serving with combat-ready infantry, artillery and armoured army divisions, as well as the Turkish Air Force.

The disproportionate concentration of power in Erdogan's hands to which lead the gain of the "yes" in the referendum reveals the incompatibilities with Turkey's accession to the EU. April's referendum has come less than a year after the failed coup attempt against the government, and seems to respond to Erdogan's fears to a possible democracy. The proposed sweeping constitutional changes are actually aimed at weakening the parliamentary system and at bring Turkey under what may eventually be a dictatorship. The complete removal of the foundations of the political system in Turkey threatens any attempt of democracy and protection of fundamental rights and freedoms [it would introduce the death penalty] and turns it in an authoritarian parliamentary system.

Regarding the role of Turkey with the migrant crisis in Europe

Turkey continued to host almost 2,7 million refugees from Syria and other countries, while entering an agreement with the EU to accept forcible returns of refugees who had crossed into Greece. There have been reports of Turkish border guards pushing back refugees at the Syrian border and shooting at several of them seeking to cross to Turkey.

ANTI-TERRORISM LAW

The principal legal provisions, concerning terrorism in Turkey, are laid out in the Anti-Terrorism Law No. 3713 and the Turkish Criminal Code. The specific law on countering terrorism dates back to 1991 and was issued by the Turkish Grand National Assembly. The approval of Law No. 3713 to Fight Terrorism in the 1990s lead to abuses of human rights and freedoms. It has been subject to many amendments and partial annulments of the Constitutional Court.

Law No. 3713 provides a broad definition of terrorism. Article 1 defines terrorism as any criminal action conducted by one or more people belonging to an organization with the aim of changing the attributes of the Republic as specified in the Constitution, the political, legal, social, secular or economic system, damaging the indivisible unity of the State with its territory and nation, jeopardizing the existence of the Turkish State

and the Republic, enfeebling, destroying or seizing the State authority, eliminating basic rights and freedoms, damaging the internal and external security of the State, the public order or general health.

It provides also a definition of the terrorist offender, terrorist organizations and terrorist offences (which are included in several articles of the Criminal Code)

Legality of offences

The definitions of terrorism, terrorism offenders and terrorist organizations are too broad and could encompass criminalization of the lawful exercise of civil and political rights such as freedom of expression, assembly and association.

The EU imposed conditions to Turkey requiring to narrow the definition of terrorism included in Law No. 3713, as part of the deal in which free-up visas would be allowed for Turkish nationals to travel to the EU, but Turkey refused to amend it, threatening to cancel the migration agreement.

HUMAN RIGHTS VIOLATIONS

Freedom of movement and forced displacements

According to the UN report on the human rights' situation in the southeast of Turkey, the number of reported displaced people in December 2016 was estimated to be between 355,000 to half a million people, mainly citizens of Kurdish origin. Those numbers are the result of the brutal crackdown by Turkish authorities, according to Amnesty International, which often leads to collective punishment. Hundreds of thousands of people have been forced to leave their homes as a result of intensive security operations and a series of round-the-clock curfews which were extended for days, while homes were rocked by army shells and peppered with bullets. Cuts on water and electricity, as well the lack of access to food or medical care were cited by residents as reasons forcing them to leave, the cuts often occurred as soon as the curfew came into force.

The displacement of the citizens can feature a serious violation of their rights, as adequate housing and access to essential services, to ability to return home or to receive adequate compensation is not certain. The displaced population have been reportedly moved to neighbouring suburbs, towns and villages, or to other regions in Turkey. According to Amnesty International's informants, in order to receive rent support, displaced families had to sign a document saying that they were displaced as a result of "terrorism". Some of them objected to and declined to do it.

According to Amnesty International, restrictions on freedom of movement, including both curfews and forced displacement of residents, must be provided by law. In the case of the southeast of Turkey, the curfews were imposed on the basis of a vague provision of the Provincial Administration Law that does not make any reference to curfews. Seen in this light, the forced displacement of residents due to a curfew, that is not provided by law, is arbitrary and violates fundamental human rights.

Freedom of expression

Deteriorations of the right to freedom of expression in Turkey in 2015 must be understood in regard to the government's efforts to discredit the political opposition in the framework of the two general elections of that year. Authorities pressured the media and targeted political activists, journalists and others under criminal defamation and anti-terrorism laws in order to silence the critics and repress dissidence, restricting

opposition media. Those targeted were threatened, harassed, assaulted and prosecuted, and even ordinary citizens were frequently brought before courts for social media posts, leading to convictions on criminal defamation charges. Journalists were fired from mainstream press outlets for critical reporting, commentary and tweets. They were also imprisoned and in three cases deported. News websites, media companies and digital distribution networks were pressured by the government and were blocked on unclear grounds.

During 2016 and the first months of 2017, the government have continued its efforts to silence media's criticism and scrutiny of government policy. Authorities have imprisoned more than 120 journalists and have taken over more than 160 media companies, removing critical television stations from the main state-owned satellite distribution and putting pressure on media to fire workers. Blocking of websites increased, and Turkey reached the highest number of requests to Twitter of any country to censor accounts. In the framework of the state of emergency, more than one hundred journalists were held in pre-trial detention, while 184 media outlets suffered arbitrarily and some were closing down permanently.

According to Amnesty International, expression of dissent, especially regarding to the Kurdish issue, led to threats of violence and criminal prosecution by authorities. The government use its loosely worded penal code and vague anti-terrorism Laws as fodder against reporters and journalists publishing critical stories, to the point that it achieved to become one of the world's biggest jailer of journalists.

Freedom of assembly

Authorities frequently ban public assemblies and violently disperse them, using excessive force against people who exercise their right to peaceful assembly. According to Human Rights Watch, in 2010 hundreds of people were facing prosecution or serving hard sentences for terrorism convictions for engaging in peaceful demonstrations, or for throwing stones or burning tires at a protest. The treatment of demonstrators has been harsh, disproportionate and violating several human rights norms. Currently, the arbitrary use of anti-terrorism laws to prosecute demonstrators remains widespread. After July 2015, authorities used the emergency laws to issue blanket bans preventing demonstrations and dispersing groups using tear gas and water cannons. In 2016, for the second year running, authorities banned the annual Istanbul Gay and Trans Pride marches, citing concerns about security threats and public order.

Freedom of association

Using state of emergency powers, in November 2016, the government suspended by a decree the activities of 370 NGOs, among them some women's rights and humanitarian organizations in the southeast. According to Amnesty International, as the suppression of opposition Kurdish voices by the government intensifies following the coup attempt, several NGOs providing vital support and assistance to displaced people in the southeast have been shut down. The closing down of the non-governmental organizations have been carried out on the unspecified grounds of "links to terrorist organizations or threats to national security".

Political participation and free election

Turkish government is violating the rights to political participation and free election of its citizenship and members of political parties and elected majors by prosecuting them and imposing prison sentences under charges of terrorism to parliament members and leaders of the HDP and its regional sister party, the DBP.

Following the coup attempt, the government conducted a crackdown on political opposition by misusing its concentrated power and undermining the values of a parliamentary democracy.

Arbitrary arrests and conditions of detention

Following the coup attempt in July 2016 authorities have heavily repressed civil society and civil servants, arbitrarily arresting thousands of people and holding them in police custody and lengthy pre-trial detention conditions. Human rights groups denounced the government's handling of the situation in the country and the failed-coup attempt in order to take advantage of it and justify the massive crackdown on citizens, who are being arbitrarily arrested and held in detention without evidence of any wrongdoing. According to the information provided by lawyers to Amnesty International, in the vast majority of cases, there was no presented evidence establishing reasonable suspicion of criminal behaviour against the detainees during hearings, and even the hearing did not establish any reasons for allowing detention pending trial. The broad definition of terrorism and the state of emergency have led to a situation where arbitrary arrests are more common. Detaining and prosecuting people seems to be the government's strategy against political opposition and dissent.

The emergency state allows for an increased time-frame in which detainees can be held without being charged, from four to 30 days and also reintroduces incommunicado detention, so detainees can be denied access to a lawyer and other guarantees. Such dispositions have failed to achieve international standards and increases the risk of exposing detainees to torture and other ill-treatment. Also, the time-frame of pre-trial detention can reach several months, as, according to Amnesty International, over 40,000 people were remanded in pre-trial detention during six months of emergency rule.

Excessive use of force

For the last two years there is a rising trend of excessive use of force by the security forces during antiterrorism operations in the southeast of Turkey. As a result, the armed clashes in urban centres followed. When the tentative peace process between the PKK and the Turkish state collapsed, over 2,000 people were reportedly killed, according to a UN report on the human rights situation in southeast Turkey between July 2015 and December 2016.

The Turkish army has been using lethal force against YDG-H and PKK affiliates while conducting highly militarized security operations in the southeast region, as developments in the southeast have been significantly influenced by the response of the Turkish authorities to the coup attempt. An unjustifiable response being that the residents have suffered high levels of violence as they have been forcibly evicted and displaced and their homes demolished and expropriated, as well the cultural heritage of the region damaged. They have also suffered from torture and their movements restricted as they have been held under round-the-clock curfews and bans on leaving their homes and suffering from cuts on water, food, medical care, electricity and communications. The presence of heavy weaponry, including tanks in populated areas, added a harsh component of violence to the already brutal situation. Such practices have been denounced by human rights' groups as disproportionate and abusive in the framework of serious security concerns, and often amounting to collective punishment.

Under the pretext of security authorities have allowed for heavily militarized operations that resulted in thousands of devastated lives and serious violations of international law of human rights. At demonstrations security forces used excessive, and sometimes even lethal, force against critical voices. Allegations of excessive use of force during these moments dramatically increased in 2015, according to Amnesty International.

Unfair trials

Authorities detained citizens and public officials on the grounds of their alleged links to certain organizations, but presented no evidence to support the charges nor to establish reasonable suspicion against them. Politically-motivated trials of journalists and human rights defenders, charged for propaganda or for

ABOUT US

About NOVACT

International Institute for Nonviolent Action promotes international peace building actions in conflict situations. Through a global network of experts and activists in the Middle East, Europe, Latin America, Africa and Asia, the Institute supports nonviolent movements, working for change and social transformation, and develops nonviolent interventions to protect vulnerable communities in conflict situations. As a committed and politically independent actor, the Institute promotes actions, innovative ideas, research, and training to influence the policies of defense, security and foreign policy in Europe and other international contexts. Established in 1999, during the last 15 years we have developed more than 300 international projects upon request from conflict parties both state and non-state actors and international organizations and agencies. NOVACT' credibility is founded on its field-based relations. Its task is not only to understand local realities, but to offer support to local civil society and social movements through capacity building.

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About OPEV

The Observatory to Prevent Extremist Violence (OPEV) is an active platform of civil society organisations from across the Euro-Mediterranean Region aiming to bring a constructive contribution to prevent violent extremism. In view of the lessons learned over the past decades and the challenges that lie ahead, this platform will coordinate the efforts to follow-up the implementation of the Plan of Action of the Euro-Mediterranean civil society to prevent all forms of violent extremism. The OPEV will not follow the State dynamics and will not support any war against terrorism.

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