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## Arab Governance Report II

Governance and Institutional Transformations  
in Conflict-affected Arab Countries

Economic and Social Commission for Western Asia

# **Arab Governance Report II**

## **Governance and Institutional Transformations in Conflict-affected Arab Countries**



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## Executive summary

Today, armed conflicts of varying intensity directly affect at least half of the countries in the Arab region, while the rest endure neighbourhood or spillover effects, impeding peoples' fundamental right to live their lives free from fear and want. Conflict in the region has resulted in the catastrophic loss of life, displaced more than 22 million people and severely disrupted livelihoods. At the very least, it has reduced the quality of life, compromised the capabilities of people to lead a dignified life and significantly undermined opportunities for sustainable development. Beyond the far-reaching impact of conflict on human lives and socioeconomic opportunities, it has severely eroded institutions, polarized societies and fractured social cohesion. For these reasons, peace has been included as an essential element for sustainable development in the globally endorsed 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs).

The level and impact of ongoing conflicts are unprecedented. The Arab region faces daunting challenges to respond effectively and generate political will towards opening spaces for effective national dialogue processes that can reflect popular aspirations and that are firmly anchored in universal principles of human rights. Restoring political consensus and social cohesion in order to start the rehabilitation process demands steady investment and political resolve. Crucially,

countries must respond to the immediate needs of the population by developing representative, responsive, accountable and just institutions that can deliver services equitably. This is essential given that it creates non-violent channels that prevent relapse into conflict.

This report underlines priority issues for a conflict-sensitive approach to governance in conflict-affected contexts, and discerns conflict triggers and peace enablers that could assist the transformation out of conflict. The priorities and type of interventions vary from conflict to conflict and from country to country. However, institutional reform has consistently featured as an essential element in addressing the grievances that trigger conflict and, therefore, in ending violence.

The report identifies four groups of priority institutions and the most essential characteristics that they should have in order to be of high quality. First, security institutions should strive to become professionalized, develop a centralized military command structure and be put under civilian accountability. Secondly, administrative institutions should adopt mechanisms that ensure that they are autonomous and independent from political influence, that recruitment and promotion follow meritocratic rules, and that salaries are competitive. Thirdly, judicial institutions must be independent, accountable, transparent,

efficient and able to provide equal access to justice for all. Finally, political institutions should include coherent, democratic and representative political parties, and strong, independent and well-prepared legislative bodies that can provide a counterbalance to the executive power.

This report proposes to establish an observatory of institutional reform that collects quantitative and qualitative information on institutional change in each country. This tool will help to monitor and guide the transformation of conflict-affected countries into peaceful and resilient ones.

# Introduction

More than one quarter of the world's population lives in fragile States. In the Arab region, poorly developed social, political, economic and administrative systems and accountability mechanisms have marginalized large segments of the population for decades, leaving their needs unaddressed. Rising poverty, widening income inequality, high unemployment, especially among youth and women, and limited political representation are a clear manifestation of the antagonizing reality. There are growing governance deficits that constitute obstacles to the realization of human rights, social justice and the rule of law. Reconciliation processes are non-existing or deficient, and an increasingly exclusivist and extreme religious discourse is barring 'those on the outside'. These trends have contributed to the protracted nature of several conflicts in the region.

This report identifies priority issues for a conflict-sensitive approach to governance, ranging from conflict prevention to transformation and peacebuilding, and including reconciliation, peace enforcement, social cohesion, de-radicalization, and post-conflict recovery and reconstruction. The report

discerns the necessary steps required to assist Arab States in establishing nationally owned processes of transition out of conflict.

Chapter 1 describes the challenges faced by the Arab region that stem from conflict in terms of loss of developmental gains, and stresses the need for peace as a necessary condition for development. Chapter 2 surveys the options that have proven successful in halting violence and building durable peace in recent episodes of conflict across the world. One of these options is institutional reform. Chapter 3 defines this concept and proposes the main qualities that institutions need to possess in order to address some of the main root causes of conflict. Within that context and for the purpose of this analysis, institutions are classified into four groups: security, administrative, judicial and political institutions. Chapter 4 surveys the state of institutions in Arab countries in conflict, identifying some areas of possible transformation. Chapter 5 addresses the issue of monitoring progress in institutional reform and presents some ideas on how this can be accomplished. Chapter 6 summarizes the main policy implications of the report.



# 1. The Arab Region in Conflict at the Start of a New Development Agenda

The ongoing war in the Syrian Arab Republic serves as an irrefutable illustration of the disastrous toll of armed conflict on development. In 2000, when all States Members of the United Nations and the international community pledged their commitment to the United Nations Millennium Declaration and the Millennium Development Goals (MDGs), the Syrian Arab Republic was a middle-income country facing challenges similar to other countries with a comparable level of development in and outside the Arab region.

After a decade of constant efforts at the local, national and international levels, the Syrian Arab Republic was showing clear signs of improvement. Table 1 compares a list of development indicators between 1990 or a close year (the base year in the definition of MDGs) and the time immediately preceding the conflict (2005-2010). Even a cursory look at these indicators demonstrates the progress made by the country during this period. Specifically, income per capita increased by 50 per cent, poverty receded, infant mortality and nutrition deficiencies were reduced, education advanced markedly, and there were signs of a more equitable situation for women, particularly in relation to access to education. The country still had some room for improvement in terms of

income inequality and it was lagging behind in the attainment of some MDGs before the deadline of 2015. However, in general terms, there were some important achievements towards better living conditions for most of the Syrian population. Despite these developments, political reform remained stagnant.

The protests that erupted in the spring of 2011 soon escalated into a full-fledged war that, four and a half years later, has brought about devastating consequences for the population. In addition to more than 250,000 battle-related deaths, 4.1 million people have been forced to flee the country (mainly to neighbouring Turkey, Lebanon and Jordan and, increasingly, to Europe and other destinations) and 7.6 million have been internally displaced.<sup>1</sup> There is a vast and comprehensive economic decline and the productive and social infrastructure is in tatters. The World Bank estimates that the Syrian economy shrank by an average of 15.4 per cent per year in the period 2011-2014, with an additional decrease of 16 per cent projected for 2015 (World Bank, 2015c). Notwithstanding differences between governorates, access of the population to schools, health services, drinking water and electricity has witnessed a general deterioration according to the Office for the Coordination of Humanitarian Affairs (OCHA, 2014).



**Table 1. Progress in selected development indicators in the Syrian Arab Republic, 1990-2010**

Indicator	Base year	Pre-conflict value
<b>Income level and distribution</b>		
Gross national income per capita <sup>a</sup>	4248	6334
Poverty incidence (international poverty line) <sup>b</sup>	7.9	0.3
Poverty incidence (national poverty line) <sup>c</sup>	14.3	11.9
Poverty gap ratio <sup>d</sup>	2.9	2.1
Share of poorest quintile in total household consumption expenditure <sup>e</sup>	7.9	8.0
Gini coefficient <sup>f</sup>	32.6	35.8
<b>Health</b>		
Prevalence of stunting <sup>g</sup>	32.9	28.1
Infant mortality rate <sup>h</sup>	30.4	14.6
Maternal mortality rate <sup>i</sup>	130.0	54.9
<b>Education</b>		
Adjusted net enrolment rate in primary education <sup>j</sup>	95.0	99.1
Primary completion rate <sup>k</sup>	90.1	106.9
Literacy rate of the youth <sup>l</sup>	88.0	95.1
<b>Gender parity</b>		
Gender parity index for school enrolment at the primary level <sup>m</sup>	0.90	0.97
Gender parity index for school enrolment at the secondary level <sup>n</sup>	0.73	0.99
Share of women in employment <sup>o</sup>	15.2	15.8

<sup>a</sup> Data are from the United Nations Development Programme (UNDP) Human Development Reports, expressed in constant 2011 purchasing power parity (PPP) United States dollars. The base year is 1990 and the pre-conflict value is the 2005-2010 average.

<sup>b</sup> Data are from ESCWA and League of Arab States, 2010 and correspond to the percentage of the population living below the international poverty line of \$1.25 in 2005 PPP. The base year is 1997 and the pre-conflict value is for 2007.

<sup>c</sup> Data are from UNDP, 2010 and correspond to the percentage of the population living below the national (lower) poverty line of \$2.74 in 2005 PPP. The base year is 1997 and the pre-conflict value is the average for 2004 and 2007.

<sup>d</sup> Data are from UNDP, 2010 and express the extent to which individuals on average fall below the (lower) national poverty line as a percentage of the poverty line, which is a measure of poverty "depth". The base year is 1997 and the pre-conflict value is the average for 2004 and 2007.

<sup>e</sup> Data are from UNDP, 2010. The base year is 1997 and the pre-conflict value is the average for 2004 and 2007.

<sup>f</sup> Data are from UNDP, 2011 and the World Bank's World Development Indicators (WDIs) database. The Gini coefficient is a measure of income inequality, ranging from 0 (perfect equality) to 1 (perfect inequality). The base year is 1997 and the pre-conflict value is for 2004.

<sup>g</sup> Data are from the WDIs database and correspond to the percentage of children under 5 years of age with a height-for-age less than two standard deviations from World Health Organization (WHO) Child Growth Standards mean. The base year is 1997 and the pre-conflict value is the average for 2006 and 2009.

<sup>h</sup> Data are from the WDIs database and correspond to the number of infants dying before reaching one year of age, per 1000 live births, in a given year. The base year is 1990 and the pre-conflict value is the 2005-2010 average.

<sup>i</sup> Data are from UNDP, 2010 and the WDIs database. They correspond to a modelled estimate of the number of women who die from pregnancy-related causes while pregnant or within 42 days of pregnancy termination per 100,000 live births. The base year is 1990 and the pre-conflict value is the average for 2005, 2008 and 2010.

<sup>j</sup> Data are from the WDIs database and correspond to the number of pupils enrolled in primary or secondary education as a percentage of the total population in the corresponding age group. The base year is 1990 and the pre-conflict value is the 2005-2010 average.

<sup>k</sup> Data are from the WDIs database and correspond to the number of new entrants in the last grade of primary education, regardless of age, divided by the population at the entrance age for the same grade. The base year is 1990 and the pre-conflict value is the 2005-2010 average.

<sup>l</sup> Data are from UNDP, 2010 and correspond to the number of people aged 15-24 who can both read and write divided by the population in that age group. The base year is 1990 and the pre-conflict value is the average for 2006 and 2009.

<sup>m</sup> Data are from the WDIs database and correspond to the ratio of girls to boys enrolled at primary level in public and private schools. The base year is 1990 and the pre-conflict value is the average for 2005-2010.

<sup>n</sup> Data are from the WDIs database and correspond to the ratio of girls to boys enrolled at secondary level in public and private schools. The base year is 1990 and the pre-conflict value is the 2005-2010 average.

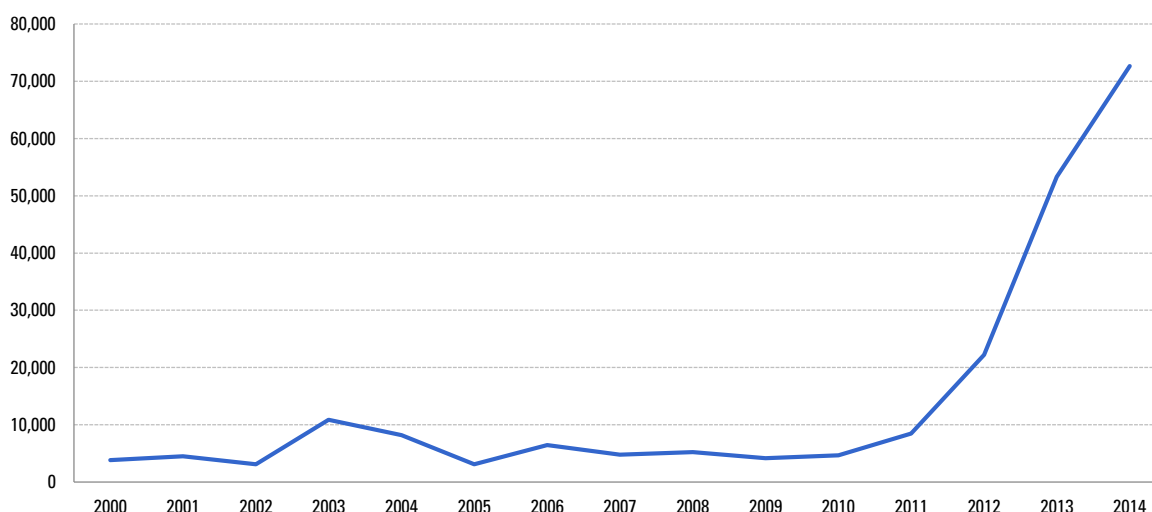
<sup>o</sup> Data are from the WDIs database and correspond to the number of women in wage employment in the non-agricultural sector as a percentage of total non-agricultural employment. The base year is 1991 and the pre-conflict value is the 2007-2010 average.

Estimates are scarce owing to the lack of reliable data in conflict zones; available figures nonetheless show the severe impact on the Syrian people. By 2013, the percentage of the population below the national (lower) poverty line had increased to 43 per cent; the infant mortality rate had reached 23.3 per 1000 live births; and the maternal mortality rate had increased to 62.7 pregnancy-related deaths per 100,000 live births. Data for the same year also show that enrolment in primary education had fallen to 70 per cent; the youth literacy rate had dropped to 94.6 per cent; the primary completion rate to 50 per cent; and the gender parity index had decreased to 0.92 for primary education (ESCWA, 2014a). Enrolment rates for girls appear to have declined more dramatically than for boys, reversing important gains that had been achieved over the preceding decades in gender equality in education. A comparison of these figures with the MDG indicators featured

in table 1 shows that decades of progress in terms of socioeconomic development have been wiped out as a result of the conflict, with disastrous consequences for the population.

The severity of the war in the Syrian Arab Republic is unique; however, it is far from being an isolated situation in the Arab region. In fact, roughly half of the countries of this region have experienced at least one instance of armed conflict since 2011, which makes it the most conflict-afflicted region in the world. In addition to the Syrian Arab Republic, the recurrent episodes of violence in Iraq, Libya, the Sudan and Yemen are particularly grave given their intensity, protracted nature, recurrence and risk of contagion to neighbouring countries. Figure 1 illustrates the striking evidence of this recent increase in the incidence and intensity of conflict. Available figures for 2015 show no sign of abatement.

**Figure 1. Battle-related deaths in the Arab region, 2000-2014**



Source: ESCWA calculations, based on data from the Uppsala Conflict Data Programme (UCDP), Battle-related Deaths Dataset. Available from [http://www.pcr.uu.se/research/ucdp/datasets/ucdp\\_battle-related\\_deaths\\_dataset](http://www.pcr.uu.se/research/ucdp/datasets/ucdp_battle-related_deaths_dataset) (accessed 15 January 2016).

Conflict has a profound detrimental impact on people, as shown by the case of the Syrian Arab Republic described above. Through direct and indirect channels, its influence can extend to the entire region and beyond. This calls for the inclusion of conflict mitigation as a key cross-cutting element in the development agenda for all countries in the Arab region, particularly at the dawn of the Sustainable Development Goals (SDGs) as the new global commitment to improve living conditions and opportunities for all.

## A. The developmental consequences of conflict

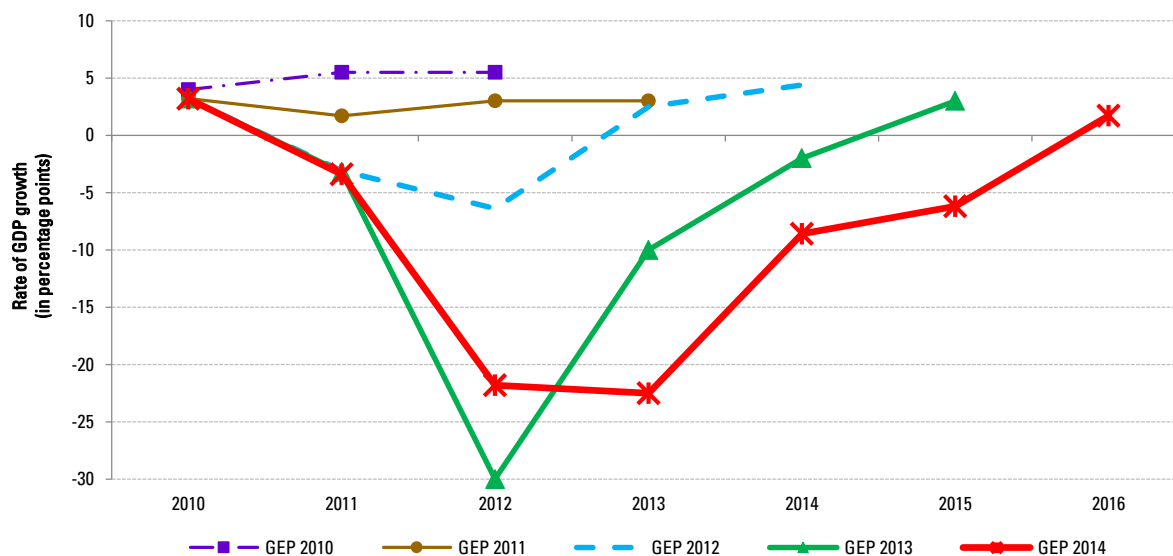
The figures cited above illustrate the losses that armed conflict can inflict on human

development, including in terms of deterioration of income, health and education services, access to resources and gender parity. This section briefly describes this impact, reporting the most recent available figures for Arab countries in conflict.

### 1. Income and economic activity

High-income countries rarely experience civil conflict and, when they do, the violence tends to be short, non-recurrent and of low intensity. Poorer countries experience civil conflict at a much higher rate, and these conflicts are often protracted and recurrent. Worse still, armed conflicts themselves generate poverty and this feedback loop creates downward development spirals, leading to 'conflict traps'.

**Figure 2. Forecasts for the rate of growth of constant GDP in the Syrian Arab Republic, 2010-2016**



Source: The World Bank Group's Global Economic Prospects (GEP), various editions.

Note: The figures in this chart, showing the successive GEP forecasts of growth in the Syrian Arab Republic, are not intended as a criticism, but rather as a reflection of how and when the information about the Syrian conflict was incorporated into the economic forecasts.

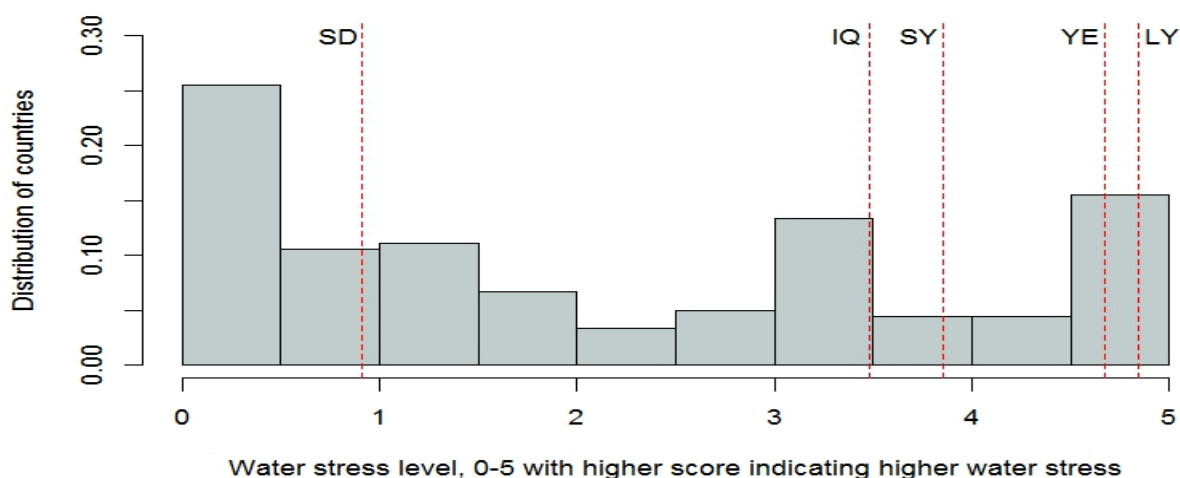
Conflict inhibits or reduces national economic growth. Collier (1999) and Gates and others (2012) estimate that civil wars on average reduce growth of gross domestic product (GDP) by more than 2 per cent annually. Due to the difficulty of compiling statistical information in the middle of violence, precise economic figures are hard to come by for countries in conflict.

Published estimates tend to be volatile but can still provide an idea of the overall impact of conflict. Figure 2 shows the evolution of World Bank forecasts for GDP growth in the Syrian Arab Republic. The figures released in mid-2010 expected a healthy rate of growth above 5 per cent for 2011 and 2012. This changed in the 2011 report, when signs of instability became evident and the growth forecasts for the two years were downgraded to 1.7 per cent and 3.0 per cent, respectively. By 2012, it was evident that the conflict was not a minor one

and the projections were adjusted accordingly. In the report published in mid-2014, the rate of growth was estimated at -21.8 per cent in 2012, -22.5 per cent in 2013 and -8.6 per cent in 2014. In the most recent edition of the report, published in mid-2015, the Syrian Arab Republic was dropped altogether from the forecasts.

A comparison of what was expected before the conflict for 2012 (5.5 per cent) and the most recent estimate (-21.8 per cent) shows the devastating impact of the war on the Syrian economy. In fact, the Institute of International Finance estimates that the cumulative impact of the conflict in the Syrian Arab Republic from 2011 to 2014 represents 42 per cent of the country's GDP. The figures for Libya and Iraq are, respectively, 37.1 per cent and 11.9 per cent (Institute of International Finance, 2014).

**Figure 3. Water stress level in conflict-affected Arab countries, 2013**



Source: ESCWA calculations, based on data from the World Resources Institute. Available from [http://www.wri.org/resources/data\\_sets](http://www.wri.org/resources/data_sets) (accessed 15 January 2016).

Notes: The figure represents the histogram of the observed distribution of countries according to their water stress level, with conflict-affected Arab countries highlighted. The baseline water stress level is an indicator constructed from the ratio of total annual water withdrawals to total available annual renewable supply. It ranges from 0 to 5, with higher numbers indicating higher water stress. IQ represents Iraq, LY represents Libya, SD represents the Sudan, SY represents the Syrian Arab Republic and YE represents Yemen.

There are many pathways through which a conflict can obstruct economic activity, beyond the direct destruction of capital stock. Transport and communication infrastructure may be damaged, thereby hindering trade and labour mobility. Domestic and foreign investments may decline as uncertainty and risks increase, and financial institutions may become reluctant to maintain credit to the private sector. Consumption may be reduced because of inflation and as a precautionary measure by the population. International trade may be disrupted. Increased public expenditure to sustain the war efforts can crowd out other investments. Populations may be forced to migrate internally or externally, thus losing jobs, sources of revenue and education opportunities.

Poverty is usually exacerbated by conflict. It can be due to inflation stemming from increasing production costs (including energy), scarcity because of international trade disruptions or damage in transport infrastructure, or exchange rate devaluations. It can also be caused by job losses as industries close, trade diminishes and production dwindles. Another factor is the reduction in transfers and subsidies as governments are forced to prioritize war-related expenditure or lose partial access to the national territory. Finally, it can be explained by loss of savings and other assets as a direct or indirect result of the conflict. The poverty-conflict nexus is quite visible in two of the Arab countries with the lowest income per capita, namely the Sudan and Yemen. In the latter, the poverty rate was already growing prior to the conflict and had reached 42 per cent of the population in 2009.

As a result of the instability, it had further increased to 54.5 by 2012 (World Bank, 2015a). As the violence persists and intensifies, poverty

rates are expected to worsen and remain at a high level for the coming years. The dramatic rise in poverty in the Syrian Arab Republic mentioned above constitutes another example. Additionally, through damage in infrastructure, lack of access to public services and displacement, conflict affects the living conditions of large segments of the population. It is estimated that 19.9 per cent of the population in Iraq require water, sanitation and hygiene assistance (OCHA, 2015a). In the Syrian Arab Republic and Yemen, 52.1 per cent and 79.9 per cent of the people, respectively, do not have access to safe water and sanitation (UNICEF, 2015d; and OCHA, 2015a).

Natural resources, such as commodities and water, hold an endogenous relationship with conflict: they may fuel the fighting and, at the same time, their extraction and management may be affected by violence. For example, Ross (2004), Humphreys (2005), and Wimmer and Min (2006) found evidence that rents from oil resources give financial incentives for conflict initiation, in particular for secessionist conflicts when the resources are concentrated geographically. It has also been argued that the availability of resources that can be looted can increase the duration of conflicts (Ross, 2004). States with high rents obtained from the extraction of natural resources may, however, use those resources to prevent conflict, by either appeasing or repressing the groups of concern. Given that many countries in the Arab region obtain an important share of their income from energy commodities, this is a particularly important topic.

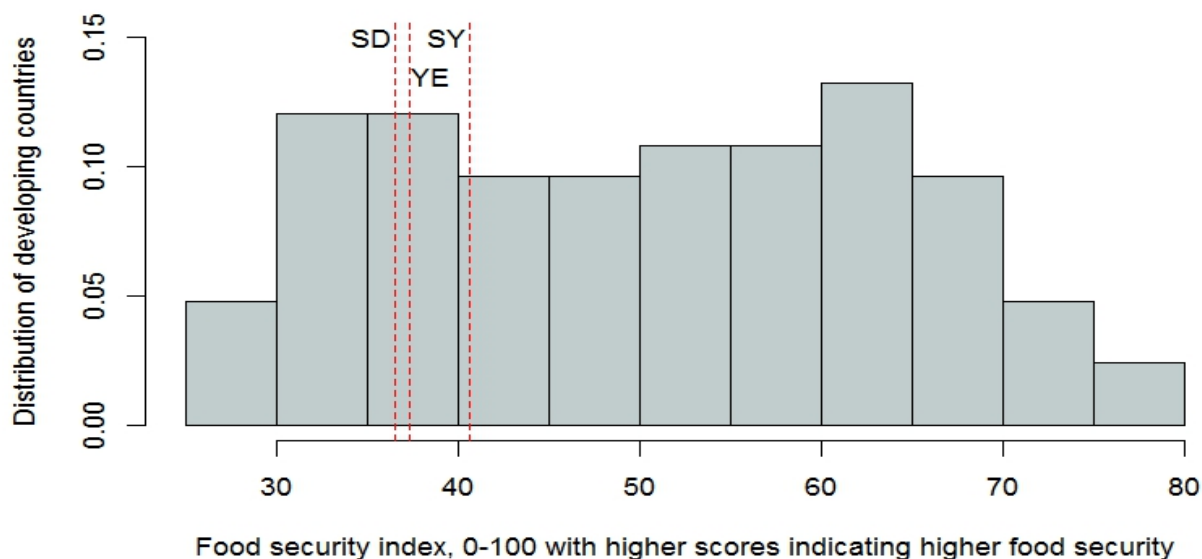
In addition, some conflict-affected countries in the Arab region suffer from severe water scarcity and this may create competition,

thereby instigating or fuelling episodes of violence. Moreover, conflict and instability can lead to water stress as resources are mismanaged and exploited suboptimally and unsustainably. Figure 3 shows that Libya and Yemen, and, to a lesser extent, the Syrian Arab Republic and Iraq, face high water stress levels.

The literature has also investigated the link between violence and food security. Messer and Cohen (2004, p. 3) argue that “conflict causes food insecurity” and that civil conflicts in Africa from the mid-1960s until 2000 cost the region more than “\$120 billion worth of agricultural production”. Gates and others (2012) find that a single year of minor conflict increases the prevalence of undernourishment

by 0.8 per cent. More intense conflicts have larger effects: five years of major conflict can lead to a rise of 8 per cent in the prevalence of undernourishment. The most recent edition of the Global Food Security Index shows that the Sudan, the Syrian Arab Republic and Yemen can be considered as food insecure relative to the distribution of developing countries (figure 4).<sup>2</sup> In fact, recent estimates place the proportion of the population requiring food assistance in the Syrian Arab Republic at 44 per cent, while in Yemen food insecurity reaches 50.5 per cent (Food Security Cluster, 2015; and OCHA, 2015e). This can be a consequence of the current conflicts; however, as explained above, it can also fuel new violence or trigger further episodes of conflict.

**Figure 4. Food security index in conflict-affected Arab countries, 2015**



Source: ESCWA calculations, based on data from Economist Intelligence Unit. Available from <https://data.eiu.com/> (accessed 15 January 2016).

Notes: The figure represents a histogram of the observed distribution of developing countries according to their food security levels, with conflict-affected Arab countries highlighted. The Global Food Security Index is a composite indicator obtained by aggregating 28 variables that measure issues of affordability, availability and quality as drivers of food security. It ranges from 0 to 100, with higher numbers indicating higher food security. SD represents the Sudan, SY represents the Syrian Arab Republic and YE represents Yemen.

## 2. Health and education

Conflict directly exposes populations to death and disability. As a direct consequence of fighting and the resulting rise in battle-related deaths among civilians and soldiers, mortality increases and life expectancy decreases.

Conflict has also adverse indirect effects on health and survival. Ghobarah and others (2004) argue that the additional burden of death and disability caused by disease and other lingering effects of civil wars is nearly double their immediate and direct effect. Civil war, they explain, “directly affects all the major contributors to health: exposure to disease, medical care, public health interventions, and overall socioeconomic conditions” (Ghobarah and others, 2004, p. 871).

Iqbal (2010) argues that the difference in infant mortality rates between countries can largely be attributed to conflict. She also shows that fertility rates increase and life expectancy rates decrease as a result of conflict. Both Plümper and Neumayer (2006) and Ghobarah and others (2004) report that the health consequences of conflict are more severe for women than for men, despite the fact that fewer women are directly killed in battle.

Available data on conflict-affected Arab countries demonstrate the detrimental impact of conflict on health conditions. Recent estimates show that 57 per cent of public hospitals in the Syrian Arab Republic are either partially functioning or completely out of service. Vaccination rates have declined from an almost universal level before the war to 50-70 per cent (UNICEF, 2015c). In Yemen, 160 health facilities are not currently functioning owing to insecurity

and lack of material and medicines. As a result, an estimated 59.5 per cent of the population lacks access to essential health care (OCHA, 2015e). This figure is lower in Libya (30.1 per cent), Iraq (18.7 per cent) and the Sudan (13.1 per cent) (OCHA, 2015b).

Civil conflicts disrupt family environments and are likely to hinder the cognitive, socio-emotional and physical development of children, with detrimental impacts through their lifetime. Child malnutrition is likely a channel through which conflict affects future education, labour and productivity outcomes. Malnutrition occurring during the first months of life has adverse, and most likely irreversible, effects on physical and emotional development. According to recent estimates, the prevalence of acute malnutrition for children under 5 years of age is at 20.2 per cent in the Sudan, and one third of children aged under 5 in Yemen are at least moderately malnourished (OCHA, 2015c).

The effect of conflict on education is especially significant given the importance of human capital for future development. The literature on the subject, such as Shemyakina (2011) and Chamarbagwala and Morán (2011), shows that conflict reduces enrolment rates and increases dropout rates. Educational attainment is also lower than in countries unaffected by conflict.

In the Arab region, an estimated 23 per cent of schools in Yemen were closed as a result of conflict, while 24 per cent of schools in the Syrian Arab Republic have been damaged, destroyed or are used as shelters (UNICEF, 2015b). As a consequence of conflict, 40 per cent of school-age children in Iraq, Libya, the Sudan, the Syrian Arab Republic

and Yemen were not attending school as of mid-2015. This has led the United Nations Children's Fund to warn against a "lost generation" (UNICEF, 2015a).

### 3. The special case of displaced populations

The situation of the forcibly displaced populations in the Arab region is of particular concern. With the current conflicts becoming more violent and protracted, large segments of the population have been forced to migrate internally or flee to other countries. Figure 5A shows the stark increase in conflict-related migration from the region, and the increase in internal displacement since 2012 is striking. Most Arab refugees have so far sought refuge in Arab countries. In addition to the long-standing plight of Palestinian refugees, and to other conflict-related displacement originating from Iraq, Libya, Somalia, the Sudan and Yemen (figure 5.B and figure 5.C) there are currently about 4.3 million refugees from the Syrian Arab Republic. In total, as of 2014, there were 10.6 million refugees from Arab countries, in addition to 15.2 million internally displaced.<sup>3</sup> Furthermore, the Arab region has by far the highest ratio in the world of hosted refugees to total population.

The forced displacement of persons affects their physiological and psychological well-being, and limits their sources of income and development opportunities. The human rights of the displaced, and their education, jobs and

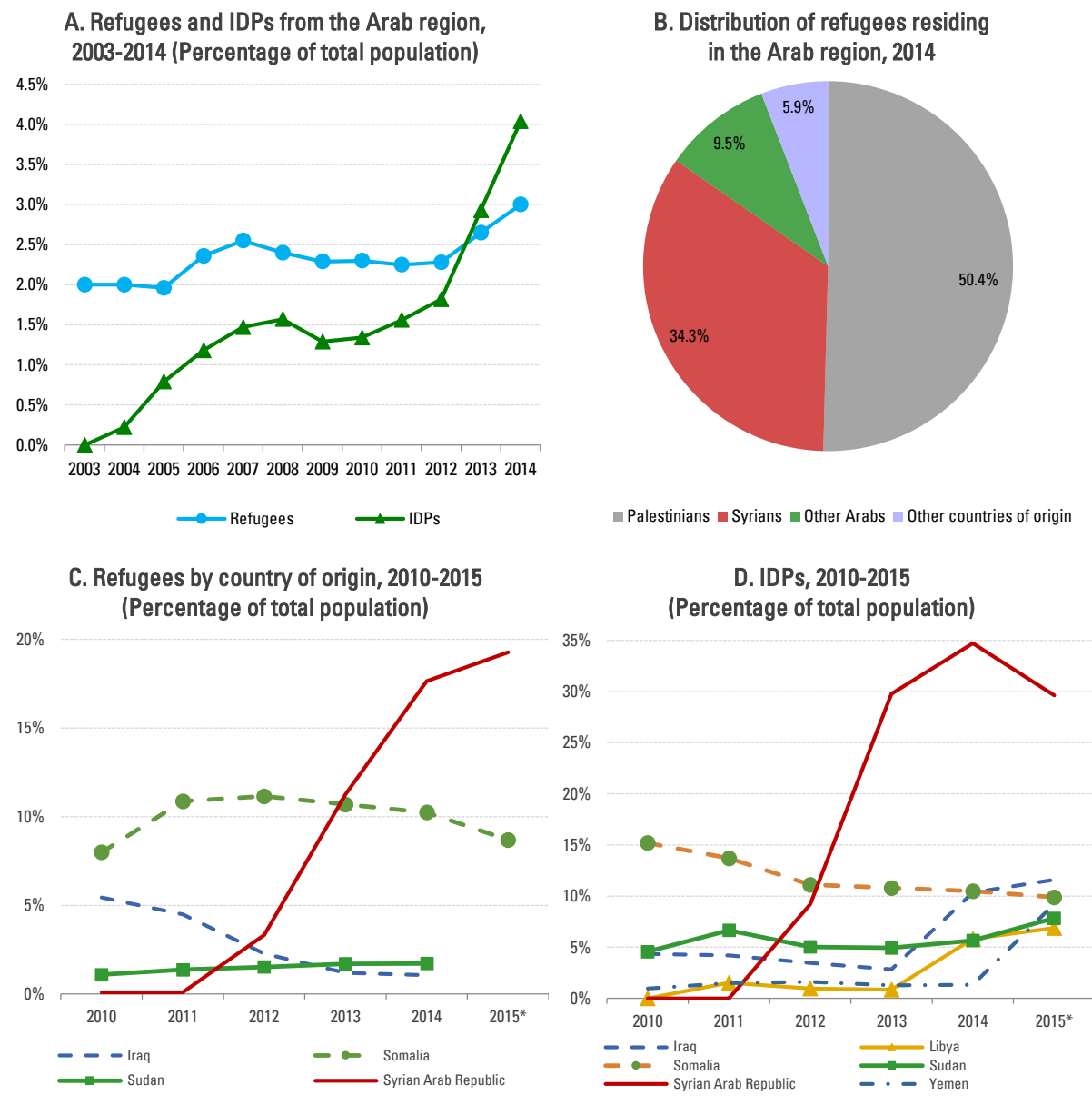
physical assets may be compromised, in return of often marginal gains in personal security. They are exposed to health problems, food insecurity, capital loss, poverty and disruption of social networks, and their future opportunities are at risk.

Families that are forced to migrate due to conflict face difficulties in continuing their children's education. In their study of the impact of conflict on educational attainment in Colombia, Oyelere and Wharton (2013) suggest that, while living in a conflict region may affect a child's education accumulation, the effect is far less than on counterparts who have been displaced by conflict. The situation in Iraq confirms this suggestion: only 52 per cent of displaced Iraqi children in camps are attending school, and the figure is even lower (30 per cent) for those outside camps (OCHA, 2015a). Similarly, an estimated 57 per cent of Syrian refugee children are out of education (UNICEF, 2015b).

In addition to the direct impact on the displaced populations, host communities may also suffer from increased competition over scarce services and resources, increased exposure to health problems, localized inflation and reduction in wages resulting in increased poverty, among others (ESCWA, 2015a). Studies also suggest that the movement of refugees across borders may be one of the triggers of conflict contagion (Salehyan and Gleditsch, 2006).



**Figure 5. Refugees and internally displaced persons (IDPs) in the Arab region**



Source: ESCWA calculations, based on data from the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the Office for Coordination of Humanitarian Affairs (OCHA), as of 3 November 2015.

\* Partial estimates as of October 2015.

#### 4. The generational impact of conflict

In addition to reducing short-term economic growth and increasing poverty, conflict affects the economic structure in the long term. Short-term economic decline can be severe; however, only some of the cumulative losses can be reversed even after a decade from a conflict's end (Cerra and Saxena, 2008; and Mueller, 2012).

In addition to losses of physical and human capital, productivity gains may be reversed through population displacement, investment flight, network disruptions, loss of accumulated knowledge and a shift towards informal economic activities. Post-conflict risks may remain acute for extended periods, resulting in high costs in terms of capital and volatile financial flows. The long-term growth prospects can be affected, and the negative repercussions of conflict can spread over generations.

#### 5. Institutions

In the same way that economic issues may be both a cause and a consequence of conflict, political and institutional factors hold a two-way relationship with conflict. Political institutions in conflict-prone countries have mostly been frail. The ruling bargain has exhibited what some scholars have termed a 'patron-client relationship', leading to patron States (Harik and Sullivan, 1992). The ruling elite have taken on obligations that they did not meet, resulting in a gradual deterioration of services, including such essentials as security, health and education.

Shortcomings of the ruling elite have been filled by fierce security apparatuses and crony capitalists, sidelining or destroying any opposition. Pillage, predation, extortion and elite capture have become commonplace, as has popular resentment and, often, revolution or even civil war. In most such instances, the ruling elite has cultivated divisive communal affiliations, fear of the other or enrichment to secure their grip on power. Conflicts have ensued, further undermining interpersonal trust and giving rise to security dilemmas between the State and social groups.

Conflict also detours public resources into non-productive areas. Collier and others (2003) argue that conflicts lead to a generalized deterioration of political institutions. During a conflict, resources are lost; government funds that would be directed towards public goods, such as health care and education, are diverted towards military spending. The deterioration of public finances brought about by conflict thus damages institutional quality.

A particular concern in some Arab countries experiencing conflict and instability is ensuring public order and security while foreign fighters and armed non-State actors operate on the national territory. Achieving and sustaining peace requires, among other measures, enhancing border controls; monitoring arms funding and trafficking; neutralizing extremist ideologies; and establishing disarmament, demobilization and reintegration (DDR) programmes.

Figure 6 illustrates the endogenous relationship between conflict and institutions in five Arab countries experiencing conflict. Each panel presents one dimension of the World Bank's Worldwide Governance Indicators. Even if the indicators for the Arab countries have consistently remained below the developing countries' average, a further deterioration has occurred since the conflicts erupted. The cases of Libya and the Syrian Arab Republic are conspicuous, with stark declines in all four categories since 2012. It is also interesting to note how, from different starting points, the countries in conflict have converged at a low level showing high prevalence of corruption and weak rule of law.

Evidence seems to support the fact that institutions were weak before the recent period of instability and that conflicts have only accentuated the situation. Widespread corruption, political capture, weak rule of law and ineffective government have taken a toll in populations' confidence in the institutions of the State. Perception surveys for conflict-affected countries in the region, such as the Arab Barometer or Arab Opinion Index, generally show limited or no trust in government, parliament and political parties.

## 6. Regional and global ramifications

Economic damage is not limited to the domestic economies of conflict-affected countries. Murdoch and Sandler (2002 and 2004) demonstrate that civil wars have adverse growth effects in the economies of neighbouring countries. Political violence

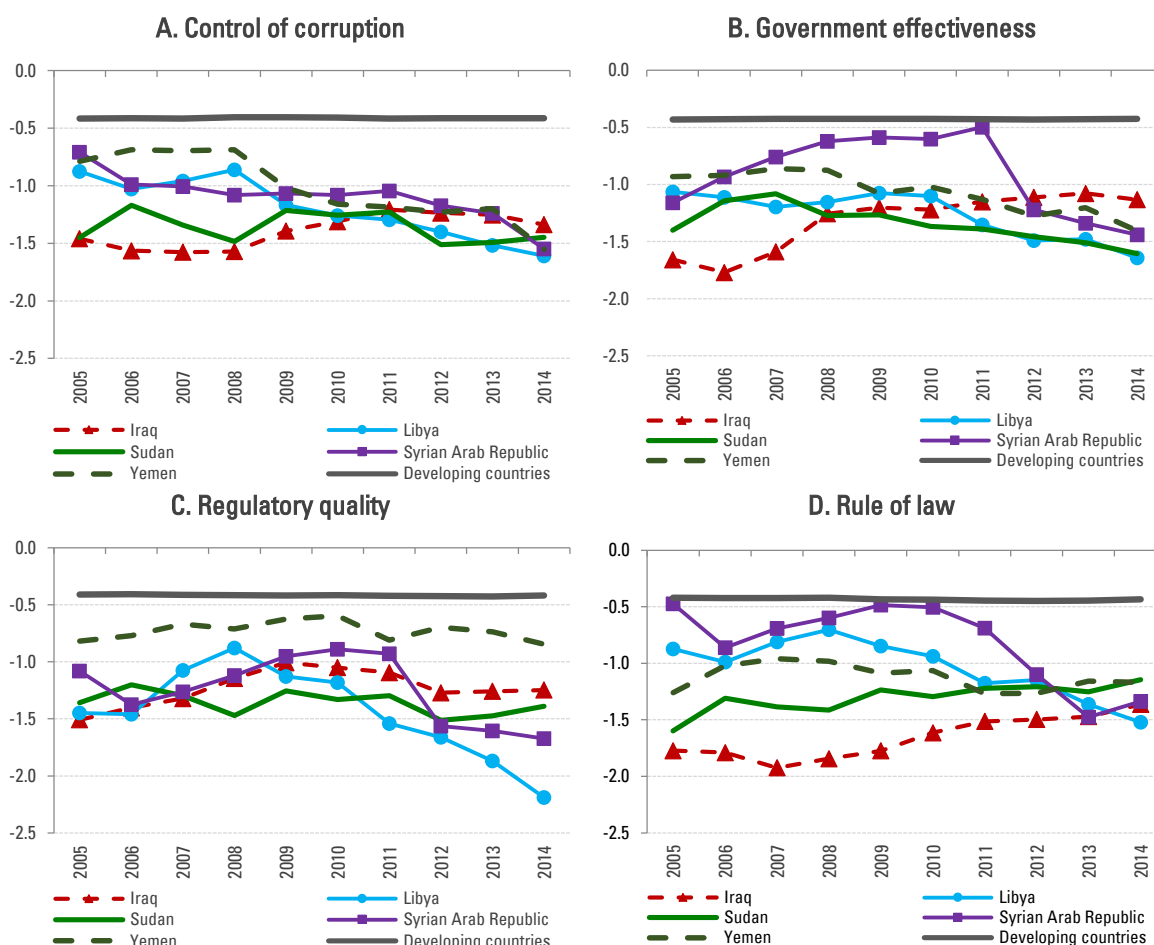
reduces international trade, which in turn depresses growth. The Institute of International Finance (2013) estimates that the Syrian conflict has resulted in cumulative output losses for Jordan and Lebanon, standing at 7.9 per cent and 8.9 per cent of their respective GDPs in the period 2011-2014. Another channel through which this indirect effect takes place is tourism. Conflict in one country increases the perception of risk that extends beyond the country's borders.

In addition to economic effects in the neighbourhood, there is also the possibility of contagion. A vast list of empirical studies has consistently found that the probability of conflict onset is correlated to existing conflicts in neighbouring countries. Moreover, contagion is not contained to the most proximate neighbours; the influence can extend well beyond the immediate borders, especially when there is an ethnic or cultural component to the crisis.

Finally, Danneman and Ritter (2014) find significant evidence that States take reactive actions to neighbouring conflict by increasing repression at home and pre-empting any rise of domestic contestation and conflict, possibly causing a generalized institutional weakening.

Conflicts also bring about global consequences, given that they promote drug smuggling, human trafficking, proliferation of illicit weapons, spread of radical ideologies, and escalation of terrorist activities, as noted by Collier and others (2003). Conflict is therefore a regional and global issue.

**Figure 6. Evolution of institutional indicators in Arab countries in conflict, 2005-2014**



Source: ESCWA calculations, based on the World Bank, Worldwide Governance Indicators. Available from <http://info.worldbank.org/governance/wgi/index.aspx#home> (accessed 15 January 2016).

Note: Higher numbers indicate a better performance in the indicator.

## B. Conflict and the 2030 Agenda for Sustainable Development

The international community, working through the United Nations and its associated agencies, adopted a new development agenda in 2015, with 17 Sustainable Development Goals (SDGs) and 169 specific targets, to be reached by Member States by 2030 (A/RES/70/1). This framework adopts the people-centred approach

of MDGs but moves beyond emphasis on extreme poverty to encompass planet-focused goals and build an “economically, socially, and environmentally sustainable future for our planet and for present and future generations” (A/RES/66/288). The 2030 Agenda for Sustainable Development is ambitious, encompassing a wide range of issues such as water management, gender equity, the fight against poverty and conflict mitigation. The

formulation of its goals and targets is unprecedented in two important ways. The first is its adoption of a universal language that casts development as a “universal matter of mutual responsibilities among all peoples and countries rather than an agenda for the poorest countries” (Gore, 2015, p. 719). The second is its zero-based aspirational targets that emphasize ‘leaving no one behind’.

As mentioned in the section above, conflict has severe repercussions on development prospects. Indeed, conflict is widely considered as development in reverse, with short and long-term losses for countries affected. “While the links between conflict, violence, insecurity and development are complex, there is little doubt that violence acts as a development disabler” (Small Arms Survey, 2013, p. 105). Peace is thus not only a goal in itself (SDG 16), but also a cross-cutting factor in all other SDGs. The following subsections analyse the 2030 Agenda for Sustainable Development in terms of its applicability to fragile States in the Arab region. It seeks to address two related questions: (a) to what extent is the Agenda relevant to the situation of conflict-affected countries; and (b) how can the Agenda be practically translated to countries transitioning from war to peace.

## 1. Analysing the 2030 Agenda

The text of the United Nations resolution on “Transforming our world: the 2030 Agenda for Sustainable Development” states that, “each country faces specific challenges in its pursuit of sustainable development” and qualifies countries in situations of conflict and post-conflict countries as “deserving special

attention” (A/RES/70/1). The document goes on to declare that efforts must be redoubled “to resolve or prevent conflict and to support post-conflict countries, including through ensuring that women have a role in peace-building and State-building”. The Agenda also includes a call on the specific subject of occupation for “further effective measures and actions to be taken, in conformity with international law, to remove obstacles to the full realization of the rights of self-determination of peoples living under colonial and foreign occupation, which continue to adversely affect their economic and social development as well as their environment”.

While these concerns were referred to in the Declaration preceding the Goals, they were not entirely captured in the SDGs. In fact, with the exception of SDG 16, which includes targets on reducing all forms of violence and related death rates, particularly among children, and significantly limiting illicit financial and arms flows, the Goals do not explicitly address the specific challenges of transitioning out of conflict. As for conflict prevention, the targets are more relevant, referring to reducing inequality, participatory decision-making and non-discrimination. Nonetheless, without addressing the structural dimension of conflict that goes beyond national boundaries, the Agenda’s relevance to preventing conflict in the Arab region will perhaps remain limited.

Similarly, SDGs refer little to the spillover effects of conflict that pose significant challenges for sustainable development efforts. For instance, the document stresses the “positive contribution of migrants for inclusive growth and sustainable development”

(A/RES/70/1, para. 29). In addition, it proclaims the intention of Member States to cooperate internationally to “ensure safe, orderly, and regular migration involving full respect of human rights and humane treatment of migrants regardless of migration status, of refugees and of displaced persons”. However, apart from recommending “well managed migration policies” (SDG 10), the targets do not refer to ways in which the non-discrimination principle can be applied to forced migrants, or to means through which inclusive societies can appropriately accommodate the needs of large refugee and internally displaced populations. These questions are critically important in the case of the Arab region, which hosts the biggest forcibly displaced caseloads worldwide. The refugee crisis has deeply affected Arab host countries, already suffering from communal cleavages and where identity-based politics has dictated the space for accommodating populations fleeing from violence in the Syrian Arab Republic, Iraq, Libya and Yemen.

The 2030 Agenda reflects both global commitments and recognition of national specificities on the ground. It stresses the importance of respecting national policy space and national determination in drafting actual policies. Article 5 of the Declaration reads: “This is an Agenda of unprecedented scope and significance. It is accepted by all countries and is applicable to all, taking into account different national realities, capacities, and levels of development and respecting national policies and priorities”. Furthermore, the Agenda envisions the formulation of national SDGs in line with the aspirations of the global goals.

Notwithstanding the significance of recognizing national variations, the Agenda does not go as far as accommodating the realities of fragile States and conflict-affected countries whose number has been on the rise in the Arab region. Indeed, an underlying assumption of the SDG framework is the presence of coherent nation States with capacity to devise and implement sustainable development policies (Sexsmith and McMichael, 2015). State institutions capable of performing a range of tasks are obviously needed to achieve social, economic and environmental goals. Among the envisioned core functions of governments is the provision of basic infrastructure; extension of social services, including health and education; protection of individuals from crime and violence; promotion of knowledge innovation; and the enforcement of environmental regulations. However, the Agenda repeatedly emphasizes that the post-2015 goals balance the three dimensions of sustainable development without explicitly stressing the fourth vital dimension of good governance, which is relegated to Goal 16. Indeed, it entrusts national authorities with monitoring progress, which poses a challenge for conflict-affected countries whose data gathering and statistical analysis capacities are particularly weak.

The Agenda endorses global partnership and capacity-building for the implementation of SDGs: “The revitalized Global Partnership will facilitate an intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, civil society, the private sector, the United Nations system and other actors and mobilizing all available resources”. However, it does not specify who is responsible for each proposed

Goal. While the recognition of the role of multiple actors appropriately highlights the critical relevance of players outside the State to development efforts, there is room for clearer division of responsibilities, the absence of which may serve to undermine accountability of actors involved in the implementation of the Agenda. In addition, analysts argue that without such specification of responsibilities, “the most capable agents best placed to advance the objective will also be the parties best able to divert attention away from themselves” (Pogge and Sengupta, 2015).

The abovementioned State-centric characteristics of SDGs shed some doubt on their applicability, particularly to the Arab region, because of two main reasons. First, post-uprisings governance systems are in critical junctures in their institutional development, as they embark on redefining the sources of their legitimacy and rewriting social contracts that tie States to citizens. The recent wave of protests reflected widely shared economic grievances and political demands for greater accountability and meaningful citizenship (Carothers and Youngs, 2015). States may have diverged in their responses to anti-regime mobilizations, with some experiencing collapse and others persisting in the context of political transition (Hinnebusch, 2015); however, institutions in both trajectories face legitimacy and consolidation challenges.

Secondly, some countries in the region even qualify as fragile States that have entered stages of re-formation following the latest wave of contentious mass mobilization and uprisings. Some scholars argue that even prior to the so-called Arab Spring, some countries, including

Iraq and Yemen, were exhibiting an eroded ability to monopolize power domestically and worsening immunity against foreign penetration (Saouli, 2015). In the cases of Iraq and the Syrian Arab Republic, accelerated sectarian and ethnic mobilization served to increase long-standing challenges to the monopolization of power by ruling regimes and, moreover, contributed to the State’s disintegration and blocked attempts to reform political systems (Saouli, 2015). As a result, the region is witnessing competitive regime-making efforts by newly emergent non-State actors, such as Islamic State in Iraq and the Levant (ISIL) (Hinnebusch, 2015). However, while these developments reflect declining coherence and capacities of States in conflict in the region, resistance by local and national actors and sovereignty rules embedded in international law could halt State disintegration.

## **2. Pursuing the 2030 Agenda in fragile States**

Since 2011, roughly half of the Arab countries have experienced a major war. Almost all have suffered either direct or indirect effects of armed conflict. Today, they also face transnational security problems, including terrorism, smuggling, trafficking, forced displacement and the spread of radical ideologies. Clearly, if countries in the Arab region are to achieve SDGs by 2030, they must first tackle the violence pervading the region. They would notably be well-advised to undertake the following:

- (a) Integrating peacebuilding and State-building goals, particularly inclusive political settlements and conflict resolution, with the 2030 Agenda;

- (b) Prioritizing SDG 16, through security and justice reforms, followed by SDG 8 on employment, and SDGs 3, 4 and 6 related to access to health, education and water;
- (c) Improving coordination, targeting and levels of official development assistance (ODA) for fragile countries;
- (d) Bridging short-term humanitarian assistance with development assistance to achieve sustainable development targets and goals.

As discussed above, armed conflict will have repercussions on the achievement of most if not all SDGs, even if the most direct impact will be on the realization of SDG 16, aimed at promoting “peaceful and inclusive societies for sustainable development, provid[ing]

access to justice for all and build[ing] effective, accountable and inclusive institutions at all levels”.

Table 2 presents the targets for SDG 16.

The relationships between armed conflict and these targets are simple and direct. Specifically, violence and death, abuse and trafficking of women and children, illicit financial and arms flows, corruption, declines in government accountability and transparency, restrictions on information, and worsening institutional performance are all unambiguously linked to war, insurgency, terrorism, political instability and other forms of armed conflict, often as both the results and drivers of conflict.

**Table 2. Targets for SDG 16**

<b>16.1</b>	Significantly reduce all forms of violence and related death rates everywhere
<b>16.2</b>	End abuse, exploitation, trafficking and all forms of violence against and torture of children
<b>16.3</b>	Promote the rule of law at the national and international levels and ensure equal access to justice for all
<b>16.4</b>	By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
<b>16.5</b>	Substantially reduce corruption and bribery in all their forms
<b>16.6</b>	Develop effective, accountable and transparent institutions at all levels
<b>16.7</b>	Ensure responsive, inclusive, participatory and representative decision-making at all levels
<b>16.8</b>	Broaden and strengthen the participation of developing countries in the institutions of global governance
<b>16.9</b>	By 2030, provide legal identity for all, including birth registration
<b>16.10</b>	Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
<b>16.a</b>	Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime
<b>16.b</b>	Promote and enforce non-discriminatory laws and policies for sustainable development



## C. Conclusion

This chapter has shown the developmental costs of conflict in the Arab region. Conflict can directly and indirectly affect development in the entire region and beyond. This calls for the inclusion of conflict as a key cross-cutting element in the development agenda for all countries in the Arab region.

This chapter has presented evidence of the impact of conflict on development outcomes, and has shown how conflict is inexorably intertwined with development. The 2030 Agenda for Sustainable Development represents a global consensus on

developmental priorities. However, little attention has been given to the impact of conflict on its set Goals. Virtually all aspects of development are touched by conflict. More importantly, reducing conflict in the region is a necessary element if Arab countries want to make progress towards sustainable development and the 2030 Agenda.

The following chapters identify the priority issues for the transformation out of conflict, touching upon issues ranging from conflict prevention to transformation and peacebuilding, and including reconciliation, peace enforcement, social cohesion, de-radicalization and post-conflict recovery and reconstruction.

## 2. Ingredients of Peacebuilding

As argued in chapter 1, conflict has the potential to destroy development gains and compromise the livelihood of the affected population for generations. Practically all areas of development can be affected, including health and nutrition, education, gender equality, economic prosperity, employment and other sources of income, and access to water and basic services. The effects can extend beyond borders, and impact neighbouring countries and entire regions. This has been explicitly recognized in the 2030 Agenda for Sustainable Development, which sets peace and reduction of violence as one of its goals. In addition, it can be argued that conflict is a cross-cutting issue that affects all SDGs directly or indirectly.

Stopping the fighting and preventing the relapse of violence are thus the first and foremost goals that countries in conflict or prone to conflict need to reach in order to secure development gains. They must then tackle the main grievances and root causes of conflict in order to transition to reconciliation and durable peace. These steps should be included in the peacebuilding strategy put into place. While there is no 'wish' list of immediate priorities, countries that have managed to successfully exit violence have frequently relied on certain mechanisms to instigate progress. This chapter presents some of the frameworks that have helped transitional countries in other parts of the world. Peace agreements, human rights and transitional

justice mechanisms, national dialogue processes, demobilization and reintegration programmes, social and economic reconstruction projects and institutional reform are discussed as possible triggers of transformation towards peace. These mechanisms frequently complement each other, and the related measures must be simultaneously applied as a coherent package in order to increase the likelihood of an end to violence. This chapter also critically assesses some the realities in the region and identifies ways to improve the prospects for peaceful settlements of current conflicts.

### A. Negotiated settlement

Before States can embark on any other peacebuilding mechanism, it is critical to achieve some sort of settlement between warring parties. Informal peace talks can play a role in achieving a settlement early on. Workshops and talks have been used to bring together people from opposing sides of a conflict, in order to build trust among them. Such talks are also intended to allow for more creative exploration of options than formal leaders are willing to risk, and may assist in reaching a just settlement (Kaufman, 2006). Third-party interventions, either as mediators or as observers/enforcers of the settlement, have also played a role, albeit with an uneven success record.

Negotiated settlements usually involve widening access to power, improving representativeness and expanding minority rights. In some cases, the settlement may result in granting greater autonomy or in a power-sharing arrangement. A redistribution of economic endowments and a fairer access to natural resources may also be considered.

When a peace agreement is reached, processes to secure human rights should be outlined in the text, including a bill of rights and constitution, a constitutional court, a human rights commission and an equality commission (Bell, 2003). These new institutions should address such issues as the discrimination against women, minorities and other excluded groups. The legal and regulatory framework should include rights-based, anti-discrimination legislation and inclusive legal reforms.

In order to provide a framework for human rights it is necessary to identify the constraints that people face in claiming their human rights. There must be an understanding of what specific groups are being most affected and what policies are discriminating against these groups. Guidelines and performance standards must be established to prevent and punish violations. A zero-tolerance policy must be adopted to ensure that human rights violations do not persist. Human rights commissions, as elaborated in the section below, can be used to investigate complaints from individuals and groups and help to monitor the human rights situation. These commissions can also help to educate the public and government, and develop and improve national legislation (Gomez, 1995).

It also may be important to build structures within the administrative institutions to encourage social and economic equality, by paying specific attention to improving people's rights to housing, education and health care. This requires a commitment to improving service delivery and administrative reform. Finally, a settlement may involve promises to pursue transitional justice and significantly reform the police and criminal justice sectors (Bell, 2003).

## B. Transitional justice and human rights

In transitional societies and societies emerging from conflict, processes of transitional justice are important for achieving national reconciliation. Transition periods are usually characterized by corroded institutions, limited capacities, restricted accountability and a fractured social contract with exhausted civic trust levels, all of which compromise collective efforts to uphold the rule of law (UNDP, 2014). Capacity deficits in the judicial and security apparatus, which are inherent in the recovery process and exacerbated by political influence, often translate into decreasing levels of socioeconomic opportunities and security (United Nations, 2011). In turn, a lack of trust, anger or hostility towards the government is likely to increase, while civil society, if present, strives to hold ill-performing institutions accountable. The chronic lack of judicial independence, impartiality and integrity challenges institutional legitimacy and can exacerbate civil tensions. State authorities may lack the capacity or will to proceed with bold restorative justice mechanisms and serve justice to all victims (United Nations, 2005a). In the

absence of responsive and accountable institutions, citizens may turn to non-State actors for protection, giving them legitimacy. Under such circumstances, the risk of relapse into violent conflict may only increase over time. Transitional justice mechanisms are essential to address legacies of human rights abuses and contribute in regaining citizens' trust by bridging social divisions and reducing polarization. The Arab Spring has transformed the socioeconomic and political map of the region. All countries have been directly or indirectly affected by conflict and some are undergoing dramatic changes. In some cases, the change has been incremental and institutional reform processes were undertaken, with varying results (Egypt, Morocco and Tunisia). Other countries are still struggling to formulate a unitary government (Libya and Yemen); and some are still beset by heavy fighting and conflict (Iraq and the Syrian Arab Republic). Citizens and governments face daunting challenges while new political settlements are negotiated. The process is neither linear nor easy. Obstacles jeopardizing the hard work achieved through national dialogue processes are evident (Libya and Yemen). Unlawful killings, torture and mass arbitrary detention have not ceased to happen, reaching alarming levels in Egypt and Libya.

However, transitional times also represent an opportunity to tackle injustice and human rights violations progressively and restore peace by transforming the culture and structures that allowed human rights abuses and other crimes to emerge. This section identifies how transitional justice mechanisms can effectively promote and protect social, economic, political

and cultural rights; and trigger peaceful paths to transition. It includes processes already taking place in some Arab countries. Transitional justice is defined as "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation" (United Nations, 2004b, para. 8). The legal foundations of transitional justice mechanisms are international human rights law, international humanitarian law, international criminal law and international refugee law.

Transitional justice initiatives can take the following forms (OHCHR, 2015):

- (a) *Truth seeking processes*: These involve mapping and investigating past violations in order to reveal their causes and impact, and establish the truth;
- (b) *Prosecution initiatives*: These are based on a State's obligation to investigate and prosecute alleged perpetrators of human rights and international humanitarian law violations, including sexual violence; and to bring to justice persons found guilty through recognized legal procedures, thereby achieving accountability;
- (c) *Reparation programmes*: These offer a range of symbolic and material benefits to victims of violations;
- (d) *State obligations to ensure respect for human rights*: These mechanisms prevent the recurrence of violations in the future through institutional reforms and vetting. "Lustration" relates to prohibiting access to public service to those employees found responsible for gross violations of human

rights. It also necessitates broad reforms in judicial institutions;

- (e) *Other mechanisms*: These can include implementing amnesty programmes and exiling leaders.

A number of measures have been employed to fulfil these obligations across the world with varying success (United Nations, 2004b and 2010; and OHCHR, 2009). Different experiences seem to suggest that social, economic and political changes are most likely to occur when a new power settlement is negotiated. However, each transitional justice initiative is context-specific and unique. The right timing or appropriate measures for a transitional justice process depend on the root causes of conflict as evidenced by related violations of civil, political, economic, social and cultural rights. They can be determined through the identification of patterns of discrimination and of vulnerable groups, such as minorities, women and children; and a diagnosis of the condition of domestic justice and security sectors. The relevance and efficiency of transitional justice options, and the levels of accountability achieved should be assessed by a vibrant civil society (ESCWA, 2013b). Broad national consultations are a key element, given that successful transitional justice programmes require meaningful public participation, particularly of victims.

## 1. Truth-seeking processes and reparation programmes

Over the years, treaty bodies, regional courts, and international and domestic tribunals have reiterated the right of individuals to know the truth about past violations that occurred during

a civil war, an invasion or an occupation, or under an authoritarian regime (Orentlicher, 2004). Truth commissions are usually created either through national legislation or by presidential decree to investigate such violations as torture, enforced disappearances, extrajudicial killings, crimes against humanity, genocide and war crimes. They are established to operate during the early recovery, post-transition period and they are an officially sanctioned truth-seeking body. They are non-judicial, investigative and temporary in nature and mandated to conduct research and public hearings in order to document past abuses, unearth root causes of violations and propose a unified narrative in support of dealing with the past. While they constitute the non-judicial path of restorative justice, they have to a varying degree contributed to subsequent prosecutions through their findings, especially under circumstances of limited capacity of the judicial system or a de-facto or de-jure amnesty (OHCHR, 2006a). Upon completion of their mandates, they hand over a comprehensive body of records and evidence that would ideally inform national institutional reforms.

The overarching aim of truth commissions is to restore truth and achieve reconciliation with the past through an inquiry of past abuses. That said, the timing, mandate, duration and composition of truth commissions vary greatly and are highly dependent on national context and circumstances. The Office of the High Commissioner for Human Rights (OHCHR) identifies several variables to assess whether the national context is conducive for a truth commission (OHCHR, 2006a). First, the conflict must have ended. Ongoing conflict is prohibitive to the existence and operation of a

truth-seeking process given that, in addition to increasing the security threats for those involved (victims, witnesses and personnel), it would compromise access to information. Commission members could be viewed as taking sides to conflicting interests and serving objectives of existing power structures. Secondly, there needs to be political commitment to support the establishment of a truth commission and will to follow up its findings on human rights violations. This translates into unfettered access to archives, and a willingness by State authorities and civil servants to provide requested information on disappearances and prison files, for example. Thirdly, there must be a willingness on behalf of victims and witnesses to take part in this process, cooperate and trust that the mandate and objectives of the truth commission will be followed. They may, for example, prefer to resolve disputes according to traditional customs and norms for seeking the truth and dealing with the past. At last, the process must be transparent and public, which will enable communities to have a certain degree of trust in its legitimacy and thereafter accept the results. Its mandate and focus must also correspond clearly to those abuses that the societies prioritized as gravest and most urgent to be addressed in order to move forward. It would thus represent a society's and leadership's determination for accountability and the rule of law during a volatile time of transition.

There is often confusion between the findings of a truth commission and actual prosecutions. Given their non-judicial nature, commissions themselves do not have the authority to prosecute. They depend on the judicial system

to proceed with criminal cases, upon finalizing their report. Recommendations can vary from prosecutions on individuals or initiating criminal justice processes for past crimes to granting or recommending amnesty,<sup>1</sup> or granting limited and conditional waiver of criminal responsibility.<sup>2</sup> Economic crimes have also been handled in the past by truth commissions, including, for example, in Peru and Sierra Leone.<sup>3</sup> For several countries, economic crimes and corruption were as critical as civil and political violations; and their settlement by bringing responsible individuals into account has at least served to demonstrate the government's will towards change. Restoring frozen assets and reclaiming mismanaged funds is critical at a transition time where resources are most likely to be exhausted or misdirected. Yet there are also risks when including economic rights in the mandate of truth commissions. The time frame required for investigating illicit finance cases or corruption is lengthier. Investigating economic crimes demands the cooperation of different entities, both domestic and international, especially for access to data. Truth commissions are a national entity with a time-bound mandate and a domestic "jurisdiction", and that, de facto, may compromise their efforts to deal effectively with economic rights violations.

#### (a) Regional case study: Morocco

Morocco was the first Arab country to form a truth and reconciliation commission, the Equity and Reconciliation Commission (IER or Instance Équité et Réconciliation). It was established by royal decree of King Mohammed VI in 2004.<sup>4</sup> It consisted of different segments of civil society,

including former political prisoners of the left and religious figures who had been deliberately excluded. Its mandate was as follows: (a) to investigate the forced disappearances and arbitrary detention during the period between Morocco's independence in 1956 and 1999; (b) to process reparation requests that had been pending since the establishment of the former hybrid Independent Commission of Arbitration in 1999; and (c) to investigate the responsibility of the State or "any other party" in human rights abuses. The commission was requested to investigate a period of 43 years, which was the longest any such commission has ever been requested to investigate. Victims publicly testified about the crimes they had endured and the State entities that were responsible were identified. The report, which was submitted to and approved by King Mohammed VI in 2005, provided a narrative of the role played by the State during civil violence.

While the Moroccan truth and reconciliation commission was not the outcome of a regime change, it signalled the country's wish towards progressive change. It was appraised by international human rights organizations as an unprecedented event. The regime publicly expressed its desire to reform State institutions by "rebuilding trust and liberating energies" and to take bold steps towards socioeconomic development (Hazan, 2006). The process reflected the leadership's will to deal with the past and abolish former practices of oppression, which had caused suffering to thousands of victims. Among the recommendations of the commission were a reduction of executive powers and strengthening of the legislature and of the independence of the judiciary. It also recommended reforms in terms of the death

penalty, and almost 10,000 victims out of 16,000 were recommended for reparation programmes, which also constituted one of the commission's strongest points.

On the weak points, as per its mandate, IER did not allow naming of those who had carried out or ordered human rights violations. Participants to the hearings had to sign and agree not to name individuals attributed with responsibility for abuses and human rights violations. Only the place of the suffering (for example, Agdez and Tazmamart) and the involved State entity (army, security services and/or police) could be identified. Moreover, the commission did not have the power of subpoena and, consequently, the level of cooperation by public security service employees was varying. Given that torturers could not be named, the truth took the form of recognition of the victims' suffering and a healing process (Hazan, 2008).

The work of the commission was met with mixed feelings. Specifically, the Moroccan Human Rights Association (AMDH) along with several human rights activists, Islamists and victims in Western Sahara accused the commission of giving impunity to the torturers and their superiors. This was critical as the responsible officials continued to hold their positions. Additionally, IER excluded cases of torture.

Implementation of the report's recommendations was still in progress in 2015. A number of involuntary disappearance cases remains unresolved while the long-term legal and institutional reform recommendations are moving at a very slow pace, despite the commitment of the National Human Rights

Council (NHRC). NHRC among others has reiterated the importance of strengthening forensic activities for criminal and civil justice and for investigating torture allegations, identifying victims of mass killings and determining the age of both victims and alleged perpetrators (NHRC, 2014). Repeated calls have been made to the Government for strengthening human resources to this end, increasing budgets and clearly defining the division of labour among ministries concerned, as well as guarantees for their cooperation with human rights violation investigations (NHRC, 2009).

As is often the case with transitional justice mechanisms, their success depends on the government's capacity and commitment to translate their recommendations into practice. This requires treating acts of injustice not as isolated criminal cases occurring at a certain time, rather as indicators of deeper political and socioeconomic problems. In Morocco, for example, according to NHRC (2009), there are clear gaps that should be addressed and deeper institutional reforms that should be undertaken as part of the country's efforts to deal with the past. These are as follows:

(a) *Judicial reforms*: The executive has strong oversight on the career of judges, including their appointment, promotion and disciplinary proceedings. A new organic law has been suggested on the Higher Judicial Council to avert this. In addition, military courts should limit their jurisdiction to military offences and personnel solely, and exclude civilians. The NHRC has published several reports and memorandums calling the Government to guarantee the right to fair trial (including access to justice and the

independence of the judiciary), eliminate and prevent torture, guarantee the rights of people deprived from liberty, and reform and improve the penal system, by including, in particular, alternatives to incarceration as well as reform the legal framework governing pardons;

(b) *Civil liberties*: The NHRC has also recommended the reform of the legal frameworks on civil liberties (associations, peaceful protests and freedom of the press), and of the judiciary's role in promoting and protecting them;

(c) *Issues of gender equality and parity*: Morocco still holds reservations to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). The Council published a memorandum on the legal framework that would govern the Authority of Parity and Fight against All Forms of Discrimination, provided for in the Constitution;

(d) *Commitment to international treaties*: There are a number of such commitments that should be strengthened, including through tackling the reservation to article 14 of the Convention on the Rights of the Child; recognizing the competence of the Committee against Torture under article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and joining the Optional Protocol to the International Covenant on Civil and Political Rights.

## (b) Regional case study: Tunisia

Tunisia's transition is singled out as one of the most successful in the Arab region. Most recently, the Tunisian National Dialogue



Quartet<sup>5</sup> won the Nobel Peace Prize for its “decisive contribution to the building of a pluralistic democracy in the wake of the Jasmine Revolution of 2011” (Chayes, 2014). The Nobel Committee remarked that it “established an alternative, peaceful political process at a time when the country was on the brink of civil war. It was thus instrumental in enabling Tunisia, in the space of a few years, to establish a constitutional system of government guaranteeing fundamental rights for the entire population, irrespective of gender, political conviction or religious belief” (Norwegian Nobel Committee, 2015).

However, these gains are still fragile and the State must ensure basic needs and freedoms, the lack of which had fuelled the revolution. The uprising in Tunisia dethroned a regime that encouraged corruption, practised policies of marginalization and did not cater to ever-growing regional disparities, thereby failing to address the needs of rural communities.

Protests in Tunisia against the former President Zine al-Abidine Ben Ali and his Government resulted in 132 deaths and the injury of 1,452 people between 17 December 2010 and 14 January 2011. The police took disproportionate action against protesters, using teargas, plastic and rubber bullets, and live ammunition. Authorities reacted quickly and established the National Fact Finding Commission within a month (February 2011), aimed at examining human rights abuses during the civil unrest. The deadliest incidents, stemming primarily from live gunfire, were reported in Kasserine, Tala, Ragueb and Tunis. Judicial authorities initiated criminal investigations and prosecutions with regard to the killings and

other serious human rights abuses. In total, 54 public servants, police and security personnel were brought before military tribunals for trial in 2011. President Ben Ali was tried in absentia, and he in addition to the former Minister of the Interior and five former director generals of the respective ministry were found guilty.

Tunisia remains the boldest example of Arab judicial reform following the uprisings. The institutions reacted promptly and the authorities duly recognized the need to acknowledge unlawful killings and abuse of power as exercised by security forces. As soon as the regime fell, political forces and civil society explored options for dealing with the past and sustained efforts towards transition. Already by the end of 2011, the Ministry of Human Rights and Transitional Justice was established by the newly elected Government, led by the Islamist movement Ennahda. Yet, the process towards restoring justice was not linear and it included several setbacks, reflecting antagonizing views between Islamists and secularists of the ruling parties during the transition.

Initially, the cases under investigation were limited to unlawful killings during the uprisings and excluded oppressive actions and violations of human rights during the past decades under the dictatorship. All the cases investigated were first handled by civil courts, which, upon proof of evidence of military or security and police force involvement, would convey the case to military courts in line with a 1964 law that does not allow civilian courts to handle cases against the security forces. Military courts had then to restart the investigation in order to process the indictment and transfer of files to the military accusation chamber. While military courts are

not directly aligned to the executive, military judges are still related to the Ministry of Defence through the High Council of Military Judges, led by the Minister of Defence who oversees the appointment, advancement, discipline and dismissal of military judges. Moreover, military judges are appointed from civilian service by decree issued by the President, upon recommendations by the Ministers of Justice and Defence.

The accused were found guilty for their complicity in the unlawful killings by planning the repression of popular protests, failure to give instructions to security forces to use force only when necessary, and failure to provide the police with non-lethal means to control crowds. Despite the gravity of the crimes, the military appeals courts based on article 32 of the Tunisian penal code “on complicity of criminal acts” had to demonstrate that the accused had taken irrefutable actions that had contributed to the crime. In the absence of written formal orders from the accused commanders, the courts found the accused guilty of the lesser charge of criminal negligence and their sentences were decreased to three years. Concerns were raised over the inadequacy of criminal law with regard to superior responsibility, as stipulated in international law. Superior responsibility or command, as per international law,<sup>6</sup> imputes liability to civilian superiors or commanders for crimes committed by subordinate members of armed forces or other persons under their control. Rule 153 of the Customary International Humanitarian Law defines responsibility for failure to prevent, repress or report war crimes as follows: “Commanders and other superiors are

criminally responsible for war crimes committed by their subordinates if they knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible”.

Successful prosecutions are critical for building trust in the process of transition and respect for the rule of law while the new political settlement is negotiated. International human rights organizations raised concerns over the central role of military courts and the country’s outdated penal code, considering that the victims and their families were denied the right to an effective remedy (Human Rights Watch, 2014; and Amnesty International, 2016). In addition, non-Islamist stakeholders accused the Government of using long-established laws that identified with an oppressive regime. They thereby treated the outcome as ill will by the Government to address judiciary and security sector reforms. There were concerns that the ruling elite’s role in State institutions had been so deeply engrained during the past 40 years, that reforms were not able to limit their power effectively and stop corrupted practices.

A new transitional justice framework was therefore developed in 2013 by the National Constituent Assembly (NCA, Tunisia’s interim Parliament). Tunisia’s Organic Law on Establishing and Organizing Transitional Justice, in addition to guaranteeing accountability via specialized chambers (article 8),<sup>7</sup> projects a 15-member truth and dignity commission aimed at uncovering the reality

about human rights abuses in Tunisia from July 1955 to 2013, including corruption, mismanagement of public funds and illicit gains, forced political exile, torture and manipulation of election fraud. The Law envisages institutional reforms, vetting of civil servants, and national reconciliation and reparation programmes for victims. At its establishment, President Marzouki reiterated that there “can be no sustainable democracy without acknowledging and addressing mistakes of the past”. He urged the Government to make all necessary means available to the commission so that it could best fulfil its mission.

Moreover, following a consultation process of more than three years and three consecutive drafts, the new Constitution was adopted on 26 January 2014 by the Constituent Assembly. The text has been appraised as progressive compared with earlier drafts, guaranteeing an enlarged space for freedom of expression, association and assembly; and promoting policies of decentralization, free elections and political freedoms. The preamble recognizes the rightfulness of the revolution, the responsibility of the State to uphold its resolutions, and the will of people to build a “participatory, democratic and republican system, in the framework of a civil State founded on the law and on the sovereignty of the people”.

While the overall spirit legally guarantees greater space for democratic reforms, concerns can be raised about human rights being subject to cultural specificities that contradict principles of universality as per international law. While it is to be expected that constitutional law has

supremacy over international law, doctrines of the latter must be upheld by domestic law.

For example, with regard to the role of Islamic Law in the Constitution, “Islam” is mentioned four times: two times in the preamble and two times in the body of the Constitution itself, in articles 1 and 74. Article 1 states that “Tunisia is a free, independent, sovereign state; its religion is Islam, its language Arabic, and its system is republican”. While this is an improvement from language used in previous drafts that stated that no constitutional amendment shall harm Islam as the religion of the State, the centrality of Islam remains evident. Article 6 on religious freedom relates this aspect to the role of the State as guardian to preserve neutrality of mosques: “The State is the guardian of religion. It guarantees freedom of conscience and belief, the free exercise of religious practices and the neutrality of mosques”. Finally, article 74 on eligibility for Head of State withholds that right only to Muslims.

This reflects to a large part opposing views in the post-revolution era. Ben Ali had tried to limit religious influence by prohibiting the formation of religion-based political parties. However, this changed substantially after Ennahda’s win in the elections for the Constituent Assembly in October 2011. Throughout the drafting process, representatives of Ennahda proposed an article declaring Islam to be “the main source of legislation” with the goal of unifying all Tunisian legislation under the rule of Islamic law. Moreover, Ennahda members in the Constituent Assembly strongly opposed a proposal to abolish the death penalty, as it would contradict Islamic law. They also tried to pass a bill to abolish Law 27 of 1958, which

allows the adoption of a child, given that Ennahda views adoption as contradictory to Islamic law. Secularist parties rejected Ennahda's proposals because, among other reasons, it was unclear which interpretation of Islamic law Tunisia's Constitution should follow. The drafting process included similar debates between Islamists and secularists on the constitutional rights of women and the prohibition of blasphemy.

The Tunisian transitional justice example demonstrates that even when political commitment and sustained efforts towards reform are present, it is a lengthy and strenuous process jeopardized by conflicting interests. On the positive side, the overall context speaks to a small, homogenous country, committed to reform, with little sectarian clashes and among the highest incidences of literacy. On the negative side, there is a worrying circulation of small arms and light weapons, acute security incidents, unrest at the borders with Algeria, and stagnant economic growth, all of which are taking their toll on the most marginalized segments of the population, thereby increasing inequality and socioeconomic grievances. These factors tie a vicious knot to the fragile gains of the revolution and heighten tensions in a political arena characterized by long oppressed political forces, which are eager to gain a larger role in the new settlement, and by other elements trying to reify the centrality of the State.

Despite the commitment of the Government, the achievements of the past years were most recently threatened by a new reconciliation bill (Economic Reconciliation Law), presented to the Assembly of the Representatives of the People

in September 2015. The Government launched this bill as a pragmatic way to get access to frozen assets and illicit gains, desperately needed to revitalize the national economy, and demand cooperation of international entities. Opposition lawmakers warn against formulating a parallel process that undermines the work of the Truth and Dignity Commission.<sup>8</sup>

The economic reconciliation law's objective, as stated in article 1, is to support the transitional justice apparatus, to ensure an appropriate investment environment, to develop the national economy, and to boost trust in State institutions. It would give individuals convicted of corruption, including former officials in Ben Ali's regime, the opportunity to return their self-identified illicit gains (obtained through embezzlement of public funds and questionable loans) in return of a form of immunity. Any corruption charge would be dropped and they would gain immunity from any further prosecution. However, no formal process to investigate the extent of illicit gains and their involvement in corruption cases has been put in place. Even former State employees who are currently imprisoned on corruption charges (excluding bribery) could be potentially freed if the law passes. The success of this bill is dependent entirely on the goodwill and honesty of officials who have been convicted of corruption and abuse of power.

## **2. Judicial and quasi-judicial processes**

Specialized courts are sometimes established to restore justice. Human rights courts can adjudicate violations of economic, social and

cultural rights, subject to their constitutive instruments referring to these rights. There is often confusion or concerns over their relationship with criminal courts. Their role is to complement the work of criminal courts, which can also address violations of economic, social and political rights, provided that the violations are legally referred to as crimes.

The Arab region has yet to embark on establishing a regional human rights court. Parallel initiatives elsewhere include the Inter-American Court of Human Rights, the Human Rights Chamber for Bosnia and Herzegovina, the European Court of Human Rights and the African Court on Human and Peoples' Rights.

The first conference on human rights in the Arab region, organized jointly by the United Nations Human Rights Office and the League of Arab States in 2014, developed a road map for a regional human rights strategy, notably via the Arab Human Rights Committee and an Arab court for human rights.<sup>9</sup> To date, the proposed court is among the most robust developments in forming a regional judicial oversight of human rights violations. It would offer a channel for Arab integration on the issue of human rights and show the commitment of Arab States to international human rights law and standards.

However, the court still lacks the legal foundations (ratification) on which it will establish its jurisdiction. It faces the daunting challenge of developing a supranational jurisprudence over a large geographical area, with strikingly different socioeconomic realities and diverse legal frameworks, which combine in different ways interpretations of civil and Islamic bodies of law. The statute, decisions,

and judgements of the court are currently based on the Arab Charter on Human Rights.<sup>10</sup> The document was informed by the Universal Declaration of Human Rights and the two international covenants on civil and political rights, and on economic, social and cultural rights. Nonetheless, by leaving many important rights to national legislation, such as the prohibition against torture, these rights have become subject to cultural specificities that may contradict international human rights law.

The dialogue on cultural norms in human rights feeds in the discourse between universalism and relativism (Steiner and Alston, 2000). Universalism sees the body of human rights as a web of inalienable legal rights that people possess and that States are accountable for protecting and promoting. International human rights norms are incorporated into domestic law and States cannot therefore deny them on the basis of religion and culture. The relativist view sees human rights as instruments based on moral values engrained in a society's cultural and religious norms (Halliday, 1995). Accordingly, relativists argue that human rights instruments are based on liberal western norms, which for decades have been imposed on other cultures. Featuring the voice of the Islamic world, regional organizations that are leading the dialogue on human rights are caught between the opposing views of these two perspectives, thereby issuing incomplete recommendations (International Commission of Jurists, 2014).

Within the Arab Charter on Human Rights, for example, there are contradictions with international human rights standards, including on the subjects of jurisdiction of a court; admission procedures of cases (articles 16 and

19); lack of enforcement mechanisms; no specific provisions for the protection of witnesses; and the independence and impartiality of a court and judges, and the danger of political interference in the appointment of judges (article 45), particularly as these would rely on recommendations by nominating States for their tenure renewals.

Presently, the projected court does not envision an individual complaints mechanism that would allow individuals, groups or non-governmental organizations (NGOs) to file petitions for violations committed by the State, contradicting minimum principles for regional mechanisms.<sup>11</sup> Other experiences have shown that the right of access for individuals or groups is a key element of mechanisms established to tackle human rights violations. The court would thereby only handle human rights disputes among States Parties, and the legal standing of an NGO or other non-State actor would be pending approval by a member State. Moreover, the current statute does not envisage enforcement mechanisms to guarantee compliance with court decisions.

Within the framework of transitional justice, institutional reforms targeting those State mechanisms that have encouraged violations in the past, are meant as guarantees of non-repetition. These include vetting, guaranteeing independence of judiciary institutions, establishing complaint procedures and training target personnel in human rights and humanitarian law. However, institutional reforms should be comprehensive. In order to serve as a foundation for sustainable justice, they should extend beyond targeted institutions

and the treatment of violations or omissions of protection, and respond to the root causes of conflict (OHCHR, 2005).

To date, two main processes of vetting (illustration) have been undertaken in the Arab region with questionable results, in Iraq and Libya. Vetting in Iraq, including public officials and Ba'athists of the Saddam Hussein regime, was realized through the Accountability and Justice Law in 2008 (International Center for Transitional Justice, 2008). The Law came in the aftermath of a deep de-Ba'athification process started in 2003 by the United States-lead occupation forces. Between 2004 and 2008, thousands of officials were removed from their posts. De-Ba'athification dismissed people based on rank, not behaviour. Factual information on the criteria and numbers are scarce. Critics often conclude that the de-Ba'athification process polarized Iraqi politics and contributed to severe instability in the Iraqi military and government (Sissons and Al-Saiedi, 2013).

Libya's experience with vetting has also faced criticism (Kersten, 2012; and Lawyers for Justice in Libya, 2013). In May 2013, Libya's General National Congress passed the Political Isolation Law, which stipulates that all former public officials, intellectuals, academics, and security and army officials should be removed from office for 10 years. However, the Law did not consider whether targeted officials had actually opposed Qaddafi's regime and played a key role in exposing its wrongdoings.

Vetting and bringing into justice responsible public officials helps to dismantle abusive

structures that can affect impartiality and independence of security and justice institutions. Such transitional justice processes can also strengthen national capacities and country systems, when they are developed in the context of national prosecution initiatives. Targeted efforts to improve investigative and prosecutorial skills, which are necessary for analysing documentary and testimonial evidence, should complement measures such as witness protection and archival management, including preservation and protection (Peterson, 2014).

### 3. Lessons learned

Transitional justice mechanisms are as much political as they are technical. Human rights are not always a fixed concept or body of law, and have at times taken the form of a legal-political language called to serve diverse interests. Despite their inconsistencies, regional human rights mechanisms are critical, not only because of their positive impact, but also because they mirror the battles fought over human rights conceptualization into domestic law. These battles often take divergent political pathways. Conflicting parties try to shape the definition and application of human rights. Powerful actors have appropriated the language of human rights to justify actions that have little to do with the protection of victims of human rights abuses (Chase, 2015).

There is a need to set clear, realistic objectives for transitional justice mechanisms and to be aware of their limitations. They are subject to a leadership's willingness and political resolve for compliance. No unique initiative can by itself reform the public sector or deliver justice to victims.

Each context is different and requires a specific set of processes and timing. Transitional justice procedures successfully employed elsewhere have had detrimental results for the region. The timing and sequence of specific measures are often subject to political developments and to the tolerance and coping capacity of the population. For example, timing can become "inimical to establishing enduring non-violent relations" (United Nations, 2015b, p. 20). If not addressed at an early stage, impunity can also compromise public trust for the overall transition process. An analysis of the context and legislative framework, and of people's perception of a new settlement, should always inform the sequence and pace of reforms tackling human rights violations.

### C. National dialogues

National dialogues remain an underutilized mechanism for transformations out of protracted conflict in the Arab region. Such dialogues must be firmly anchored to universal principles, such as the Human Rights Charter, embody equal representation and inclusion of different social groups, and enshrine accountability. They should directly address the public's needs and demands. There is no best practice on how national dialogue processes should be planned and sequenced, given that they are highly dependent on socio-political contexts.

While there is no one-size-fits-all approach, there are key ingredients for successful national dialogues. International comparative research highlights some that are worthy of

consideration. First, inclusion: evidence shows that national dialogue processes are often established in haste and only sometimes follow norms set by international mediators and facilitators. As a result, they end up revisiting predominant views of the restricted political class competing for power during the conflict in the first place. This compromises the effectiveness of the whole process. It is vital to pay careful attention to the grassroots level, remote and marginalized communities, and mechanisms to voice their aspirations for the day after. All key stakeholders should participate, including women, youth and other segments of society that are usually sidelined.

During 2013-2014, the National Dialogue of Yemen enjoyed a broad spectrum of participation. It included women, youth and civil society representatives in addition to the political elite, thereby opening up the country's political space. In Iraq, numerous political dialogues did not address a fundamental flaw, namely the political and socioeconomic marginalization of a significant segment of the Iraqi population.

Transparency and public participation, which also entail inclusion mechanisms, are deemed vital for a dialogue's success. Some of the possibilities in this regard include linking local dialogue processes to national ones, undertaking public consultations and regular outreach, and promoting media coverage. A credible convener that ensures impartiality and objectivity and commands respect from all sides is described as imperative for any dialogue. In Tunisia in 2013-2014, four civil society organizations, also referred to as the

Quartet, namely the General Labour Union, the Tunisian Confederation of Industry, Trade and Handicrafts, the Tunisian Human Rights League and the Tunisian Order of Lawyers, convened the national dialogue. According to the International Crisis Group, "through its call for a reasonable solution to resolve the crisis and its ability to garner support from wide-ranging elements of Tunisian society, including the labour movement, the business class and civil society activists, the Quartet created an opening for politicians to compromise. Its moral authority and the fact that it represents wide segments of Tunisian society allowed it to overcome polarization and impose dialogue on sometimes recalcitrant political actors".<sup>12</sup>

A national dialogue would be pointless if it does not address the root causes of conflict. These can include national identity, religion, governance, political rights, basic freedoms, institutional reform, elections, structure of government (for example, centralized versus decentralized governance) and foreign alignments. One of the root causes of the current crisis in Yemen is the fact that the National Dialogue was unable to create consensus on the issue of federalism, in particular the financial and political infrastructure of the federal system. In Iraq, while the ruling elite did establish a dialogue, it failed to facilitate an agreement on the most significant issues, such as a defined and acceptable role for the armed forces; the growth of credible political parties; the application of an effective anti-corruption framework; the use of income from natural resources to fund development policies targeting the poor; and the implementation of an effective system of



governance, which ensures equal access to essential services for all, including health, education, security, and water and sanitation. These issues literally apply to most Arab countries beset by political turmoil and conflict and should be a core part of any national dialogue agenda.

A national dialogue should have a clear mandate and appropriately tailored structure, rules and procedures given that, in most cases, it takes place outside government institutions. Depending on context and issues, specific procedures for consensus-building, decision-making and resolving deadlocks will have to be developed. A clear mandate would define the objectives and authority of the process. For example, Tunisia's national dialogue had a clear mandate, which facilitated advancement on four goals: choosing a new government, deciding on a new constitution, setting up an electoral management body and designating a timetable for elections.

Last, but not least, a national dialogue must have decided on a *modus operandi* for the implementation of outcomes. A road map must be construed to carry out the outcomes through a new constitution, law and coalition government, among others. Elements of transitional justice should not be neglected. The section above elaborated on how transitional justice mechanisms are essential to address legacies of human rights abuses and assist in regaining citizens' trust and giving legitimacy to the transition process by healing strong divides. Without an agreed blueprint for implementation, a national dialogue process risks becoming an open-ended one. This is very much the case in Lebanon, where the round table for national

dialogue among the country's ruling elite has been convening on and off since 2006 with little or no results in resolving the political deadlock that has crept into most State institutions.

In Libya, civil strife had resulted in two opposing parliaments, governments and military coalitions. A political dialogue facilitated by the United Nations to end divisions in the country stalled when, on 11 July 2011, one faction refused to sign a preliminary framework agreement. The dialogue comprised representatives of the internationally recognized House of Representatives in Tobruk and its predecessor, the General National Congress (GNC) in Tripoli, boycotting members from both sides and a number of independents. The GNC delegation did not attend the final negotiations and refused to sign the agreement, believing that it marginalized them from the ensuing political deal. The deal was to establish a consensus-based national unity government that would govern from Tripoli, with foreign and security policy, and oversight of national finances and institutions under its purview. It would extend the life of the House of Representatives, the Parliament elected in June 2014 and based in the eastern city of Tobruk, for at least another year and make it the sole legislative authority. The deal advocated the establishment of a separate body, the State Council, to absorb GNC members. The ambiguity concerning the State Council's powers and the role of GNC in the new set-up prompted their refusal to sign on to the deal.

Arab countries beset by conflict or political tensions remain very much exposed to the influence and interference of foreign powers.

In most cases, the interests of international and regional powers are divergent and, through their national allies, exacerbate the conflict. In the absence of international agreement, this could greatly obstruct national dialogue processes. Another major obstacle is the unprecedented growth of non-State actors with a radical and exclusivist discourse that are set to cancel the other. It is impossible to see some groups, including ISIL or Al-Qaeda, being part of a national dialogue process. Quite the contrary, such groups metastasize in civil wars. They have exploited the weakness and disintegration of State institutions, marginalization of large segments of the population and the failure of socioeconomic policies to generate employment and deliver basic services.

#### D. Disarmament, demobilization and reintegration

Disarmament, demobilization and reintegration (DDR) programmes are another critical set of processes that conflict-affected countries must implement in a context-sensitive way if they are to transition successfully from war to peace. This is particularly important in the Arab region, where hundreds of thousands of fighters are currently engaged in combat and conquest in Iraq and the Syrian Arab Republic. Conflicts in Libya and Yemen are generating large numbers of fighters as well, albeit on a smaller scale. A significant part of those fighters are foreigners who have joined the ranks of armed groups. Current United Nations estimates put the number of foreign fighters in Iraq or the Syrian Arab Republic at around 30,000, perhaps half of which have transited

from other countries in the Middle East and North Africa (United Nations, 2015a).

All wars end, either through victory by one side, through negotiated settlements or because durable stalemates emerge. At that point, many thousands of fighters will seek to travel home or move on to other locations. Some of these fighters will be committed ideologues who seek out new theatres in which to wage war. Other fighters will try to return to their families, take up productive employment and settle down. If history is a guide, another set of fighters will join criminal networks and turn their training and experience in violence and clandestine activity into lucrative if illicit careers. Many other fighters will be undecided as to which path to take. In this context, it would be counter-productive and needlessly costly for countries to treat all former fighters as criminals to be captured and imprisoned. Instead, countries should establish institutions to “sort” former fighters by their risk profiles, capture and imprison some, and de-radicalize and reintegrate others back into society.

There are four primary populations of concern. The first are the fighters who have committed mass killings, mass rape, human trafficking and slave trading; commanded others to commit such crimes; or who are a clear and present danger of committing such crimes. In the current Arab conflicts, this population substantially overlaps with the leaderships and hardest-core memberships of ISIL, Al-Qaeda and their affiliates. This first group of fighters are unlikely to demobilize or reintegrate, even under optimal circumstances, and instead will more likely seek new theatres for their extreme

violence. Their extremism precludes negotiations about demobilization and reintegration strategies (Hellyer, 2016). Authorities will have little option but to neutralize this population, conducting conventional counter-terrorism missions, preventing their transit across international borders, disrupting their financing, and building intelligence networks to ensnare them.

The second population of concern consists of ideologues who have not committed war crimes or crimes against humanity, and are therefore candidates for reintegration back into society. In the Arab region, this population includes many foreign fighters who transited to the Syrian Arab Republic and Iraq for ideological reasons (or due to naïve notions), and probably includes most foot soldiers and support staff of the various non-State actors in those two countries, as well as the low-ranking “bureaucrats” in the ISIL apparatus. This population is vulnerable to religious or political appeals for renewed violence and, if left “untreated”, poses an ongoing risk to their countries of residence. Its members will need incentives to demobilize and reintegrate back into their societies. Most importantly, this population of former fighters will need exposure to de-radicalization programmes. The first generation of de-radicalization programmes emphasized religious re-education, psychological counselling and monetary incentives, with limited success. A second generation of de-radicalization programmes were more effective by emphasizing behavioural factors, repairing social and familial networks, and expanding career opportunities (Holmer, 2015).

A third population of concern is disillusioned former fighters attempting to return home and

restart their lives. De-radicalization is less critical for this population because the conflict has partially de-radicalized them already. Note that disillusionment does not necessarily stem from an abandonment of their ideology or from any revulsion at atrocities committed. De-radicalization and reintegration programmes are therefore likely to be helpful in lowering the risks of this group of former fighters.

Finally, a fourth population of concern includes former fighters who have been physically injured or psychologically traumatized by the violent conflicts across the region. Large numbers of both government and rebel fighters will fall into this category. War-related physical and psychological damage imposes profound costs on societies, both in direct costs of hospitalization, counselling and livelihood support, and in indirect costs in lost productivity. The budgetary costs of war veterans, when added to the costs of injured and traumatized civilians, will certainly be substantial, and they fall onto post-conflict countries with low revenues, bad public finances and damaged infrastructure. While this is financially challenging, quickly addressing the needs of this population will be important for post-war political stability and social cohesion, as war veterans typically form highly effective interest groups that are willing to mobilize mass protests to obtain pensions and medical care.

The four groups of concern each pose distinct risks to post-war Governments in Iraq, Libya, the Sudan, the Syrian Arab Republic and Yemen, and require distinct policy responses. Unlike the previous generation of DDR strategies, demobilization and reintegration

programmes for the Arab region must include a de-radicalization component in order to be effective. The institutional design process should begin well before the termination of combat.

DDR programmes have been criticized, however, for being lengthy, costly and difficult to implement. Once rebels demobilize, they lose their bargaining power and the State can renege on its promise to maintain the peace. This makes rebels reluctant to stop fighting and disarm (Walter, 1999). Some scholars have thus looked at the success of military integration instead of disarming groups (Glassmeyer and Sambanis, 2008; and Krebs, 2004). Merging armies is a way to reduce the number of foreign fighters who have to be disarmed and integrated into society. Merging armed groups is a process intended to make civil war less likely because it shows that both sides are committed to peace. Furthermore, merging armies creates employment opportunities for the most dangerous fighters, which may increase security enough for elites to take steps to resolve underlying disputes. The process of negotiating military integration can also increase trust among elites of different sides. Merging armies is also symbolic for the entire society given that the military can be a model of integration. Moreover, Licklider (2014) argues that integrating former combatants from all warring parties into a single army will decrease the risk of warfare. By joining a new national military, former combatants can mutually deter those that violate the agreement (Glassmeyer and Sambanis, 2008). Additionally, integrating the military makes it

more difficult for potential dictators to repress other groups (Walter, 1999,).

## E. Economic and social opportunities

Economic grievances and a lack of social justice are frequent instigators of conflict. Insufficient opportunities for personal and economic development raise the sentiment that nothing can be achieved under the prevailing socioeconomic model and lead to dissatisfaction and protests; a lack of decent employment lowers the opportunity cost of joining violent groups; an unequal distribution of revenues from natural resources and other sources sets off rebellions; violence brews in injustice and inequality. Redressing the economy and providing adequate sources of livelihood for all the population become essential components of peacebuilding strategies.

Once the violence stops, the priority is to provide basic services to the affected population. These should include extending essential health care for the wounded and adopting prophylactic measures to minimize the outbreak of infectious diseases; resuming educational services, particularly for younger school-age children; providing shelter and construction materials to repair the damages suffered by housing units; repairing essential communication and transport infrastructure; and providing fuel for the most critical activities. The inputs and human resources required for humanitarian responses should come from inside the affected communities in order to provide employment and sources of revenue. At the same time, an emergency programme to

kick start economic activity and generate employment should accompany the reconstruction activities, in coordination with the private sector, financial institutions and international community.

Economic and social policies become peacebuilding strategies when they tackle the root causes of conflict. Each conflict is different and economic policy therefore varies according to each situation. For instance, if conflict is fuelled by economic cleavages among ethnic or sectarian groups, some of which have suffered from long-term discrimination, reform options can include a framework that promotes employment for the disadvantaged groups, with reserved positions in the public sector and enhanced education and training programmes.

If the conflict originates from an unequal geographic distribution of public funds, particularly if they are obtained from natural resources, reform options could include a more decentralized fiscal structure, a transfer of financial autonomy to the resource-rich territories, a distribution of revenues from commodities according to a formula that considers the source of the natural resources, and fiscal and financial incentives for the diversification of economic activity. If violence originates from a high incidence of youth unemployment, a programme of skill development matching the needs of the private sector, and financial incentives to hire fresh graduates and other young people could help to alleviate the problem. Given that conflicts could also be triggered from long and painful economic downturns, frequently caused by a combination of external events and economic mismanagement, the priority

should go to designing, implementing and monitoring economic policy in an autonomous and efficient manner, and shielding the domestic economy from potentially damaging external shocks.

In the Arab region, there are many recent examples of protests and eruption of violence caused by socioeconomic grievances. High costs of essential items (food, fuel, housing), unreliability and poor quality of basic public services (energy, education, health care), lack of employment, economic inequalities (particularly when they are along ethnic, sectarian or tribal lines) have at one time or another fuelled conflict. Reliable social services and economic opportunities are thus critical for building peace in this region.

The long-term goal is to provide sustained economic growth and stable sources of income for the entire population. This can be achieved through an innovative and competitive private sector; robust financial institutions; access to domestic and international markets; a healthy and skilled workforce; and a public sector that supports economic activity, provides basic social protection and shields from external shocks. Strong, efficient and well-coordinated institutions that can carry out a development plan, guide economic activity and implement the most suitable policies are thus needed. Institutional preparation should begin as early as possible, even before arms are laid down.

## F. Institutional reform

Institutions are shaped by a particular constellation of actors, whose varied identities,

interests and capacities give way to the prevailing norms, rules and regulations. Strong institutions are essential in a post-conflict setting, particularly in the aftermath of a negotiated settlement, because they are critical to monitor and abide to peace agreements. Governments that have the institutional capacity to commit credibly to an agreement are better able to avoid relapse into conflict. Walter (1999) argues that civil wars are more likely to repeat themselves in weakly institutionalized settings. Institutions that limit the government's ability to act, which are outside the law, give combatants a more flexible negotiation partner. Negotiated settlements are easier to draft in countries that have a tradition of strong political institutions. Conversely, it is generally more difficult to design an enforceable contract in situations where information is poor and where there are few mechanisms to check behaviour. The uncertainty encourages violence. States with strong political institutions (for example, political parties and parliaments) able to check executive power can ensure that negotiated settlements are not easily reneged upon. Strong States are better able to implement negotiated agreements while weaker counterparts have a more difficult time committing to these agreements, owing either to a lack of will or capacity.

However, the relationship between institutions and conflict is not limited to peace agreements. In fact, many scholars concur that the institutional capacity of the State is critical in terms of ensuring that grievances are contained and to prevent violence (see Tilly, 1978; Goodhand, 2001; Braithwaite, 2010; Buhaug, 2010). This could be explained by a multitude of reasons, including the following:

- (a) Weak institutions are subject to be captured by groups that can capitalize on differences to serve their own political ends, thereby exacerbating tensions;
- (b) Institutions may aggravate ethnic or sectarian cleavages by consistently privileging some groups over others in terms of political and economic opportunities;
- (c) Weak political institutions could result in a lack of political opportunities and a ruling elite with low standards of accountability and transparency;
- (d) Prevalent corruption can be an important determinant of conflict given that it undermines trust in institutions, distorts the distribution of resources, harms State finances, affects public service delivery, and creates fertile ground for the thriving of non-State actors that can turn violent;
- (e) Overly centralized institutions may neglect the development of peripheral areas, generating inequalities and imbalances; this is particularly grave when one or some of the territories in the periphery are rich in resources and provide a big share of the State's revenue;
- (f) Discontent and tensions can originate from bad quality service provision, which results from inefficient, ill-prepared institutions that are unable to design and carry out sound socioeconomic policy;
- (g) A situation with an overwhelmingly strong army with political and economic interests and no civilian checks and balances could become a threat; and a weak and fragmented security institution with insufficient resources and an unclear chain of command would not

be able to counteract incipient manifestations of armed conflict.

It follows that institutional reform is an essential element of any peacebuilding initiative. Such a reform should not only address the grievances caused by the current institutional set-up, but also advance in tandem with other peacebuilding mechanisms, such as transitional justice courts, DDR programmes and plans for socioeconomic reconstruction.

In the case of Iraq, Libya, the Sudan, the Syrian Arab Republic and Yemen, the conflicts and instability are driven by several factors, including long-held grievances stemming from economic inequalities that have taken place along ethnic, sectarian and tribal lines; political exclusion of certain ethnic or sectarian groups; and large-scale corruption. These problems stem from overall weaknesses in the security, administrative, judicial and political institutions, which have facilitated the emergence of violent non-State actors and State-supported paramilitary organizations. Regional dynamics and their influence on domestic developments, in a context of weak institutions, have also played an influential role. Therefore, reforming the institutions in the Arab region should be of prime importance for easing the sources of conflict.

What are the key components of institutional reform in conflict-affected countries? While good governance is a commonly used term, it is often difficult to define in practice. Good governance is participatory, consensus-oriented, transparent, responsive, effective and efficient, equitable and inclusive. It follows the rule of law, fights corruption and allows for accountability. Good governance also takes into account the voices of

the most vulnerable; it is responsive to the present and future needs of society. In systems where good governance prevails, rules and laws are clearly stated, and provide predictability and stability. They are fairly applied to all and form a sound basis for conflict resolution through an autonomous judicial system (ESCWA, 2014b). Early conceptions of good governance argued in favour of a minimal State, with reduced public intervention in the economy and markets being used to deliver public services. This may work well in certain settings; however, others may require a State that is more involved in service delivery.

This report posits that the connection between good governance and conflict is strong. Chapter 3 presents the priority institutions that are critical to achieving good governance and the conflict-reducing impact they can have. Criteria are provided to describe what reform entails for each set of institutions, placing emphasis on capacity development. Prioritizing institutional reform is the best starting point to reduce the potential for violence relapse and transform out of conflict in a sustained manner.

## G. Conclusion

While countries have to set out their own immediate priorities, those that have successfully managed to exit violence have often relied on certain mechanisms that instigated progress. This chapter showed that a successful settlement involves ensuring democratic access to power, safeguarding the rights of minorities, and granting greater local autonomy or sharing power equitably. In order to protect the participation of all society groups, human rights provisions should form a central part of the settlement. Third-party monitoring

and enforcement may also increase the likelihood of success of the peace agreement.

Whether as part of a negotiated settlement or as a standalone mechanism, disarmament and demobilization of armed groups must take place. The command structures of armed groups should be dismantled, the number of weapons in circulation reduced, and advocates of human rights supported.

The reintegration and de-radicalization of former combatants should also be a priority in order to prevent conflict relapse. Integrating combatants back into civilian life is difficult, and those who are not sufficiently integrated will become socioeconomically marginalized. This, in turn, will increase the likelihood of relapsing into old criminal structures or creating new ones.

One of the goals of peacebuilding initiatives is moving a country towards reconciliation. Reconciliation is the process of achieving justice, searching for the truth, finding forgiveness, and helping groups understand how to co-exist with former enemies. This could be achieved through such instruments as national dialogue processes and transitional justice systems. Such mechanisms must be firmly anchored to universal principles, including the Human Rights Charter, embody equal representation and inclusion of different social groups, and allow for accountability, in order to address the public's needs and demands.

Given that economic grievances fuel conflict and that violence has a detrimental impact on the production infrastructure and physical and human capital, a priority of any post-conflict

plan should be designing policies that encourage stable economic development and reduce inequalities while providing humanitarian assistance to the most affected.

Finally, institutional reform is essential to transform out of conflict. It must target the way institutions are built and strengthen their ability to deliver services. Such a reform should allow an initial reorganization and legitimization of the institutional arrangements. However, it should also go beyond the initial phase of stabilization to a comprehensive reorganization of the judicial, administrative, security and political sectors. The reforms should facilitate the establishment of an inclusive nation-building process, while providing institutional channels for effective resolution of conflicts that will guarantee long-lasting stability.

The comprehensive implementation of reforms in national institutions is a slow and lengthy process. Reforms are iterative, and decision makers at the early transition stages will often have to prioritize certain reforms at the expense of others. Institutional reforms need to follow the public pulse on dealing with the past and be based on human rights. A sequential and inclusive implementation process should be developed to mitigate the likelihood of conflict relapse.

The elements of institutional reform proposed in the following chapters discern triggers and peace enablers that are key areas of transformation and that, as part of a broad peacebuilding initiative, can provide hope towards achieving durable peace in the conflict-affected countries of the Arab region.





### 3. Governance and Institutional Reforms as Peacebuilding Mechanisms

Chapter 2 identified some of the mechanisms that have been effective in building durable peace in post-conflict situations. The priorities and type of interventions vary from conflict to conflict and from country to country. However, institutional reform has consistently featured as an essential element in addressing the grievances that triggered a conflict and, therefore, in reaching a lasting peace.

What are the priority institutions? While this depends entirely on the conflict, reforms are generally required in all institutions to varying degrees. In order to organize the analysis, the rest of the report classifies State institutions according to the following four broad categories:

- (a) Security institutions, including the military, police, border and customs agencies, intelligence and investigative organizations, and the institutions of oversight;
- (b) Administrative institutions, including those that provide education, health-care, welfare, water, energy, waste management, transportation and communication services; safeguard the environment; build infrastructure; collect taxes; implement economic policy; work towards reducing poverty, and promote entrepreneurship and industry;

- (c) Judicial institutions, including courts, judges, statutes, investigative magistrates, prosecutory bodies and public defenders, bar associations, all of which aim to establish the rule of law;
- (d) Political institutions, including parties, legislatures, electoral and party laws, lobbies, syndicates and interest groups.

This chapter identifies the key elements of reform in each of these four institutional groups from a general perspective, with some illustrating examples from the Arab context. The specific situation of Arab countries currently affected by conflict and the transformations required are the subject of chapter 4.

#### A. Security institutions

Reform of security institutions is critical for countries in conflict, not only for achieving peace, security, safety and justice, but also to enable wider transformations in the political, economic, and social realms. As stated by the United Nations Security Council (2007), "reforming the security sector in post-conflict environments is critical to the consolidation of peace and stability, promoting poverty reduction, rule of law and good governance, extending legitimate State authority, and preventing countries from relapsing into conflict... a professional, effective

and accountable security sector and accessible and impartial law-enforcement and justice sectors are equally necessary to laying the foundations for peace and sustainable development.” The Security Council also underlined the importance of such reform beyond post-conflict settings: “Recent events in Egypt, Libya, Mali and Tunisia, and diverse contexts such as Afghanistan, Iraq and Somalia, re-emphasize the relevance of security sector reform as a necessary tool for political transition and governance” (United Nations Security Council, 2013).

Unaccountable, non-transparent and authoritarian security sector actors can derail transitions: security sector reform is therefore an enabler of broader transformations in countries in conflict. Security actors are also instrumental in preventing conflict relapse or protecting societies from such horrors as those perpetrated by ISIL (Sayigh, 2015b).

High-quality security institutions are not necessarily characterized by their size, but rather by their structure and the types of functions that they perform (Janowitz, 1988, p. 7). High-quality institutions are professionalized, meaning that they are adequately trained, organized and funded, and are internally cohesive (Brzoska, 2003; and Huntington, 1957). Professionalized security institutions should deter foreign aggression; provide political actors with expert, timely advice on military issues; be successful in war and other military operations; and protect the State and society from external and internal security threats.

In addition to being professionalized, high-quality security institutions are also accountable to

civilians. This protects citizens from abuse of power by the security forces, while restricting interference of these forces in the political sphere. Security actors should also avoid being involved in civilian affairs, such as entrepreneurship, given that this distracts them from their prime objective of protecting the nation.

Three features characterize high-quality institutions:

- (a) *Professionalization*, entailing rigorous training, a clear internal chain of command, merit-based recruitment and promotions, and sufficient budgets. This lowers the likelihood of corruption, disincentivizes political interference, increases performance in combat and ensures effective law enforcement;
- (b) *Centralized military command structure*, enabling monopoly over the use of force and guaranteeing its legitimacy. The military forces should not be forced to compete with parallel armies or personal security units. The creation of parallel armies, in particular, severely undermines the legitimacy and effectiveness of the central military forces;
- (c) *Accountability*, entailing civilian oversight of the security sector. This reduces the likelihood of rogue behaviour and protects the boundaries between the security and political spheres. Security actors should not be involved in civilian activities.

Security institutions that are characterized by these features are of high quality; those that possess one or neither of them are not. Security institutions that are professionalized but not accountable to civilians can easily interfere in politics and stage coups (Perlmutter, 1969; and

Moran, 1999). As a well-organized and effective body, they possess all the tools to do so. By contrast, security institutions that are accountable to civilians but are not professionalized are incapable of providing security. They are largely impotent and, as a result, leave their citizens unprotected and vulnerable to threats. Security institutions that compete with parallel armies do not possess a monopoly over the use of force and their resources are siphoned off to units that are assigned to protect the regime rather than the State. Professionalism, centralization and accountability to civilians are therefore all needed.<sup>1</sup> These three features are discussed in more detail below.

## 1. Professionalization

Professionalization refers to the organization and expertise of the security apparatus as a whole. Licklider (2014) argues that the creation of a well-trained and professional army is a critical step towards ensuring a sustainable peace. When security institutions are not professionalized, they are often unable to maintain the rule of law or basic security. Ineffective security institutions can lead to security dilemmas where groups cannot rely on the State to defend them against enemies and have an incentive to mobilize for war in self-defence (Paris, 2004, p. 173). As stated above, a weak security sector creates a void that can be easily filled by violent non-State actors, which constitutes a major challenge in the region. Professionalization requires rigorous training, a clear internal chain of command, merit-based recruitment and promotions, and sufficient budgets. Each of these elements is examined below.

Military colleges and/or special training programmes provide specialized knowledge and clear recruitment paths. They can be used as barriers of entry to the security forces and of promotion within (Moran, 1999, p. 45; see also Bellin, 2004, p. 146). Rigorous training is thus a key part of professionalization. It ensures that security personnel have the proper knowledge to carry out their responsibilities and are prepared for combat.

Proper training programmes use modern curriculums that combine physical and psychological preparation, technical expertise, morale building and organization (Moran, 1999). They focus on integrity and fighting effectiveness. They provide members with the skills necessary to work effectively, exposing them to new technology, increasing their proficiency with weapons and helping them to coordinate tactical movements. They also improve their ability to adapt to new environments by exposing them to potential environmental changes and training them to respond appropriately (Huntington, 1957).

Rigorous training programmes also instil the values of the security institutions in the trainees, particularly accountability to civilians. They seek to create “a corporate spirit, or esprit de corps” (Lee, 2005, p. 85), which contributes to a “sense of organic unity and consciousness of [trainees] as a group apart from laymen” (Huntington, 1957, p. 26). Trainees develop a corporate identity that is distinct from that of civilians (Bellin, 2004). This process increases the internal cohesion of the security forces, which enhances their effectiveness.

For example, the Libyan military under Qaddafi was unable to coordinate its activities owing to a lack of training. The few units in Libya that were capable militarily were under the command of Qaddafi's son, Khamis. This made the military "incapable of coordinating the efforts of artillery, armour, and infantry" (Gaub, 2013, p. 40).

The entry requirement ensures that members of security institutions are selected based on merit, rather than on their political ties, social status or ethnic group. This is important given that it helps to prevent the security institutions from using their strength to discriminate against individuals who do not share their views or background (Brzoska, 2006). Given that only individuals who have completed the training programme can enter the security apparatus in the first place, those individuals who lack the proper skills and aptitude are weeded out, which increases the calibre of the State's security institutions as a whole.

The second element of professionalization is a clear internal chain of command. This means that the hierarchy and structure of the security apparatus is well defined and obvious to personnel. Members of the security institutions know who their superiors are and whose orders they are required to follow. A clear internal chain of command is important because it increases the security sector's effectiveness; it enhances its ability to perform well in combat (MacDonald, 1997).

For example, the chain of command in Libya under Qaddafi was intentionally confusing. Ranks and titles had little meaning and it was unclear

what each individual's responsibilities were. Captains, for example, occasionally reported to individuals with no rank (Black, 2000, p. 10). Military personnel were not allowed to rise above Qaddafi's own rank of colonel. The goal of this set-up was to ensure that "ambitious underlings" were kept in check by being played off one another: "No one outside Libya – and perhaps even inside – knows for sure who controls exactly what. The vagueness and obscurity of this system was Qaddafi's own design, intended to confuse potential competitors within the regime" (Black, 2000, p. 10). The military was divided into different organizations that had little contact with each other, with the intention of preventing any single group from gaining a monopoly. This caused Libyan forces to suffer in terms of cohesiveness, motivation, and effectiveness (Gaub, 2013).

The third element of professionalization is merit-based recruitment and promotion. Licklider (2014) highlights the importance of the military being communally balanced across ranks, given that it can serve as a symbol of the nation. Peace agreements that create a military balance, with equal representation in the national forces, are more likely to succeed (Walter, 1997, p. 351). Many non-professionalized militaries base their recruitment on family, clan, ethnic, religious and regional ties. Communal recruitment criteria affect the quality of troops. Conflicts may erupt in cases where the security forces only represent a particular ethnic group and start to lose strength (Goldstone and others, 2010). In cases where members of security institutions are recruited along ethnic, sectarian or regional lines, they may be reluctant to protect a particular ethnic group or region, and the

absence of security for minority groups can also lead to conflict (Burton, 1987). Minority groups that feel unprotected by the national security forces may create guerrilla units to fill this void in security. Posen (1993) argues that ground forces with strong ethnic group solidarity will encourage fear from other ethnic groups, and may lead to violent conflict (see also Kirwin, 2006).

Another problem with militaries that are recruited along communal lines is that in the face of popular uprisings – even legitimate or peaceful ones – they are more likely to fight until the very end. The composition of the security institutions and their relationships with their regimes explains, at least in part, the patterns of peaceful transitions and violent counterrevolutions following the Arab uprisings that began in December 2010. In professionalized militaries in Egypt and Tunisia, recruitment patterns are not entirely based on kinship and tribal affiliations. These militaries mostly stayed out of the fray during the uprising, acting as guarantors of stability and internal security as they deemed necessary. By contrast, militaries recruited along communal lines in Libya, the Syrian Arab Republic and Yemen adhered to the regime and refused to back down. These States subsequently descended into civil war.

In Libya, Qaddafi intentionally weakened his military by recruiting heavily from certain tribes and offering the regular army little training and few quality weapons. Only the regiment that was under his son's control was offered much training. As a result, Libya's military defected

and collapsed quickly under pressure and has been unable to reintegrate into a new institution. In addition, Qaddafi fostered fragmentation of his security forces in order to prevent a coup. Security and intelligence personnel were recruited primarily from the Margariha and Werfella clans. Family members were given key positions in the military and certain tribes were favoured over others (Black, 2000, p. 11). After his death, this led to infighting and instability (Gaub, 2013, p. 237).

Military recruitment in Iraq under Saddam Hussein was based on loyalty and personal ties, by contrast to the original policy of the Ba'ath Party. Party dossiers that carefully recorded the tribal associations of each member served as a tool for recruitment. Family ties were deemed most important, followed by tribal ties (Quinlivan, 1999, p. 139).

In terms of promotions, professionalized security institutions have "established paths for career advancement", such that "promotion is based on performance not politics" (Perlmutter, 1969, p. 388). Clear promotion criteria exist, and career advancement is based on individual qualifications. In addition, there are standards in place for pay and benefits, career trajectories and allocation of internal resources (Bellin, 2004).

Merit-based promotions help to increase the quality of the security apparatus and enhance bonding among personnel. This occurs given that there is a "dependable exchange between the service members and the institution, [such that] service member effort, loyalty, and

continuous performance are traded for a sense of elevated purpose, compensation... and career progression" (Siebold, 2007, p. 290). Such bonding increases the effectiveness of the security institutions, and potentially deters rogue behaviour among members of the security forces. Proponents of military conscription often argue that it can be harnessed to promote national cohesion by bringing citizens from diverse backgrounds into the same military units.

With merit-based promotions, career advancement is driven by qualifications, as opposed to shared political ties, ethnicity, or social class. This makes it more difficult for the security apparatus to develop its own narrow base of societal support, thereby decreasing its propensity to represent only particularistic interests (Feld, 1975; and Fields and Jensen, 1998).

The existence of clear, merit-based criteria for promotions also deters political actors from intervening in the internal hierarchy of the State's security institutions. As Brooks (1998, p. 46) writes, "the tinkering of chains of command for political reasons significantly inhibits the effectiveness of Arab armies". In addition, political interference with internal military promotions is known to be a major cause of military coups (Nordlinger, 1977; and Geddes, 2003). Establishing clear rules to dictate the criteria for promotions helps to limit this type of political involvement, thereby reducing the chances of a response from the security sector.

Merit-based promotions are therefore important because they increase the overall quality of security personnel, limit the development of security institutions that bias a single ethnic or

other social group, and reduce the likelihood of civilian interference in the promotion process. In Libya, for example, promotions were based on loyalty and tribal affiliation, which undermined professionalism; and Qaddafi ruled on every single promotion himself (Gaub, 2013). Most often, Qaddafi promoted junior officers from his own tribe, while also allocating the most important posts to them, such as command of armaments and munitions. Other tribes, such as the Warfalla and Maqarha, also received some preferential treatment. A limited number of new officers were added following the coup attempt of 1993, and this badly bloated the upper ranks. In Iraq, Saddam Hussein never appointed any commander with a military background (Hosmer, 2007). Loyal if incompetent soldiers could be promoted whereas capable but possibly disloyal officers were demoted and put on long-term assignments (where they could lose their qualifications). Worse yet, they could be fired altogether or executed (Owen, 2002).

The fourth element of professionalization is adequate budgets, meaning that the security institutions are allocated enough financial resources to compensate and equip personnel, and carry out operations and maintenance (MacDonald, 1997). It is important for members of the State's security institutions to receive appropriate salaries, regardless of how serious the fiscal constraints of the State become, given that failure to do so can prompt decisions to intervene politically (in other words, stage coups) and can increase the likelihood that personnel will engage in rogue behaviour.

Sufficient budgets that are relatively secure from predatory corruption are also important because they ensure that the State's security

apparatus has enough resources to be able to defend the country and its citizens from threats. An underfunded security sector cannot ensure the security of the population (Wulf, 2004, p. 5). As Diamond and Plattner (1996, p. xxxii) point out, militaries can completely disintegrate owing to “the failure of the leadership to properly feed, pay, clothe, and generally care for the army”. The provision of security requires resources to be devoted to this effort. In some cases, States that have poorly funded security apparatuses allow paramilitary groups to “do the dirty work or occupy the spaces created by the de-legitimization of the legal order” (Koonings and Kruijt, 2004, p. 7).

## **2. Centralized military command structures**

The second criterion of high-quality security institutions is centralization. In theory, the national armed forces should be the most well-trained, well-paid and well-equipped security unit in the country. Often leaders in non-democratic countries are obsessed with their own personal survival. Governments have often tried to “coup proof” their regimes by creating parallel security forces that could offset the inherent power of the armed forces. The armed forces should not be forced to compete with other parallel armies (Quinlivan, 1999). It is noteworthy that institutional multiplicity is just one coup-proofing strategy, among many.

The creation of parallel military armies undermines the quality of the regular security institutions given that parallel armies weaken the capacity of the centralized armed forces and undermine their effectiveness (Bratton and

Chang, 2006, pp. 1060-1061). These parallel groups are only concerned with providing regime security, rather than State security. While providing some short-term security for rulers, they contribute to the distribution of weapons and military expertise more widely in societies (Reno, 1999). This strategy also risks creating autonomous centres of violence, despite a ruler’s best efforts to balance and divide these agencies. Parallel armies have often gained a life of their own, eroding State control (Bratton and Chang, 2006, pp. 1060-1061).

Moreover, resources that should be spent on the centralized military are wasted elsewhere. Libya created parallel military structures that eroded its military professionalism. The armed forces grew in size from 7,000 in 1969 to 85,000 in 1988 (Gaub, 2013). The Revolutionary Committees in Libya served as parallel institutions to the regular military (Kamrava, 2000, p. 82). In Iraq under Saddam Hussein, parallel organizations were created with overlapping responsibilities. Resources were often used up by parallel units, which caused the regular military to face severe limitations. While the parallel units were given training, the regular military was given little training, guidance or equipment. When forced to face Iranian attacks during the Iran-Iraq war, the regular army frequently collapsed (Quinlivan, 1999, pp. 144, 145).

Another new phenomenon is the hybridity of the security institutions. Hybridity is a term to describe State institutions that rely on interaction with such non-State actors as militias. A government may try to incorporate multiple types of authority and subcontract



militias to provide security or co-opt them to prevent them from challenging the national military. While this tactic is often used out of necessity, the existence of other militias has a direct effect on the legitimacy of the State. This phenomenon is not exclusive to fragile States, given that strong, developed countries have equally turned to private security companies in recent episodes of conflict.

### **3. Accountability to civilians**

The third critical feature of high-quality security institutions is accountability to civilians.<sup>2</sup> Security institutions must answer to civilians, represented by the State's political and judicial institutions.<sup>3</sup> Accountability to civilians is characterized by a number of factors (Hänggi, 2003). The first is the existence of a constitutional and legal framework that separates the powers of the security actors from those of other institutional actors. Such a framework delineates institutional checks on the security forces and clearly states their responsibilities. Regardless of whether these checks are respected in practice, without them, the lack of accountability is certain.

The second factor is civilian control over the security sector, as reflected in the placement of civilians in top positions of security-related ministries, such as the ministries of defence and interior. Within these ministries, civilians control the direction of policies. This ensures that, while security institutions maintain their own internal hierarchy, the upper echelon, where decisions are made, is dominated by civilian actors.

The third factor is legislative oversight of the State's security institutions. This means that the

legislature has the power to approve security budgets, implement laws pertaining to security, play a role in security strategy and decisions over troop deployments, and hold inquiries and hearings related to security activities. Legislative oversight provides another institutional check on security institutions, subjecting them to monitoring and keeping in line any efforts they might engage in to interfere in politics.

The last factor is judicial oversight of the security institutions. This means that the behaviour of security personnel is subject to the civilian justice system, aside from military disciplinary matters. Judicial oversight is important given that it can help to deter rogue behaviour on the part of security personnel.

Accountability to civilians is important firstly because it reduces the likelihood of political interference by the State's security institutions, namely the military, which is dangerous for the stability of the State (Perlmutter, 1969). Frequent coups are both politically and economically disruptive. Such interventions also blur the lines between the security and political spheres, which is detrimental to democracy. A large number of international bodies have adopted resolutions on accountability of the security sector to civilians as a critical feature of democratic governance (Hänggi, 2003).

Second, accountability to civilians and oversight also lessen the risk of rogue behaviour, ensuring that security actors operate under the rule of law (Brzoska, 2003).

Third, accountability to civilians is important in preventing inefficient use of funds and corrupt procurement practices. The government should

encourage the military to use allocated resources in a productive and efficient manner (Tan, 2009, p. 28).

## B. Administrative institutions

Notable scholars, including Huntington (1968), have articulated the importance of administrative institutions in managing instability brought about by rapid social changes, such as those related to development. Huntington argued that it is not the form of government that matters, but the degree of government. Skocpol, Evans and Rueschemeyer (1985) made a forceful argument that scholars should bring the State back into the analysis of any policymaking process.

Indeed, administrative institutions constitute the core element of the State. They are responsible for education, health care, water and sanitation, welfare and poverty reduction, industrial and entrepreneurial support, agriculture, energy, taxation, economic policy, the environment and citizen services.

Governments should have the capacity to identify problems, formulate policies to respond to them, implement activities in pursuit of policy goals and sustain these activities over time (Grindle and Hilderbrand, 1995; and Paris, 2004, p. 173). None of this is possible without strong and capable administrative institutions with the technical expertise to implement policy changes and to offer a host of services. Administrative institutions are also important to enforce contracts, resolve disputes and support growth by providing opportunities for groups to

develop economically (Paris, 2004, p. 173).

In general, poorly functioning bureaucracies create impediments to economic growth and poverty reduction (Smith, 2007; and Khan, 2008 and 2015), and strong administrative institutions are critical to development and peace.

But how do poor quality administrative institutions make conflict more likely? First and foremost, administrative institutions should provide public goods and public services. Failure to do so makes the State illegitimate in the eyes of its citizens (Englebert, 2002). In fact, Thyne (2006) found that those States that provide public goods (such as education and medical services) have a lower risk of civil wars erupting. Peace may be more likely in countries that redistribute funds to a large constituency and States that are able to allocate funds to marginalized groups can reduce the risk of conflict (Buhaug, 2006). States that are more capable are also better able to address the needs of all their citizens and to placate grievances and de-escalate dissent. This makes it more difficult for rebels to organize. How States allocate benefits, such as in the form of construction contracts or public employment, may buy off potentially problematic segments of the population (Acemoglu, Autor and Lyle, 2004; and Bratton and Van de Walle, 1997). On the other hand, when low quality administrative institutions deliver goods or contracts based on ethnic loyalties, this may make minority groups feel excluded and lead to challenges to the State (Lipschultz and Crawford, 1996). This is known as distributive injustice.

High-quality administrative institutions mirror the bureaucratic ideal type identified by Max

Weber. For this reason, they are often referred to as Weberian administrative institutions. It is important to note that, in Weber's view, the bureaucracy consists of a set of competent and professionalized administrative institutions, in contrast to patrimonial government administrations. To Weber, a bureaucracy is the optimal type of administrative institutional structure in a State. While the current tendency is often to conceptualize bureaucracies as administrative institutions that can vary in their organizational strength and capacity, Weber uses the term bureaucracy to reference organizationally strong and capable administrative institutions (Evans and Rauch, 1999, p. 749).<sup>4</sup> For the avoidance of doubt, this chapter uses the term "administrative institutions" where possible, rather than the term "bureaucracy".

In his foundational book, *Economy and Society*, Weber emphasizes the importance of administrative institutions in providing the State with the structure required for capitalist growth (Weber, 1978; and Evans, 1992, p. 146).<sup>5</sup> Ideally, administrative institutions consist of a formalized, standardized, hierarchical, and specialized bureau with professional staff that enjoy merit-based, tenured career advancement. These officials are concerned with "carrying out their assignments and contributing to the fulfilment of the goals of the apparatus as a whole" (Evans, 1992, p. 146). The action of administrators should be predictable, transparent, based on objective methods and follow uniform procedures (Brinkerhoff and Goldsmith, 2002).<sup>6</sup> They are hired and promoted based on their levels of expertise and competence, rather than on their political affiliations or connections. The State provides

them with long-term career rewards and high salaries to give bureaucrats incentives to maintain their positions within the State apparatus, establish consistent norms within it, and minimize the lure of engaging in corrupt activities, such as trying to supplement their salaries with bribes. The result is an administrative institutional structure that is capable of fulfilling its responsibilities, carrying out the mandates of the State and meeting the needs of citizens.<sup>7</sup>

Low-quality administrative institutions, by contrast, lack these features. They are often referred to as patrimonial.<sup>8</sup> According to Weber, patrimonial administrative institutions are based on "personal relations of subordination... instead of bureaucratic impartiality" (as quoted in Hutchcroft, 1991, p. 415). In States with patrimonial administrative institutions, personal considerations, favours, promises and privileges dominate (Hutchcroft, 1991, p. 415).

With patrimonial administrative institutions, there is no separation between the "private" and the "official" spheres, making the State's administrative apparatus easily politicized. The administration of the State is viewed as a "purely personal affair of the ruler, and political power is considered part of his personal property which can be exploited by means of contributions and fees" (Weber, 1978, pp. 128-129).

Personal and political connections drive hiring and promotion decisions, such that civil servants lack the competence of their peers in Weberian administrative institutions.

Recruitment is often based on kinship or loyalty (Weber, 1978, pp. 343-347 and 351-352).

For example, senior government jobs in Yemen

were doled out by former leader Abdullah Saleh, based on personal and tribal connections (Alley, 2010).

By contrast to Weberian institutions where the purpose of administrative institutions is to implement policy, the purpose of patrimonial institutions is to supply jobs and dole out patronage. Many of those hired have few skills to offer. Even in the face of budgetary pressure, public employment is maintained (Hydén, Court and Mease, 2004, p. 8). Some Governments in the Arab region have also been accused of being more preoccupied with securing public employment than ensuring the quality of the civil service.

In many cases, civil servants are underpaid and can be dismissed for no reason. Moreover, civil servants in patrimonial administrative institutions also have “staccato” careers (Evans, 1995). Rapid turnover of personnel makes it difficult for any one group to gain experience and knowledge. While regularly rotating positions of civil servants may prevent anyone from developing their own power base, it also prevents the emergence of an “esprit de corps” in the workplace (Bratton and Van de Walle, 1994, p. 463). Long-term commitment to their agency is weak as a result. In addition, given that civil servants are often underpaid and lack job security, they are easily enticed by bribes and prone to corrupt activity and arbitrary behaviour. As a result, patrimonial administrative institutions are incompetent, ineffective and incapable of fulfilling their duties. In some extreme cases, patrimonial institutions can become predatory. Administrative institutions are referred to as

predatory when they extract resources from society without providing any public benefits (North, 1981, p. 22; Evans, 1995; and Kocher, 2010, pp. 141-142).

High-quality administrative institutions have three features that define them (Dahlström, Lapuente and Teorell, 2011:

- (a) *Meritocratic recruitment and promotion*: Civil servants are hired and promoted based on their competence and the needs of the State, as opposed to their political or elite ties;
- (b) *Salary competitiveness*: Civil servants are paid sufficiently to deter their propensity to engage in corrupt behaviour;
- (c) *Autonomy*: Civil servants have career stability, tenure and special laws that cover the terms of their employment.

Administrative institutions with all three of these features are of high quality (in other words, Weberian); those that have none of them are of low quality (in other words, patrimonial). In practice, many institutions have some, but not all, of the features identified and fall somewhere in between the two (Dahlström, Lapuente and Teorell, 2011). These three features are discussed in more detail below.

## 1. Meritocratic recruitment and promotion

Meritocratic recruitment and promotion refers to hiring and promotion decisions that are driven by an individual’s qualifications, as opposed to personal and political affiliations. The fundamental principles of merit in administrative institutions are competitive examinations; selection and promotion based

purely on functional and technical points; and the absence of partisan political pressure (Emrich-Bakenova, 2009, p. 717). Administrative institutions that use meritocratic recruitment and promotion are sometimes referred to as professionalized (Dahlström, Lapuente and Teorell, 2011).

States have a number of tools at their disposal to ensure that merit underlies hiring decisions and promotions, as opposed to such other considerations as loyalty or kinship. For example, States can require candidates to meet certain educational levels in order to qualify for positions. They can also subject candidates to civil service examinations. These tactics not only provide consistency in recruitment and promotion standards, but also ensure that staff members possess certain levels of expertise.

As Hydén, Court and Mease (2003, p. 8) state, competence and therefore better performance stem from “competition based on merit rather than personal contacts or illicit payments”. Objective entry and promotion requirements, like these, therefore increase the likelihood that civil servants will be competent (Evans and Rauch, 1999, p. 752).

Beyond raising the competence levels of civil servants, meritocratic recruitment and promotion also help to generate institutional coherence and esprit de corps, which can increase the motivation of individual officials (Evans and Rauch, 1999, p. 752). When officials believe that they and their colleagues have attained their positions owing to common similar abilities, “they are more likely to internalize shared norms and goals than are those who know they owe their office to the favour of a particular kinsman

or patron” (Evans and Rauch, 1999, p. 752). This can foster allegiance to colleagues and the organization itself.

When recruitment is based on kinship or loyalty, by contrast, civil service examinations are not necessarily used. In addition, whether a candidate meets hiring criteria (where these exist) is rarely verified. The staffing of administrative institutions is instead viewed merely as a vehicle for governments to distribute benefits. Additional positions are created solely to give governments greater opportunities to reward supporters. In some cases, these patronage practices have created jobs for women, leading to their higher concentration in the State bureaucracy.

Similarly, when a narrow set of ethnic, sectarian or tribal groups dominate public administration recruitment exclusively or preferentially this produces resentment and grievances from those excluded, thereby compromising the legitimacy of the regime and increasing the potential for communal violence. For divided societies, the distribution of occupations that denote economic and political power matter, as does the distribution of goods and resources. If certain groups feel that the rules for the distribution of jobs and goods do not use a merit-based process, this can foment feelings of injustice and discrimination (Esman, 1997).

Power-sharing institutions – or, more broadly, consociational institutions – have long been touted as a solution to alleviating tensions in divided societies (Sisk, 1996; Lake and Rothchild, 1996; Schneckener, 2002; and Lijphart, 2007). At the administrative level, this amounts to different communities being

promised a share in the civil bureaucracy in proportion to their numbers and access to higher education and to public services. Where possible, services are provided in the language of each community. While competition for recruitment in public jobs is encouraged within communities, intercommunal competition is regulated to ensure harmony among communities. When communities are spatially concentrated, some territorial autonomy can be granted, which allows the community to administer their own local bureaucracies. Power-sharing entails regarding all communities as important.

When administrative institutions lack meritocratic recruitment and promotion, favouritism and patronage dominate, leading to an un-professionalized administrative apparatus. As Emrich-Bakenova (2009, p. 717) argues, the “extension of political appointees deep down the hierarchy distances top echelons of political power from rank-and-file civil servants, complicates the flow of information in both directions, disturbs continuity, and creates instability in the reform process”. Given that personal and political ties pervade the State’s administrative institutions, officials are less apt to use their positions to perform public service, viewing them rather as vehicles to attain personal wealth and status (Bratton and Van de Walle, 1994). This is magnified by the fact that governments in these contexts often opt to pay civil servants through “privileges” (in other words, access to rents), as opposed to stable and predictable annual salaries. Such privileges vary in magnitude depending on the particular official’s loyalty to the government (Weber 1972, pp. 342-347 and 351-352).

## 2. Salary competitiveness

In the Arab region, evidence on public-private wage differentials is scarce. The comparison is complicated by the fact that “public sector jobs generally offer superior non-wage benefits, such as job security, health benefits, paid vacations, sick leave, etc.” (Assaad, 2014). Labour market data from Egypt from 1988 and 1998 showed a positive differential of 20 per cent in wages favouring male workers in the private sector, when controlling for education and experience. The situation for female workers, however, was the opposite in the public sector, where wages are higher by 10 per cent compared to private sector levels. Wage differentials in Egypt are in favour of the public sector for both men and women (Said, 2009). By contrast, in Jordan, it is estimated that public sector wages are lower than private sector wages by approximately 8 per cent for men, but higher by 17 per cent for women. Nonetheless, here too, the non-pecuniary benefits are likely to be substantially more important in the public sector (Said, 2013). Preliminary evidence suggests that public sector wages in the Arab region are not low when compared to wages offered in the private sector.

## 3. Autonomy

Autonomy is linked to the extent to which there are guarantees of career stability and internal promotions for civil servants. Administrative institutions that are autonomous offer civil servants long-term careers and give them protection in their employment.<sup>9</sup>

A consequence of autonomy is that it reduces the turnover of staff within administrative

institutions. When employees know that there are rewards for working for an organization over a long term, they have an incentive to maintain their posts. One such reward is tenure or the provision that after a set number of years, employees are protected from dismissal. Tenure not only helps to attract high-quality individuals to civil service positions, but also motivates them to continue working for an organization. Other rewards, such as laws that protect the terms of employment, serve a similar purpose. They reduce staff turnover, which in turn increases corporate coherence (Evans and Rauch, 1999, p. 752).

A key feature of autonomy is the use of internal promotion, in which high-level positions in an organization must be filled by either current organization employees or other members of the civil service (Rauch and Evans, 2000, p. 52). These promotions are based on a set of clear standards and guidelines. This practice has a number of positive consequences. First, it gives staff incentives to operate in the long-term interests of an organization, both because their own time horizons within the organization are long and because doing so increases their chances of moving up the organization's career ladder (Cho and Porumbescu, 2011). Internal promotions also increase the bond among civil servants such that a "sense of commitment to corporate goals and 'esprit de corps' develop" (Rauch and Evans, 2000, p. 52; and Cho and Porumbescu, 2011, p. 5), thereby increasing the long-term stability of the organization. These practices help to improve performance of the administrative institutions as it has been noted that "insecure people do not perform well" (Wilder, 2009, p. 21).

Moreover, autonomy in administrative institutions protects these bodies from politicization. When it is difficult to dismiss civil servants (either due to laws protecting them or tenure) and when promotions for certain positions are done internally, political leaders and elites are less able to intervene in staffing decisions. In such contexts, civil servants cannot be dismissed based on their lack of political loyalty, and political officials cannot use their positions as a tool for punishing opponents and rewarding supporters. Many leaders, for example, regularly rotate positions to prevent rivals from developing a power base; autonomous administrative institutions put limits on such a practice (Bratton and Van de Walle, 1994, p. 463).

### C. Judicial institutions

Judicial institutions are clearly important for stability. Institutionalized judiciary performs several key functions: punishing violent crime and property crime, reducing corruption, promoting the rule of law, defending human rights, enforcing contracts, and mediating and adjudicating various disputes. By doing so, it directly prevents conflict and maintains stability, and reduces the demand for retributive justice, the likelihood of revenge killings or the violent appropriation of wealth.

States with diverse communities face persistent tension and need a dispute resolution system. Legal processes, such as mediation and arbitration, are important to resolving disputes. Consequently, the constitution and the judicial institutions must be carefully designed to take into account the dynamics of communal

conflicts. Those institutions must function adequately to perform the complex tasks assigned to them. In addition to alleviating communal tensions, the judiciary also provides an effective check on powerful leadership. Political leaders who do not face an independent judiciary are free to use power to serve their own interests.

The link between security and judicial institutions is important. The judiciary depends on security institutions to be able to deal effectively with violent individuals or groups. Conflicts will persist if judges are afraid to hand down judgments that may punish violent non-State actors who have broken the law. Allowing such actors to conduct violations with impunity causes the public to lose confidence in the State and may increase the resolve and confidence of these violent actors to challenge the State. Strong judicial institutions also help elites to commit to the political terms of a peace agreement (Walter, 1999, p. 2). Such an agreement cannot be enforced without strong judicial and legal institutions (Walter, 1997, p. 335; and Humphreys and Weinstein, 2007).

High-quality judicial institutions hire well-trained officials and staff based on merit. The assignment of judges to cases is also driven by qualifications, as opposed to political affiliations or leanings. A complex case management system exists, in which the assignment of judges to cases, the expenditures involved in cases and proceedings, and the reasons upon which decisions are based are publicly available and easy to monitor. Judicial decisions are rooted in legal guidelines and precedents, and are

consistent from one case to the next. The judicial apparatus is properly funded and can handle cases efficiently and adequately. Salaries are also competitive to minimize the lure of bribery, and disciplinary procedures exist and are enforced for officials who behave unethically. In States with high-quality judicial institutions, citizens have trust in “the system” and its ability to arbitrate in a fair and consistent manner.

Societies with low-quality judicial institutions suffer from several negative outcomes. Judicial officials can engage in unethical behaviour with few repercussions. Those who deliver unpopular decisions have little protection from political retaliation. Insufficient or erratic financial resources are dedicated to the judiciary, and budgets are often tampered with for political goals. Decisions are driven by political motivations or bribery, rather than based on existing laws or legal precedents. When similar cases are heard, judgments issued by one official may differ dramatically from those issued by another. Case management systems, where they exist, are unclear and not complex enough. Information such as why a particular judge was assigned to a case, the reasons upon which he/she based the ultimate decision and how much expenditure was involved in the case is unavailable for public scrutiny. As a result, citizens cannot rely on the State to enforce laws in an unbiased and consistent fashion. This gives laws little de-facto significance and makes judicial decisions seem arbitrary.

Low-quality judicial institutions are also characterized by high levels of political



interference. “Telephone law” is a term used to describe the “legal framework” of countries wherein party and government leaders habitually contact the judges to direct the outcome of a case. In some countries, judges have to be party members and they are unable to ignore the “advice” dictated by the party line. Judges are appointed for fixed terms, usually for five years, and the office can be terminated at any time. How long judges are kept in office and whether their terms are extended depend on how well they execute their decisions in the light of given instructions. The judicial budget forms a part of the government budget, and all benefits for judges, ranging from housing allowances to tuition fees for their children, are subsidized by the executive. The judiciary is therefore not perceived as an independent and impartial body accessible by the public to seek justice and protect their legitimate rights. Instead, people use the courts only when they have no alternative. All these factors have set a foundation for the dependence of the judiciary in many transitional countries (Dung, 2003, p. 8).

There are a number of key features that define high-quality judicial institutions, including the following:

- (a) *Independence*: The government and other sectors of society do not affect how cases are decided; rather, judgments are made based on the understanding of the law by well-qualified judges. Budget allocations are not politicized and officials are protected from political retaliations for their decisions;
- (b) *Integrity and accountability*: Ethical standards of conduct for judicial officials exist and are enforced;
- (c) *Transparency and efficiency*: Complex case management systems are in place that ensure standards are adhered to in the assignment of cases to judges and other officials, allocation of financial resources, and logic underlying judicial decisions and that the judicial process is swift and costs are minimized;
- (d) *Equal access*: The judicial system is equally accessible and available to any citizen regardless of their income or geographic location (Prillaman, 2000; and Staats, Bowler and Hiskey, 2005).

Judicial institutions that have all these features are of high quality. Within them, citizens can expect laws to be interpreted and enforced in a clear and consistent manner (Prillaman, 2000; and Messick, 1999). Judicial institutions that lack these aspects are of low quality. Within them, arbitrariness dominates. These features are discussed in detail below.

## 1. Independence

Independence means that judicial decisions are rooted in the law and in legal precedent; they are not affected by the government or other actors. Independent judicial institutions are free from political interference: individual judges make their decisions based on their interpretation of the law, rather than on political pressures or considerations. Huntington (1968, p. 20) writes that a “judiciary is independent to the extent that it adheres to distinctly judicial norms and to the extent that its perspectives and behaviour are independent of those of other political institutions and social groupings”.

Independence is perhaps the most critical feature of high-quality judicial institutions. It helps to ensure that judicial rulings are consistent across cases, giving citizens (as well as foreign investors) trust in the legal system. Regardless of whether they agree with the laws in place, they at least know what to expect out of the legal process. Without judicial independence, there can be no rule of law. When political actors influence judicial decisions, by contrast, how laws are interpreted will vary from one case to the next. In such a context, judicial decisions are arbitrary and capricious, and individuals lose faith in the legal system itself as a result. The average citizen needs to have confidence that the justice system can enforce basic regulations, which may be difficult without judicial independence (Fernández-Kelly and Shefner, 2006, p. 35).

Independence also allows judicial institutions to curb the power of other State institutions. It prevents the expansion of political powers by other government bodies, particularly the executive (Prillaman, 2000, p. 2).<sup>10</sup> Freedom from political interference enables judicial institutions to call attention to unconstitutional efforts on the part of government actors and keep their behaviour in check. For example, in many countries in the Arab region, as the executive became unaccountable, the courts have been unable to limit governmental power or protect individual rights (Widner, 2001).

In Libya under Qaddafi, a parallel judicial system of revolutionary courts was created in the 1980s. This system disabled many procedures and rights ensured by the traditional

court system. These special tribunals (military courts, the people's courts and the so-called revolutionary committees and courts) were instituted by Qaddafi to try political offences against the State and its leader. These parallel courts served as a control mechanism for Qaddafi, they undermined the supremacy of official court decisions and undercut the authority of the formal judiciary.

## 2. Integrity and accountability

Judicial integrity means that there are ethical standards of conduct in place for officials, as defined by the State. It can be assessed in a number of ways, including the frequency with which judicial officials participate in ethics training and/or recuse themselves from cases on ethical grounds, the percentage of judicial officials who comply with requirements for public disclosure of their assets and income, and the existence of ethical and disciplinary programmes and performance standards for officials (USAID, 2009).

The existence of ethical standards alone, of course, is not enough to ensure compliance. It is also critical for judicial officials to be held accountable for their actions. Accountability means that ethical standards are enforced through internal controls and non-political disciplinary commissions (Buscaglia and Dakolias, 1999, p. 4). In accountable judicial institutions, judicial decisions are subject to appellate review and budget allocations are audited. At the same time, to maintain judicial independence, judicial officials have the right to a fair hearing or review process and decisions on ethical violations are available to the public

(Buscaglia and Dakolias, 1999, p. 11).  
Disciplinary commissions also operate autonomously from the political sphere.

Accountability provides for more consistent and fair legal judgments, while also ensuring that judicial resources are not being wasted or dedicated to corrupt activities. The evidence indicates that accountability helps to increase the efficiency of the legal system, as well. For example, according to the World Bank (2002, pp. 118-119), “greater accountability of judges to the users of the judicial system has been more important in increasing its efficiency than the simple increase in financial and human resources”.

Beyond their clear potential for reducing corruption, integrity and accountability improve the quality of the State’s judicial institutions by increasing the likelihood that judicial officials will deliver judgments based on existing laws and legal precedents, as opposed to their own individual biases. This, in turn, makes it more likely that similar cases will be decided upon in a consistent manner, rather than varying in outcome and depending on the particular officials assigned to them.

Integrity and accountability also enhance the overall self-image of the judiciary, contributing to a set of institutions where honesty and ethics are valued. According to USAID (2009, p. 4), experience indicates that “judges, court personnel, and lawyers respond positively to thoughtful efforts to establish high standards of ethical conduct, create expectations of behaviour in conformity with those high standards, and maintain systems to motivate compliance”. This development of a positive

and cohesive esprit de corps can reinforce standards of ethics and officials’ adherence to them.

In the Arab region, judicial corruption is considered rampant because of the ease with which people are able to personalize exchanges involving the courts (Kuran, 2004, p. 106). In Lebanon, for example, the reputation of the judiciary is very poor owing to incompetent prosecutions and anomalies. Inconsistencies and cases of corruption have led to low levels of trust in the judicial institutions in the country (Mallat, 1997, p. 34).

### **3. Transparency and efficiency**

Transparency means that there is public access to how cases are managed. Efficiency means that cases are processed in an effective and economical manner. Complex case management systems are critical to both; they allow exposure of the judicial system to public scrutiny and reduction of transaction costs. Such systems aggregate information regarding the assignment of judges and other officials to cases, the allocation of financial resources within the judicial apparatus and the logic underlying judicial decisions, making it available for public review (USAID, 2009, p. 5).

Providing the public with information regarding judicial assignments decreases the likelihood that these assignments will be based on political leanings or affiliations. If the salaries and assets of judges are made public, conflicts of interests can be avoided. Offering information regarding how judicial resources are spent (including the costs of cases) helps to ensure that these resources are used efficiently.

The World Bank (2003) found that simplified and clear procedures are critical for the judicial institutions to function effectively. Procedures that are overly complex give more opportunities for officials to elicit bribes to move a case forward. Simplifying procedures decreases time and costs. Judicial procedures are often too cumbersome. As a result, laws are formally upheld and then defied in practice (Botero and others, 2003).

By making so much information transparent, complex case management systems have the potential to deter judicial corruption. They help to ensure that judges and other officials are randomly assigned to cases, and that there are clear records of case proceedings, which are two frequent areas of abuse in corrupt judicial systems. As USAID (2009, p. 10) points out, “where clerks of individual judges maintain case files in unsecure environments there is a substantial risk that documents, or even entire files, might disappear... [eliminating] a potential source of corrupt manipulation of judicial records”.

Most delays in litigation “are attributable to lax management by the judge in keeping the case moving toward decision” (USAID, 2009, p. 11). With complex case management systems in place, it is easier to identify and address the causes of judicial delays, thereby expediting the processing of cases (USAID, 2009, p. 11). This, in turn, increases citizen confidence in the judicial system by reducing the extent to which they are subject to judicial holdups. It can also ensure that everyone has equal access to justice, and not just those with political connections.

Complex case management systems offer citizens a record on which they can hold the State’s judicial institutions accountable: given that citizens are privy to judicial institutional activities, such as the productivity of judges and court personnel, they can monitor whether the judicial system is in fact functioning effectively.

The backlogs in the judiciary can lead to more breaches of contract that discourages firms from making investments and impedes access to financial institutions for new firms, thereby leading to shortages of capital (Chemin, 2009, p. 113).

In some cases, the independence of the judiciary is undermined by the existence of parallel courts. In the Arab region, responsibility has often been delegated to alternative courts, religious courts or extra legal authorities, such as the military (Owen, 2002, p. 29). In Tunisia, Islamic courts have sprung up which have been more efficient at handling issues than the Tunisian court system. However, these parallel systems weaken the legitimacy of the national judicial system.

In Libya, for example, there are low levels of trust in the judicial institutions given that this branch was stripped of all its autonomy during Qaddafi’s rule. The other problem is that the institutional void and the lack of a functioning judiciary has led non-State actors to take the law into their own hands, with thousands of people held in private jails outside the control of the national court system and without access to due process. The judiciary needs to be built up in order to constitute an independent branch of government, and so that its rulings – ideally

grounded on laws that are consistent with human rights – become supreme and readily enforced. The process through which the law is administered and enforced needs to be fair, efficient and accessible by all citizens. Courts can only fulfil their democratic checks and balances on the executive and the legislative branches if constitutional frameworks have been implemented that empower the judiciary and clearly demarcate its powers.

The funding of courts is therefore critical to a successful transformation from a state of conflict to a state of peace. The judicial institutions need to be given funding to help enhance their technical capacity to handle a large volume of cases and to provide a more complex case management system. The judicial institutions also need funding to provide the infrastructure for courtrooms. Funding for judicial institutions is important in order to uphold the laws of the Constitution and to ensure that the rule of law is abided by.

#### **4. Equal access**

Judicial institutions are also measured by how accessible they are (Prillaman, 2000). Accessibility means how much the judicial system is “equally available to citizens regardless of socioeconomic status or geographic location” (Staats, Bowler and Hiskey, 2005, p. 79; and Prillaman, 2000, p. 18). Consequently, access to the courts should not be dependent on income, influence or gender. Accessibility is often measured by examining the legal aid and public defender systems. Access is also measured by the time it takes to get a case heard and adjudicated, and the direct and indirect costs of litigation.

### **D. Political institutions: political parties and legislatures**

Absent or inadequate political institutions (electoral systems, political parties and legislature, among others) are considered an important factor that can cause conflict or make ongoing conflicts more protracted in countries that are ethnically diverse. While elections are an important part of the process to further democratic governance, they are meaningless without parties and legislatures. States with weak legislatures and parties lack the capability to implement policies, process societal demands, arbitrate between factions or provide credible commitments to different groups. Functioning political institutions are required to reconcile competing societal demands, creating non-violent avenues to influence government policy that also makes renewed violence less necessary. If institutions are incapable of processing societal inputs, individuals and groups have incentives to pursue their interests through alternative means, such as through ethnic, sectarian or tribal groups, or through violent means. Effective political institutions are needed to structure relations so that diverse groups can live together harmoniously.

Following the definitive work on polyarchy by Dahl (1971 and 1989), prevailing theories of high-quality political regimes identify two characteristic dimensions for institutional effectiveness, namely competition and participation. High-quality political systems incorporate mechanisms for competition and formal or informal opposition, up to and including alternation in the control of the government by major political actors. High-quality political systems also permit

participation from a full range of (loyalist) actors, including representatives from major political currents, social groups and economic classes. Legislatures and political parties are the most common institutions for ensuring competition and participation, even in autocracies or anocracies.

Political institutions in the Arab countries are among the most centralized, least accountable and non-competitive in the world. An assessment of the entire range of political institutions in the region, from presidencies and prime ministries, to cabinets, governorates, political movements and municipalities, would run several volumes. Two of the institutions whose reform is most critical for conflict-affected Arab countries are political parties and legislatures.

## 1. Political parties

Political parties are important primarily because they enhance the quality of representation and because of their role as a stabilizing factor. Scholars have noted that a highly institutionalized political party is the one prerequisite for stability, arguing that "States with one such party are markedly more stable than States which lack such a party. States with no parties or many weak parties are the least stable" (Huntington, 1968, p. 91). Parties are institutionalized when they are autonomous, coherent, rooted in society and have high levels of organization (Mainwaring and Torcal, 2005). In the view of many people in the Arab region, however, it is non-State actors who have come to represent successful models of political mobilization

through "resistance" movements against occupiers (Hazbun, 2015, p. 57).

Effective political parties are also needed to structure relations so that ethnic groups can live together harmoniously. Parties help to mediate and resolve conflicts between groups (Randall and Svåsand, 2001). Parties frame policy alternatives and structure electoral choice in ways that promote peaceful political competition. Parties mediate by melding and broadening different interests, and mediate conflict when public policy has become too politicized and when demands have become irreconcilable. Parties can help to shape political debate in ways that pacify highly charged issues. Lipset and Rokkan (1967, p. 46) claim that in the past, parties have neutralized the "radicalizing effects of sudden industrialization". Parties can also neutralize the polarizing effects of modernization for new democracies.

Parties also promote compromise (Randall and Svåsand, 2001). They often comprise different groups or factions that have joined and have compromised on policy. Parties enable compromise by increasing the commitment ability of politicians. Independent politicians may not be able to commit credibly to policies that do not coincide with their own preferences. Parties, however, allow politicians to commit to policies that they normally would not support in order to win a larger support base (Levy, 2004).

Parties may also help to ensure a smooth turnover in leadership, which may have an effect on conflict situations. This is especially the case in countries that do not hold regular and stable elections. States with irregular

changes in leadership are associated with increased risk of civil violence. Periods of change in leadership could serve as political opportunities, where potential insurgents may mobilize and resort to violence (Gleditsch and Ruggieri, 2010, p. 308).

Institutionalized parties may be able to check corruption. Moreover, parties in autocracies represent a “form of insurance against being ousted by irregular means” (Wright, 2008, p. 977). In autocracies that allow opposition parties to exist, such parties can also deter corruption among leaders.

Institutionalized parties can also help to ensure that office-holders are recruited based on merit rather than on loyalty. Party members with expertise in economics or foreign policy may help to improve the quality of policy decisions.

Institutionalized parties may produce better policy decisions than weak parties. For political institutions to be well institutionalized, leaders must be willing to give up some personal power to the party (Huntington, 1968). Having one-person rule can have deleterious effects on policy and stability; decisions are made in isolation, expertise is often shunned, and decision-making is likely to be more erratic.

There are many different ways of measuring party institutionalization. The three characteristics that are most critical to the proper functioning of parties are highlighted below: parties are institutionalized when they are autonomous, rooted in society, and have

high levels of organization (Huntington, 1968; and Mainwaring and Torcal, 2005).

Autonomy refers to how independent a political party is from external influence. Parties should be independent from other organizations, non-member individuals and military units.

Autonomy from a powerful party leader is also important, especially when it comes to measuring party institutionalization. There are various ways of assessing this, including whether or not the party disintegrates when the leader dies or leaves the party (Mainwaring and Torcal, 2005). It is also important to examine whether or not there is change in party leadership. Having no such change is an indication that power has been personalized in the hands of one individual, or that the party has become his/her appendage, such as when there is a “vote” to have leaders serve lifetime terms. The party’s interests should not be subordinated to the personal preferences of any leader or small group of elites. Parties should have their own values (Huntington, 1968, pp. 12-24).

Additionally, parties should be autonomous from the military. Military groups can take over and start to dictate what the party should and should not do. They may be more than willing to use force when results do not go their way. When the military calls the shots, military budgets tend to distend no matter how much this stretches government expenditure. The politicization of the military may also lead to poor foreign policy decisions, driven by short-term military interests, rather than by long-term national interests.

Parties should also be well rooted in society and ideologically coherent. Criteria include how well parties are linked to civil society, how their programmes tackle society's concerns, and how attached voters are to them. When a party is well institutionalized, voters have strong links to it and vote accordingly. In societies where voters are attached to specific parties, there are less apathetic voters. Parties with strong roots provide electoral competition and help to diminish electoral volatility (Mainwaring and Torcal, 2005). They do not appeal to voters along ethnic or religious lines.

In some countries, the links between parties and voters are less ideological and programmatic. Ideology is non-existent or flexible to meet the needs of a campaign. Weaker programmatic links between voters and parties "are a key part of weaker party roots in society" (Mainwaring and Torcal, 2005, p. 17). They are established through patronage, where the exchange of economic favours for loyalty replaces ideological connections.

Political parties in the Arab region have often served as tools for powerful leaders to dole out benefits. When patronage prevails, the links between the party and society are relatively weak. By contrast, when parties are well linked to the community, they engage in development projects (Hamid, 2014, p. 131).

While political parties are legal in Jordan and Morocco, the system is designed to encourage independent candidates, rather than strong parties. Those that exist are therefore

fractionalized and weak and have limited roots with society (Herb, 2003, p. 23).

A final important aspect of party institutionalization is the level of organization. Criteria include how well-organized and financially strong the party is; whether there are written rules to dictate how the party should operate, how decisions are made, how often party congresses are held, and whether the party enjoys a "robust configuration of regime supporters" from all across the nation (Smith, 2005, p. 448). The level of organization of a party is an indication of how well it is able to represent citizens and provide other important functions for society (Basedau and Stroh, 2008).<sup>11</sup>

Parties should thus be built with nationwide appeal, programmatic coherence and internal democracy. They are the building blocks to successful democracies. The rise of independent candidates sometimes only reinforces patronage systems.

## 2. Legislatures

In conflict situations, legislatures are key for achieving stability. Those with sufficient oversight and power can guarantee pluralism and help to ensure the proper functioning of government. Legislatures can also protect the interests of disenfranchised groups. Instead of being dealt with in the battlefield, grievances can be dealt with in the political arena.

Legislatures provide mechanisms to promote power-sharing, protect human rights and encourage gender equality. They can be critical to the processes of reconciliation and



transitional justice by upholding the rule of law (UNDP, 2007).

Following a conflict, a legislature, even an interim one, can provide a forum for dialogue. Substructures, such as legislative committees and cross-party caucuses, should be established for that purpose. Constitutional assemblies, subnational assemblies, forums and parliamentary oversight committees can all make positive contributions. Legislators should be free to articulate their opinions, without fear of negative repercussions. Good communication between legislators and their constituencies on the one hand, and with the media on the other, is important to ensure that all parties of past, current or potential conflicts are represented (Datta, 2007). Finally, legislatures should also have oversight over the security sector.

Civil wars are more likely to recur in countries where accountability and transparency are lacking (Walter, 1999). Checks on the executive power, provided by parties and legislatures, are important to serve the interest of the whole population. Many leaders deliberately weaken the legislature in order to concentrate power in their hands and rule by decree, stay in power indefinitely or commit acts of corruption with impunity. Parliamentary committees or expert committees can help to investigate abuse of

power. In addition, legislatures should share at least some power with the executive over government decisions.

Legislatures should be in session regularly. Some exist only in name and rarely meet, because of the leaders' decision or of security concerns. It is therefore important to provide the necessary infrastructure, legislative training and constitutional safeguards to ensure that the legislative branch is not just in the pocket of the executive. Even in presidential systems, legislators must be well equipped to conduct vigorous oversight of the executive, and not simply endorse or legitimize its actions.

## E. Conclusion

A transformation out of conflict is only possible if societies strengthen their institutional capacities. Conflict situations may differ in nature, but institutional reform can always provide avenues for non-violent political and economic participation, and help to shield a country from the recurrence of conflict.

Chapter 4 presents an overview of the situation of institutions in Arab conflict-affected countries. It proposes some priority areas of reform to help in phasing out conflict and achieving a durable peace.

## 4. Conflict, Institutions and Governance in the Arab Region

This chapter provides a panorama of the state of security, administrative, judicial and political institutions in the Arab region. It focuses on the countries currently afflicted by armed conflict. The objective is not to provide a prescription of institutional reform for each country, which would require detailed country-specific studies. Rather, the main institutional root causes of conflict are examined and some key messages are outlined, aimed at helping those countries to embark on a transition to durable peace.

### A. Security institutions

Military spending as a percentage of gross domestic product (GDP) is highest in the Arab region, compared with other world regions. However, many Arab militaries are not professionalized. They have rarely been accountable to civilians and, in many cases, have been used to protect regimes from civilians. Despite their size, very few have performed well in battle. The Arab uprisings of 2011 and their aftermaths put tremendous stress on security institutions and, in some cases, these institutions fragmented or dissolved. Not surprisingly, the armed forces and police are not trusted. Data from the Arab Barometer 2013 show that only 25 per cent of those surveyed trust the police and armed forces to a great extent in Iraq, followed by 23

per cent in the Sudan and 16 per cent in Yemen. The 2014 data show that only 19 per cent of those surveyed in Libya place great trust in the armed forces and police.<sup>1</sup> A 2015 survey, the Arab Opinion Index, finds that only 32 per cent and 31 per cent of the surveyed persons in Iraq and the Sudan, have a high level of confidence in their military institutions, respectively. These percentages, the lowest in the region, drop down to 10 per cent and 16 per cent respectively for the police forces of these two countries.<sup>2</sup>

One country in the region is a clear exception. Tunisia's small, depoliticized and professional armed forces played a critical role in that country's successful democratic transition and comparatively stable security situation. Former President Zine al-Abidine Ben Ali preferred to use the police to repress the population, rather than the military. While the military was not given a huge budget, it was well trained and professional. Officers were forbidden from having any sort of political affiliation and the Minister of Defence was always a civilian. A professionalization programme was implemented in the late 1980s in order to help the military become more distanced from politics, though it was underfunded and received only 1.4 per cent of Tunisia's GDP. The equipment was modernized, and more than 4,600 Tunisian military personnel received support training in the United States of America (Gaub, 2013).

These factors enabled the military to play a crucial role in ending the dictatorship. The army stopped the police from using lethal force to protect Ben Ali; it did not shield him from protestors but assured him safe passage to Saudi Arabia. The army being a small institution with few special privileges to protect, it opted to support the democratic transition rather than safeguard its own power and perquisites (Stepan and Linz, 2013, p. 29).

### 1. Security institutions in Iraq

The security institutions in Iraq have yet to be professionalized, in spite of having received training, arms and massive funding from the United States for over a decade.<sup>3</sup> Iraq is still awash with different militias. Many, if not most, religious and tribal leaders have their own militias. There is also a structural chasm in the Constitution's provisions on the armed forces that has undermined their ability to function as a cohesive entity under centralized control. They were left subject to struggles between the Prime Minister and the Minister of Defence, who usually hail from different political parties. "Although the text clearly states that the military should not play a political role, it also states that the Prime Minister is the 'commander in chief of the armed forces' without making any effort to explain what [the] implications are" (Al-Ali, 2014, p. 98).

Morale has been low due to low pay and inadequate training. The process of building the military was undertaken with little consultation with local actors and without a clear mandate. Accounting problems have also created a gap between the funds committed and the actual amount disbursed.

The weakness of security institutions has aggravated the instability in Iraq, providing an opportunity for the emergence of violent non-State actors. In the fight for Mosul, despite the fact that Iraqi army forces far outnumbered ISIL (even accounting for "ghost soldiers"), the Islamists easily took over the city. The Iraqi army has not been trained in fighting an insurgency, and there has been little investment in maintenance and logistics. At times, the security forces were simply poorly disciplined. On 8 March 2013, a protestor died in Mosul after the security forces opened fire on protestors (Human Rights Watch, 2013b). On 19 April 2013, a protestor was also killed and several were injured when the army opened fire on protests against Prime Minister Maliki in the Hawija district of Kirkuk (Al-Jazeera, 2013).

In early January 2014, ISIL took control of Fallujah and Ramadi (Al-Jazeera, 2014). Army soldiers fought to defend towns, but the security and military failed, presumably due to corruption. Some 20,000 ghost soldiers were drawing government salaries but not performing any military service (Naylor, 2015). By June 2014, the State had collapsed across north-western Iraq, with the Iraqi army retreating from Mosul.

The weakness of security institutions also results in higher levels of corruption. In Iraq, corrupt individuals who are not vetted properly fill the most important positions in the security sector. Nearly \$1.3 billion in defence funds have been diverted without any oversight (Ismael and Ismael, 2015, p. 122). In some cases, senior military posts are for sale. Commanding officers steal the allowance of soldiers and use their command to accrue more income. Given the

low pay of lower-ranked soldiers, extortion is common at military checkpoints (Reuters, 2014).

## 2. Security institutions in Libya

The security institutions that have emerged in post-Qaddafi Libya are alarmingly weak, as a result of many years of deliberate undermining by the former ruler. Given Libya's coup-proofing measures, officers never developed leadership skills because promotion and assignment were based on tribal affiliation and loyalty, rather than on merit (Gaub, 2013, p. 109). While security services in pre-war Libya were estimated to number some 76,000, in reality they totalled only 20,000. The conflict and strikes by the North Atlantic Treaty Organization (NATO) further crippled the security system (Chivvis and Martini, 2014).

After Qaddafi was ousted, the primary task was to reconstruct the security sector; however, its fragmentation became a major obstacle. The weakness of the security sector had led to a vacuum, which was gradually filled by the militias that had played an important role in Qaddafi's overthrow. Their members were better paid than the State's forces; in fact, militia members were often paid multiple salaries because of the diffuse structure of the security system. While salaries have improved for the national military (an increase was announced in January 2014), they are still comparatively low.

Given the many different armed groups that are on the payroll of the Government, it is difficult to gauge what types of recruitment and promotion methods are in place. To overcome a legacy of an understaffed army with too many

senior officers and few young recruits, units have embarked on their own recruitment independently of the chief of staff. Defence ministers, their deputies and staff all registered dozens of new military units, without giving them the financial power to enrol recruits (Lacher and Cole, 2014, p. 56). Many officers recruited relatives and most recruitment took place along local and tribal lines (Lacher and Cole, 2014, p. 19). Training programmes have been limited.

There are still many armed groups in Libya, and it is not clear which have been officially incorporated into the national army. Many accept State funding but have avoided a clear commitment to obeying the army's hierarchy or the Government, which convolutes the chain of command. It is only recently that the national military united two different factions, led respectively by General Khalifa Haftar and Abdulsalam al-Obaidi. Since 2014, the Council of Deputies selected General Haftar to command the whole army.

The National Liberation Army (NLA), which is the core of the new armed forces, has been unable to intervene in clashes that have taken place between militias (Gaub, 2013, p. 238). After the war ended, militias did not return to their homes; rather, they took over vital infrastructure in Tripolitania, including airports, road crossings and central government buildings, and some militias still control important territories throughout the country. Attempts have been made to integrate the different militias, but only small militias have disbanded. Indeed, "security fragmentation accelerated just as fast as infighting between

different factions” (Gaub, 2013, p. 238). Moreover, in addition to several hundred different militias, Libya is stockpiled with weapons and orders to disarm have not been heeded.

During rounds of fighting, many police stations and material were burned and looted, resulting in an underequipped and understaffed police, which has been reluctant to confront anyone. The police are poorly perceived and are weaker compared to armed militias. They are also deemed to be corrupt: a survey by Transparency International found that 48 per cent of Libyans felt that the police force was corrupt or extremely corrupt, while 36 per cent viewed the military as corrupt (Netherlands, 2014, p. 24).

### **3. Security institutions in the Sudan**

The military is not professionalized in the Sudan and has a history of staging coups and intervening in politics (Iroanya, 2010).<sup>4</sup> Post-independence Sudan has had the largest number of successful and attempted coups in all of Africa (McGowan, 2003). Repeated military interventions have weakened the political institutions; the military has taken over the civil service, the judiciary and other institutions, and filled them with loyal supporters, thereby exacerbating the low morale of the civil society (Lesch, 2001).

The military has also been hampered by poor training, outdated equipment and poor maintenance. President Al-Bashir has dismissed those who have threatened his power. The high command was purged, followed by a systematic weeding out across

all ranks of officers against the National Islamic Front (NIF). More than 3,000 personnel were removed from the armed forces and 400 police officers were purged. Loyalists were placed in key posts (Lesch, 2001, p. 170). The military has relied mostly on Arab militias and even former rebels to campaign against opposition forces in the southern and eastern provinces of Darfur. Additionally, the Sudan uses paramilitary forces, such as the Popular Defence Force (PDF), which is the military wing of the former NIF. The PDF has 10,000 active members and 85,000 on reserve.<sup>5</sup> It has been deployed alongside the regular army to fight against various rebel groups.

Corruption in the military and the police undermines internal security and allows abuses of civil and political rights. In the military, there is little transparency of budgets, and large amounts of funds are used for classified security operations. The Ministry of Finance does not have records of expenditures for presidential, security and defence affairs. Salaries are low outside the capital and officers are usually compelled to hold second jobs. As a result, the military have been accused of being unresponsive, corrupt and brutal (Kwaja, 2015, p. 10).

The police are consistently touted as the most corrupt institution in the country. Abuse of power and arbitrary arrests are common. Police officers have poor wages and sometimes resort to bribes to supplement their income. They are almost never held accountable for their misdeeds. Appointments to police positions are motivated by political and religious reasons, rather than based on professional criteria (Global Integrity, 2006).

#### 4. Security institutions in Yemen

The security sector in Yemen is in bad shape. The military was deliberately weakened under former President Ali Abdallah Saleh to prevent coups. With parallel armed bodies and two lines of command, the military never represented a homogenous, professional and unified force. Rather, it was a fragmented institution of competing units that fought for various forms of patronage benefits from the State. Undermining military professionalism had a major impact on the State's ability to maintain a monopoly over the use of force.

Military recruitment in Yemen was based on a network of patronage, nepotism and tribalism. Tribes were recruited into the military as a co-optation strategy. This served to encourage civilians to think of the military as simply another tribe (Knights, 2013). Promotions were based on personal and tribal affiliations rather than on qualifications. Disagreements emerged on the promotion of northerners over southerners. Loyalty was more important than competence. The lines of promotion were shrouded in secrecy (Gaub, 2013, p. 30). Communication followed tribal lines rather than command structures, thereby further undermining military effectiveness.

The armed forces were also deliberately weakened in Yemen owing to competition from parallel security organizations. Such parallel structures were created using tribal reserves, who served out of uniform. Tribal sheikhs who were loyal to the regime were able to draw out a salary to pay for their soldiers (Phillips, 2008, p. 69); and tribal leaders were offered small arms.

Many jobs were created that did not require recipients to actually serve in the military so that tribal soldiers could hold jobs elsewhere, while a tribal superior took a portion of their salary to maintain the scam. This ghost worker strategy meant that Yemeni brigades were only staffed at 50 per cent (Knights, 2013, p. 266).

The reliance on parallel military structures and security agencies is part of a larger strategy of divide and conquer. In doing so, a leader is able to provide patronage benefits to key groups that he needs for support. Divide and conquer entails providing support to different groups that can offset each other's power. This may entail arming subgroups within the military and providing benefits to certain groups only. When the reliance on parallel military structures follows communal patterns, this can particularly damage the cohesiveness of the military.

In Yemen, creating parallel tribal militias helped Saleh to counter any tribes that posed a threat to his regime. Rivals were played off one another, which only accentuated tribal identities even further (Byman, 2012). Typically, a sheikh could be asked to ignite a conflict against another sheikh whose power was threatening Saleh's rule (Alley, 2010, p. 400). Human Rights Watch (2009) notes that the "increasing activities of these extra-legal militias and groups greatly impede the mechanisms for accountable law enforcement, thus raising the potential for further violations and inter-communal violence".

Saleh also coup-proofed his regime by allowing the military to gain economic power and

influence. The Military Economic Corporation is a State-run organization that was established to provide subsidized goods to soldiers. The military had access to important commodities and private sector imports, which enabled it to produce monopolies and engage in smuggling activities. It also became involved in land acquisition (Alley, 2010). Moreover, as many as 100,000 soldiers only existed on paper, which allowed commanders to pocket both salaries and sales from their weapons on the black market (Juneau, 2010). Many soldiers simply received a salary without having to report for duty, and more than 60,000 received salaries for more than one position in the security institutions (Phillips, 2008, p. 69).

Yemen spent over 4 per cent of its GDP on the military and received millions in foreign military aid from the United States. However, little seemed to go towards maintaining the equipment or providing effective training (Phillips, 2008, p. 69).

After coming to power in 2012, President Abd Rabbuh Mansur Hadi had a difficult undertaking of reforming the security sector. He ordered the dissolution of the Republican Guard and dismissed key officers. Hadi also established new units and recruited thousands of soldiers to challenge the old elites (Kronenfeld and Guzansky, 2014).

The police is another institution in need of reform. Data from the Yemen Polling Centre (YPC) showed that there was a demand for higher levels of police community protection, though 19.6 per cent of those surveyed said that they would feel less secure if police presence was increased in their areas (Lewis, 2013,

pp. 15-16). While civilians want to see change, most seemed to believe that informal, tribal or street actors provide better security than State forces; and 41.1 per cent of people surveyed by YPC believed that they were solely responsible for their own security, while 22.9 per cent believed that security was mainly provided by tribal sheikhs (Lewis, 2013, p. 16).

Yemen has initiated some improvements to curb corruption in the security sector. It has designed a biometric registration system for all military personnel to combat the prevalence of ghost workers, which could save the Government up to \$200 million each year. In late 2014, military personnel were supposed to be receiving their salaries in person or through their accounts in post offices, and anyone failing to appear during registration could have their salary withheld. Prior to this programme, security chiefs of military camps would receive the salaries of their soldiers, which they then distributed. This provided ample room to use fake names and pocket the benefits, for as many as 3,000 ghost soldiers (Al-Batati, 2014).

## 5. Security sector reform

Reform of the security sector is arguably the most important process that could be undertaken by conflict-affected Arab countries, so that they improve their prospects for peace, development and political reform. Security sector reform (SSR) will also be critical for achieving SDGs by 2030, given that “in development contexts, an inefficient and unaccountable security sector can be a major obstacle to democratic governance and can undermine the implementation of poverty-

reduction strategies” (United Nations Security Council, 2008).

SSR is especially critical for conflict-affected countries in the Arab region for at least three reasons. First, and perhaps most importantly, it enhances the State’s capacity to provide security, safety and justice. It is a means to improve institutional effectiveness and to achieve war-to-peace transitions. It is a process of modernization, renovation and recalibration of the military and the police. SSR programmes often involve the recapitalization of forces with new weapons systems and other equipment, combined with training. Military and police transformations commonly include the creation of specialized, professionalized and highly technical units with very specific tasks, including counterterrorism activities, investigations of major crimes and special operations. Improving mechanisms to oversee payroll, attendance and absenteeism, property management and weapons security improve internal command-and-control, morale and cost-effectiveness.

Secondly, SSR enhances State-society links by bringing new stakeholders into policy discussions and decision-making frameworks, including civilians, legislators, NGOs, academics and human rights advocates; and by entrenching human rights into the standard operational procedures of the sector. Security forces that are poorly led, poorly trained, poorly provisioned and unaccountable are a source of apprehension and vulnerability to society. Communities often respond to perceptions of vulnerability by mobilizing “private” security solutions: buying weapons, hiring private security guards, mobilizing tribal

militias and forming neighbourhood watch groups. In extreme cases, threatened populations organize rebel groups. Improving the accountability of a rule-bound security sector enhances overall security by reducing the demand for “private” security and building constructive partnerships between the State and society.

Thirdly, SSR, when implemented correctly, is a means to preserve resources. SSR improves both external and internal oversight mechanisms. External oversight is accomplished by bringing the military, the police and the intelligence services under the supervision of legislators, the media, NGOs and the public. This increased scrutiny should at least uncover the most blatant corruption, inefficiency and mismanagement. Internal oversight can be improved by modernizing financial and property management, personnel and payroll management, weapons maintenance and security procedures. The most comprehensive SSR programmes involve a reassessment of the fundamental aims of the security organizations, the production of defence white papers and a reorientation of doctrine. Often the outcome of these processes is a reduction in the size of the security sector in both absolute and relative terms. Resource-scarce countries in the Arab region could benefit greatly from such savings.

After studying security sector reform in Libya and Yemen, Sayigh (2015a) identifies three essentials that complement the above, drawing the following lessons:

- (a) *Inclusiveness and transparency should be prioritized:* All parties and community



representatives willing to engage peacefully in debates about reform policies and priorities should be included; it is also essential to build trust by making information about security sector governance and decision-making processes, senior appointments and budget allocations fully transparent;

(b) *Processes for professionalizing security sectors should be systematized:*

Establishing common professional standards and performance benchmarks, recruitment and promotion criteria, legal obligations and rights, and wage scales and service conditions is a sine qua non for transforming and merging official and alternative security structures;

(c) *Central and local security provision must be balanced:* In highly fractured States and societies, centralizing approaches to security may be counterproductive, and the role and capacity of local governments must be enhanced.

## B. Administrative institutions

Reforming administrative institutions in Arab countries has been a critical issue for some time. The *Arab Human Development Report 2002* stated that “reforming public administration is a central and urgent task for Arab countries; it lies at the core of the wider agenda of institutional reform” (UNDP, 2002, p. 180).

Administrative institutions in the region generally suffer from low levels of capacity, especially given the amount of State revenues often generated by foreign rents (Jabbara, 1989, p. 2). They have been

characterized as overstuffed, unproductive, excessively centralized, corrupt and incompetent (Jreisat, 2009). Recruitment is influenced by kinship and political loyalty. Systems of “cronyism and nepotism permeated recruitment throughout the governance structure” (Jreisat, 2009, p. 582).

In Lebanon, for example, bureaucratic appointments are mostly based on sectarian connections (Ofeish, 1999; and Kingston, 2013). In Libya under Qaddafi, certain tribes were favoured for administrative positions. A study on Egypt’s bureaucracy found that only 45 per cent entered the civil service after taking an exam (Leila, Yassin and Palmer, 1985, p. 353). Merit-based recruitment is difficult to implement not only because of political interference but also because of the absence of job descriptions for administrative postings and a clear classification system. Moreover, there is a general lack of qualified personnel given that education and training have not been sufficiently prioritized, and public service employment has been used as a strategy to disguise unemployment (Jabbara, 1989, pp. 2 and 5).

Political interference in public administration has also been commonplace in the region, owing usually to overly powerful executives and, in some cases, to the persistence of sectarian attitudes. In Lebanon, for example, sectarianism has led to political interference in administrative institutions (Iskandar, 1987, p. 37). Political affiliations (often based on sectarian identities) dominate the appointment process, with those appointed remaining loyal to their political patrons rather than to the State. Civil servants who enjoy the support

of influential political figures cannot be controlled by their superiors. Higher-level administrators also do not delegate authority to subordinates who do not share their political views (Iskandar, 1987). Political interference also affects promotions. For example, in Morocco, in spite of reform efforts, pay is not based on performance incentives; rather, it is affected by political loyalties (World Bank, 1995, p. 2).

Political interference in administrative institutions has made these institutions more bloated and inefficient than streamlined and focused. When a new regime comes to power, civil servants who are not connected to it must move over to make way for those who are. Displaced administrators are given minor and pointless tasks, which causes more inefficiency (Farazmand, 2009, p. 365).

## **1. Administrative institutions in Iraq**

Administrative institutions in Iraq suffer from numerous problems. The first is that the recruitment method is not merit-based. Both higher and lower governmental positions are staffed by government loyalists. The de-Ba'athification process affected members of the former State, many of whom could have been best qualified to hold positions within the new country. Former exiles were chosen to lead ministries for which they had no experience. Failed former petty traders were suddenly made senior advisors. Individuals who had gone bankrupt were placed in charge of huge departmental budgets (Ismael and Ismael, 2015, p. 113).

Based on a quota for each ethnic/sectarian political party, appointees populated their ministries with cronies who were often poorly suited for their positions. As a result, the bureaucracy ballooned by 300 per cent, and State administrations employed 6 million people who scarcely worked (Ismael and Ismael, 2015, p. 112).

That dynamic caused paralysis of entire institutions in some cases: individuals from different sectarian backgrounds and political parties were appointed to leadership positions within the same government entity, yet they proceeded to follow their party's directives rather than craft a cohesive unified policy (Al-Ali, 2014). There is no transparency in the budget and no disclosure of public spending. Furthermore, patronage networks have been built that bypass the cabinet, linking former Prime Minister Maliki directly to general and senior civil servants (Dodge, 2013).

Prior to the 2003 war, Iraq's legal system included a number of auditing and anti-corruption institutions, including criminal investigators and a supreme audit organization. Subsequent reforms under the Coalition Provisional Authority (CPA) created a number of loopholes. As a result, Iraq's anti-corruption agencies have suffered from poorly defined mandates in recent years. They have been subjected to political interference in the appointment of their staff, and have lacked coordination, which undermined their capacity to carry out their work (Al-Ali 2014, p. 199).

## 2. Administrative institutions in Libya

The quasi-absence of institutional tradition under Qaddafi's rule and the repeated abolition and undermining of various administrative institutions, bodies and formations deepened the State crisis and, in many instances, paved the way for regime domination by tribal alliances, thereby exacerbating factionalism (Sawani, 2012, p. 3). Aside from the challenges posed by the current split of Libya's administrative institutions, the Political Isolation Law did not just target remnants of the old regime or the so-called revolutionary sector but the entire bureaucratic apparatus. Most experienced and qualified cadres were fired (Jebnoun, 2015).

There have been no systematic efforts to recruit international expertise for bureaucratic capacity development (Randall, 2015, p. 213). The Government is still trying to register employees and uncover ghost workers; the bureaucracy remains bloated and significantly corrupt. Bribing administrative officials for taxation and customs exemptions is common. Business contracts and licences also require bribes.

Given the constant presence of armed groups, security remains the priority rather than capacity-building (Randall, 2015, p. 214). Most civil servants complain of being poorly paid and, in some cases, of delays in obtaining their salaries over a period of several months, resulting in strike action.

## 3. Administrative institutions in the Sudan

The Sudan suffers from fragile institutions and very weak administrative capacity. There are low levels of trust and access to resources is

dispersed based on loyalty (De Waal, 2013, p. 225). This represents a massive deterioration compared with the situation in the past. Currently, administrative institutions offer few services and funding is significantly limited for basic provisions. The selection process is not merit-based, and administrative institutions are filled by members of the National Congress Party.

Civil servants are poorly paid and poorly trained. They can engage in bribery with impunity, as those suspected of corruption are rarely investigated. Citizens must constantly offer bribes in order to access basic public services. In principle, the criminal law protects civil servants who report cases of corruption, graft and abuse of power or resources. However, the likelihood for whistle-blowers to suffer from negative consequences is high, particularly if the suspicions of wrongdoing are aimed at people who are well connected politically (Transparency International, 2012).

The bureaucracy is inefficient with lax record-keeping. The Government does not provide any information on its budget or financial activities, thereby making it impossible for citizens to hold it accountable and creating fertile ground for the embezzlement of public resources. In 2008, possibly as much as \$2.3 billion was embezzled from government institutions (Transparency International, 2012).

Revenue collection is another area that lacks transparency. Political connections are used to avoid taxation. The enforcement of customs regulations is erratic: companies with political connections can be exempted. High-level officials can also supplement their incomes by importing goods without paying taxes and tariffs on them.

#### 4. Administrative institutions in Yemen

The administration is also very weak in Yemen. Qualifications and merit are not the basis of hiring and promotions. Few civil servants are educated: only 1 per cent hold graduate degrees, 16 per cent hold a bachelors' degree and 23 per cent hold secondary school degrees. Thirteen per cent are illiterate. In 2013, according to the Arab Reform Initiative, only 4.92 per cent of the public believed that "*wasta*" (or connections) was not used in public sector employment. Those who are employed have little understanding of their job responsibilities; a total of 35,000 interviewed employees said that they did not have a specific job (Phillips, 2008, p. 68).

The Saleh regime was generally based on co-optation, compromise, and a divide-and-rule strategy. Dwindling resources made it difficult to include everyone. After oil exports dropped by 40 per cent, resources available for patronage began to decrease. The reduction in handouts led to increasing tension between the State and the excluded tribes.

Yemen is unable to provide adequate services and performs poorly on many development indicators, including literacy, poverty and child mortality rates. The tax system is not efficient. The ratio of total tax revenue to GDP fell from 10 per cent in 1992 to 7 per cent in 2009 (Al-Batuly and others, 2012, p. 11). Many individuals and companies receive special treatment and are exempt from tax.

#### C. Judicial institutions

Over the past decades, judiciaries in the Arab region have been weak and ineffective. Judicial systems lack autonomy owing to deficient selection and promotion mechanisms, and to the absence of clear career paths or such career safeguards as lifetime appointments. They also show little transparency, accountability or enforcement of ethical standards; and lack efficiency and funding.

Measuring judicial independence is a challenging task. There is limited information on the processes of appointment of judges. It is difficult to assess whether there is societal or government interference in judicial decisions, and to evaluate if budget allocations are politicized. It is also hard to determine if judges are protected from retaliation. Nevertheless, conflict-affected countries suffer from a lack of transparency and efficiency; swift judicial processes; and clear, stable and widely publicized laws.

In Arab countries, legal pluralism prevails, allowing informal justice mechanisms to be incorporated, to varying degrees, into State-run formal systems. For instance, one study notes that in Jordan, Yemen and, to a certain extent, Lebanon and Palestine, "tribal norms and a blend of civil law with tribal codes have prevailed for decades as intrinsic parts of the justice system" (Safa, 2007, p. 3).

The Arab region is far from an exception in that regard. In conflict settings, citizens resort to informal justice mechanisms that are less likely to be disrupted by violence or the overall

weakening of formal State institutions. As one study notes, “informal systems of dispute resolution may be crucial to restoring some degree of law and order, and they may be all that is available for many years” (Wojkowska, 2006, p. 14). This is especially the case given that access to justice in formal courts of the State is often undermined by inadequate administrative support for the courts, and limited professionalization efforts.

Parallel exceptional courts have often been established in conflict-affected Arab countries, with procedures and jurisdiction defined on emergency bases. These auxiliary courts were created to address security or specific concerns. It is unclear whether they have some degree of oversight and participation from professional and trained judges, or afford the same due process rights (Brown, 2001). In some cases, these courts evolved over time into specialized courts that have far clearer competencies and jurisdictions grounded in law. Nonetheless, scholars stress that their establishment undermines the operation of the judiciary as a unified system and can weaken rule of law in the long term (Ginsburg and Moustafa, 2008; and Brown, 2001).

Constitutions in the Arab region stipulate few provisions for the judiciary and it has therefore been difficult to protect the judicial process from politicization. Judicial training has also been weak. Many Arab countries require special training for judges and judiciary personnel in addition to formal academic training, yet it has been challenging to provide such proper formal training and to attract talent to the judiciary branch.

## 1. Judicial institutions in Iraq

When Saddam Hussein was in power, he exercised total authority over all judicial appointments and promotions, and could override any judicial decision. While such direct political interference is no longer possible, the current Iraqi judiciary suffers from issues of corruption. Many judges also fear for their lives. Local militias that control areas of Iraq have forced judges to cater to their agenda. In 2006, at least 11 judges were killed, allegedly by militias. Fear of militias has made it almost impossible for the judiciary to be independent and perform its job. Adding security to courthouses has not ensured the security of court personnel. Furthermore, the Government has been very secretive in terms of releasing documents from court proceedings. Another issue is that article 136(b) of Law 23 of 1971 prevents any case from being filed against a former or current minister without that minister’s permission, thereby making it very difficult to investigate any high-ranking Iraqi official. All the minister’s subordinates can also be immune from prosecution.

Poor judicial institutions have resulted in sectarian persecution (Dodge, 2012). Those who challenge this persecution face unfair detention or, for example in the case of former Minister of Finance, Rafi Issawi, assassination attempts. There is no internal oversight and the judiciary suffers from constant interference. Many judges have been forced to resign. Some have routinely been told to overlook corruption (Ismael and Ismael, 2015). Other means of justice have emerged to adjudicate disputes, such as relying on tribal structures.

**Table 3. Structures of the court systems**

<b>Iraq</b>	Higher Judicial Council Supreme Court Cassation Court Public Prosecution Department Judiciary Oversight Commission Federal courts
<b>Libya</b>	Supreme Court First Instance Court Appeals Court
<b>Sudan</b>	Supreme Court General (Summary) Court Appeals Court
<b>Syrian Arab Republic</b>	Magistrate Court Juvenile Court Customs Court First Instance Court Appeals Court Cassation Court
<b>Yemen</b>	Supreme Court First Instance Court Appeals Court

Source: Nathan Brown, *Arab Judicial Structures. A Study Presented to the United Nations Development Programme, Programme on Governance in the Arab Region* (August 2001). Available from <http://web.dubaichamber.ae/LibPublic/Arab%20judicial%20structures.pdf>.

**Table 4. Constitutional provisions on the judiciary**

	Guarantees the independence of the judiciary	Specifies court structure	Judicial review of constitutionality of legislation
<b>Iraq</b>	Yes, few detailed provisions	Yes	Supreme Court
<b>Libya</b>	No	No	Supreme Court
<b>Sudan</b>	Yes, some detailed but weak provisions	Yes	Constitutional Court
<b>Syrian Arab Republic</b>	Yes, few detailed provisions	No	Constitutional Court
<b>Yemen</b>	Yes, strong and detailed provisions	No	Supreme Court

Source: Nathan Brown, *Arab Judicial Structures*.

**Table 5. Specialized courts**

	Provides specialized courts	Specified judicial council and its composition
<b>Iraq</b>		Yes, Judicial Council nominates the Chief Justice
<b>Libya</b>	Constitution to be drafted	Constitution to be drafted
<b>Sudan</b>	Some provisions	Yes, leaves composition to legislation; powerful Chief Justice and President
<b>Syrian Arab Republic</b>	Some provisions	Headed by President
<b>Yemen</b>	Prohibited by Constitution	Composition determined by legislature

Source: Nathan Brown, *Arab Judicial Structures*.

The most notable negative consequence of this situation has been corruption. Embezzlement, money laundering and bribery are standard operating procedures. Corrupt practices have become widespread among senior policymakers. Moreover, there has been a complete lack of oversight of private contractors. Specifically, some \$8 billion out of the \$60 billion reconstruction funds deployed in Iraq has been wasted, and as much as \$800 million in profits from illicit activities is being transferred out of Iraq each week (Ismael and Ismael, 2015, p. 117). With few means of penalizing corrupt behaviour, more than \$1 trillion in money-laundered funds have transferred outside the country.

Weak judicial institutions have also resulted in the abuse of human rights. The lack of a judicial system has enabled unlawful killings, torture and arbitrary arrests to persist.

## **2. Judicial institutions in Libya**

In Libya, judicial institutions were deliberately drained under Qaddafi, and what remains after his fall is significantly weak. Many courts have been closed since the uprising. Courts in Tripoli effectively stopped working in mid-July 2014 as a result of violent attacks and heavy shelling of judicial infrastructure. People have taken refuge in more traditional, clan-based structures, including shura councils, neighbourhood groups and tribes. Many have been frustrated by the slow pace of trials.

The judiciary that remains lacks independence, and standards and procedures to produce fair and equitable trials. A survey published by Transparency International has shown that 35 per cent of respondents felt that the judiciary

was corrupt or extremely corrupt (Hardoon and Heinrich, 2013). The recent Supreme Court ruling that deemed the elected government of Tobruk invalid, thereby rendering void the results of the November 2014 elections, was considered to be influenced by pressure from the disputed General National Congress (GNC) government based in Tripoli.

As a result of weak judicial institutions, all forms of corruption, such as bribes, money laundering, extortion and embezzlement, are widespread. Public funds are constantly being misused. Armed groups are proliferating. The National Transitional Council encouraged the consolidation of armed militias and gave them immunity for crimes carried out during the revolution. Armed brigades have created investigation and arrest units, set up checkpoints or forced their way into people's homes to capture persons suspected of aiding the former regime. In some cases, militias run their own detention facilities in their headquarters. They arrest people outside any sort of official legal framework and without the benefit of judicial review or basic due process. Revolutionary brigades and criminal gangs operate above the law and hinder the work of investigators and judges.

The Government under Zeidan, who took office in November 2012, announced a policy of zero tolerance towards arbitrary detention or revenge assassinations, and made it a priority to transfer into State custody thousands of individuals who had been arbitrarily detained. State security forces have emptied several illegal detention centres in the capital and the legislature passed a law to criminalize torture and abductions.

### 3. Judicial institutions in the Sudan

The judiciary of the Sudan is also extremely weak. By mid-1991, the regime fired or retired 128 judges and legal advisors, including 14 judges from the Supreme Court and 12 from the Court of Appeals (Lesch, 2001, p. 170). The judiciary is not independent and suffers from constant political interference. It is also undermined by a lack of resources and poor infrastructure. Judges are not well trained and salaries are low. This all leads to long trial delays. Moreover, the selection of judges has been based on political loyalty, rather than on legal qualifications, and there are very few non-Muslims or women. The President appoints all judges, with some consultation with the National Judiciary Service Commission, which, however, is subject to government pressure. While the lower courts provide some safeguards of due process, special security and military courts do not comply with any accepted legal standards. The comprehensive peace agreement attempted to improve judicial independence, but no concrete steps have been taken to do so. The same judges that were present in 2005 continue to fill the same posts.

There are neither financial disclosure regulations for government officials nor laws providing for public access to State information. This has resulted in rampant rent seeking and preferential treatment, with contracts awarded based on political affiliation and loyalty. During the 1990s, those close to the ruling National Congress Party bought most of the companies owned by the former State, including rail, transport and telecommunication firms. A total of 164

companies operating in a range of services and industries are controlled by the top party leadership (Transparency International, 2012). Many government officials own companies that do business with the State and provide their relatives in the Government with kickbacks in exchange for official business. Contracts are awarded to those close to the ruling elite. Corruption has reduced foreign investment and hampered economic growth.

### 4. Judicial institutions in Yemen

In Yemen, judicial institutions have nearly ceased to function. Courts have been unable to operate owing to direct threats made against them and against other judicial actors, strikes and political disturbances. Approximately half of Yemen's governorates have no functioning courts at all. There are constant threats to judges, prosecutors and court staff from criminals, armed groups and the military, which makes enforcement of judicial decisions difficult (Gaston and al-Dawsari, 2013, p. 17). Judges are sometimes assaulted. There is also constant political interference with the judiciary: judges who have issued rulings that expose corruption are either threatened or transferred to less desirable postings. (Gaston and al-Dawsari, 2013). As a result, there are high levels of absenteeism.

Additionally, the judiciary is generally understaffed due to high deficits. The staff employed are not well trained or knowledgeable. The monitoring of the judicial system is also non-existent, with very weak quality control and accountability mechanisms (Gaston and al-Dawsari, 2013, pp. 29 and 46).



The case management system is not implemented properly, and cases are handled slowly, causing major backlogs. Another issue is that the infrastructure is dilapidated. There is little building maintenance and, in some cases, the level of decrepitude violates basic health and sanitation standards. Judges and court personnel are poorly paid and often demand bribes for adhering to regular procedures and rules. Most citizens are deterred from raising a case owing to widespread corruption (Gaston and al-Dawsari, 2013, pp. 21 and 43).

The courts are heavily influenced by the executive. The appointment process is largely political and promotions are based on a complicated system of favours and patronage. In Yemen, only 8.3 per cent of those surveyed according to a 2010 Global Integrity Report think that judges are appointed fairly, compared with 50 per cent in Jordan. Judicial verdicts are often influenced by tribal ties and bribery (Freedom House, 2012).

Consequently, weak judicial institutions have facilitated high rates of corruption. In Yemen, corruption permeates every level of government and the country is consistently ranked as one of the most corrupt countries according to Transparency International. Bribes are commonplace. Almost 60 per cent of those surveyed in 2013 reported that a gift or informal payment was requested from a civil servant for a public transaction to take place (World Bank Enterprise Surveys, 2013). This compares with only 8.8 per cent in Tunisia and 15.6 per cent in Egypt.

As a result of the weak judicial institutions, there is little trust in the courts. Arab Barometer

Survey data for 2011 showed that only 12 per cent of the public in Yemen trusted the courts to a great extent, and 37 per cent reported that they would use the courts to restore their rights.

## D. Political institutions

### 1. Political parties

Parties in the Arab region are generally very weak. Authoritarian regimes have stifled the formation of secular parties. Islamist movements have also been either co-opted or completely repressed. Building viable parties is critical to alleviate conflict and build sustainable peace. Parties help to aggregate and represent interests, and frame policy alternatives. They also assist in organizing mass involvement and recruiting elites that are more committed towards compromise and peace.

Political parties in the Arab region have often served as tools for powerful leaders, and were mainly aimed at doling out patronage. Most parties are heavily monitored by regimes and their platforms must be deemed suitable. As a result, very few citizens place high levels of trust in parties. Arab Barometer Survey data for 2011 revealed that, in Iraq, only 2 per cent of the public trusted political parties to a great extent, followed by 8 per cent in Yemen and 11 per cent in the Sudan.

Parties in Iraq are devoid of ideological underpinnings. One of the leading ones, namely the State of Law Coalition, has campaigned around dealing with the Ba'athist threat. This exclusionary approach made it difficult to create

a national unity government. In fact, it took 249 days to form a government in 2010, compared with 156 days in 2005 (Dodge, 2012).

In Libya, political parties were banned under Qaddafi. Today, only a weak party system has emerged. The Political Isolation Law (which was passed under pressure from armed militias) forbids Qaddafi-era officials from taking part in the new Government. The parties are not distinguished based on ideology, but rather on social and religious loyalties. Parties are not cohesive and political movements have not coalesced into organizations with clear developmental visions. In 2012, while more than 100 parties registered their participation, given that their legitimacy was deeply in question, all candidates in the 2014 elections were required to run as independents (Myers, 2013, p. 20).

Parties in the Sudan are also weak and poorly institutionalized. Political parties were banned or co-opted by the Government (Lesch, 2001, p. 158). They are mostly sectarian and ethnic in nature (De Waal, 2013, p. 223). Opposition parties offer little in terms of programme and have yet to run coherent campaigns to capitalize on economic discontent. Parties never represent interests, but rather function in the shadows of armed movements.

Political parties in Yemen have also been extremely weak. Yemen has functioned as a one-party State, though opposition parties have been permitted to run. The political process is highly personalized and party membership often depends on clientelistic networks, rather than on ideological grounds. The ruling party

has been the General People's Congress, which was founded by Saleh in 1982.

## 2. Legislatures

Legislatures in the Arab region face severe constraints. Despite having constitutional powers, they operate under implicit boundaries. In most Arab countries, legislatures have limited powers and institutional arrangements for political competition are also limited, making it difficult for opposition parties to gain significant number of seats in parliament. Some countries have faced additional challenges brought about by outside intervention and a total lack of democratic experience. The main issues are establishing effective legislatures that have a clear agreement on rules and procedures, and effective oversight (Griffiths and Kassam, 2015).

Under Qaddafi, Libya was one of the few countries in the world without a legislature. Consequently, the country has had little experience with parliamentary practices given that Qaddafi ruled under a convoluted and complex system without clear rules. Libya had operated for decades without a parliament, but currently has two. Elections were held in February 2014 to form a 60-member Constituent Assembly to replace the GNC, however, political opponents who disputed the results revived GNC and set up their own parliament in Tripoli. Both parliaments are mostly impotent as power remains in the hands of armed groups. Given that neither parliament is able to rule and represent the entire country, legislation and policymaking are mostly paralyzed. The elections of February 2014 were much less successful than the previous elections in 2012.

As a result of boycotts from the public and various minority groups, voter turnout in 2014 was limited to some 630,000 voters.

In Yemen, the Parliament has been historically very weak, with most power concentrated in the hands of the President. When Saleh was in power, he extended his presidential term from five to seven years and added an appointed upper chamber to the legislature. With few checks on his power, Saleh was free to make decisions on his own. The Parliament lacks the capacity for budgetary oversight and serves largely as a forum to pass decisions that are made elsewhere (Phillips, 2008, p. 80).

Parliamentarians are not given enough phone lines, computers, desks, staff and assistants; and attendance is poor. Most members are significantly uneducated, with 25 per cent having no formal education and only 28 per cent of the ruling General People's Congress members holding university degrees. Turnover among members is high (Phillips, 2008, pp. 75-84). Only very rarely has the National Assembly exercised some veto power on the executive. There have been rare instances where the legislature initiated minor pieces of legislation, criticized the President publicly or delayed and revised presidential initiatives.

## 5. Monitoring Institutional Development

There are two possible ways of monitoring institutional reform and development: by directly documenting changes in the characteristics of institutions, and by indirectly measuring any subsequent changes in political, social and economic outcomes. The first method targets the reform process itself: the main changes undertaken in the concerned institutions are identified, as well as how they were implemented and how they interacted with other factors. This is monitoring of a qualitative nature, akin to a policy observatory. It can be adapted to scrutinize institutional change in a conflict or post-conflict setting. Even if this is arguably the best approach for the task, there is a major drawback: lack of available information. Such a monitoring tool requires detailed information on the institutions, which is frequently not publicly available and may be of a sensitive nature.

The second method has the advantage of relying on available information. It is based on outcome variables obtained from administrative records, statistical estimations, expert assessments or public opinion surveys. These variables are combined through one of different possible aggregation methodologies into easily digested composite indicators, in order to provide rankings and intercountry comparisons. While this method can be appealing in its simplicity and availability of the required information, there could be concerns about its validity. If only outcome indicators are considered, are

institutional changes really being measured? It is difficult to attribute changes in an outcome variable to a specific policy or institutional reform. Such reforms take place in a situation where a multitude of changes, external and internal, are taking place. This is one of the main flaws of existing governance indicators, which frequently lack validity and are not always correlated with reality.<sup>1</sup>

This chapter offers a panorama of the information available on institutions in the Arab countries currently affected by conflict, namely Iraq, Libya, the Sudan, the Syrian Arab Republic and Yemen. It presents a selection of the most valid and pertinent indicators from the many sources available in the literature.<sup>2</sup> Taken together, these indicators shed some light on the progress towards institutional change in those countries. As it will become evident, information is scarce and will need to be complemented by extensive and country-specific data.

The proposal presented here shies away from composite indicators of outcome variables, given their limited usefulness in monitoring institutional transformation. Rather, the use of an 'observatory' of institutional reform is advocated to assess the main institutional dimensions of a transformation out of conflict and into sustained peace. Quantitative and qualitative information collected specifically for this purpose is presented and analysed.

## A. Monitoring security institutions

Security institutions, including the armed forces and the police, are most directly linked to conflict situations, with a mandate to provide security and protection against external and internal dangers, and to carry out law enforcement duties. When a conflict erupts, they defend civilians against threats, protect national institutions, secure borders and neutralize combatants. In a post-conflict phase, they provide stability, guard against relapses into violence, and facilitate demobilization programmes. As described in chapter 4, security institutions should have the following characteristics in order to fulfil their tasks successfully:

- (a) Professionalization, including adequate training, merit-based recruitment and promotion, competitive remunerations and opportunities for advancement;
- (b) Proper funding and equipment;
- (c) Centralized structure with an internal hierarchy and clear chain of command;
- (d) Accountability to civilians and subject to oversight by other political institutions;
- (e) Monopoly over the use of force across the national territory;
- (f) Respect for law and human rights;
- (g) No economic interest that could distract from their main duties;
- (h) No interference in political affairs;
- (i) No corruption.

Monitoring the armed forces and other security institutions is a complicated undertaking for the following reasons: (a) many matters pertain to national security and cannot be revealed without compromising the ability of these

institutions to protect the country and its population; (b) security institutions prefer not to disclose sensitive information that could show the extent of their power and the range of their activities; and (c) security forces are shaped to the specific attributes of countries in terms of history, geography, climate, neighbouring countries, spatial distribution of the population and location of resources, and all this is further compounded in a conflict context.

Existing information on security institutions is scarce. Table 6 includes three indicators taken from the few available expert assessments that cover this type of institutions: the Global Competitiveness Index, which includes a question on the reliability of the police forces; the Bertelsmann Transformation Index, which contains a variable on the monopoly on the use of force, and the Government Defence Anti-corruption Index, which evaluates the corruption of the defence sector. Arab countries in conflict score in the lower half of each indicator. All four countries with available information fall in the category associated with the highest level of corruption of the defence sector.

Figure 7 shows the public perception of security institutions based on Arab Barometer data. figure 7.A shows the degree of tolerance of respondents to human security violations in the name of security. There is a general rejection of such abuses, especially in Iraq. However, the successive waves of the survey show a marginal albeit perceptible increase in the tolerance to this type of abuses, hand in hand with the increase in violence witnessed in these countries. Figure 7.B shows that there seems to be a positive opinion of police performance in Iraq and the Sudan, while this is not the case in

Libya and Yemen. The perception slightly improved in Yemen between 2011 and 2013, but it deteriorated in Iraq and the Sudan. Trust in the police follows similar patterns, as shown in figure 7.C. There is a relative degree of trust of the population in the armed forces in the Sudan and, to a lesser extent, in Iraq; but populations in Libya and Yemen express less trust in their armies (figure 7.D). The 2015 wave of the Arab Opinion Index reached similar results.

While the variables included in the table and figures provide useful insights on the state of the security institutions, they are not sufficient to cover their many facets. Some other useful indicators, currently unavailable, could provide necessary information. The following non-exhaustive list should be adapted to the characteristics of the army/police of each country and to its priorities, given the conflict or post-conflict setting:

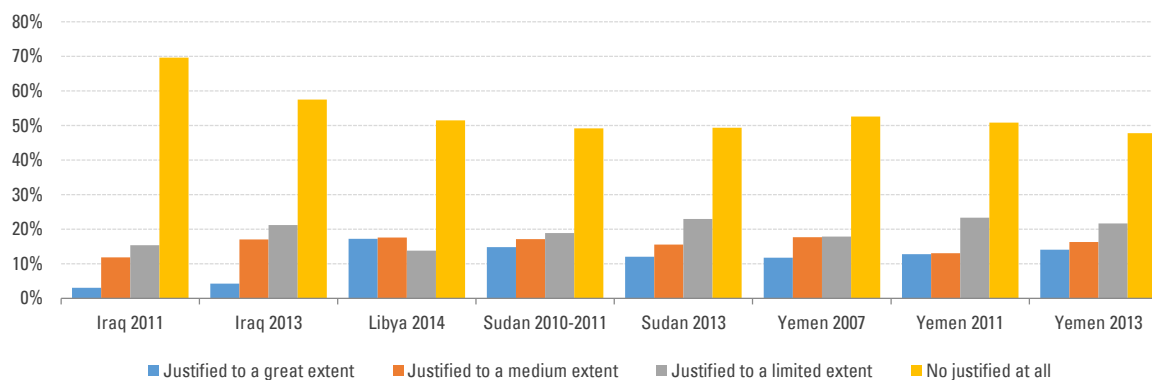
- (a) Existence and description of the mechanisms for accountability and oversight of the military and the police;
- (b) Extent of the army's presence in the political and economic spheres (as measured through investments, production and control over economic activity of the different sectors);
- (c) Presence and characteristics of other armed groups, such as parallel armies or paramilitary groups, providing some of the services normally assigned to the formal army/police over all or part of the national territory;
- (d) Where a disarmament, de-mobilization and reintegration (DDR) programme is underway, the progress made over a certain period;
- (e) The number and characteristics of human rights violations committed, and information regarding prosecutions and follow-up to such cases;
- (f) Additional questions to be included in regular perception surveys, such as the Arab Barometer, on various topics, including performance of security institutions, bribery, experiences with parallel security groups and violations of human rights by the security institutions;
- (g) Survey within the personnel of these institutions regarding their views on the level of training and quality of material and resources provided, career progression, the role of merit versus networks in recruitment and promotion, and command structure;
- (h) Comparison of remunerations and career opportunities between similar posts in the army/police and other sectors.

**Table 6. Monitoring security institutions: expert assessments, most recent data available**

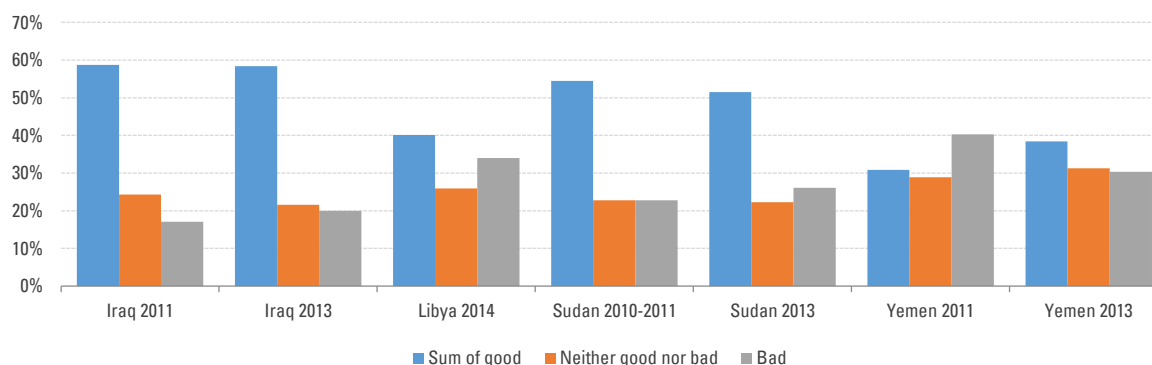
Variable	Dataset	Publisher	Range	Year	Iraq	Libya	Sudan	Syrian Arab Republic	Yemen
<b>Reliability of police services</b>	Global Competitiveness Index	World Economic Forum	1 (worst) – 7 (best)	2014		2.0			2.3
<b>Monopoly on the use of force</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	4.0	4.0	3.0	2.0	4.0
<b>Anti-corruption in the defence sector</b>	Government Defence Anti-corruption Index	Transparency International – United Kingdom	A (best) – F (worst)	2015	F	F		F	F

**Figure 7. Monitoring security institutions: perceptions surveys, most recent data available**

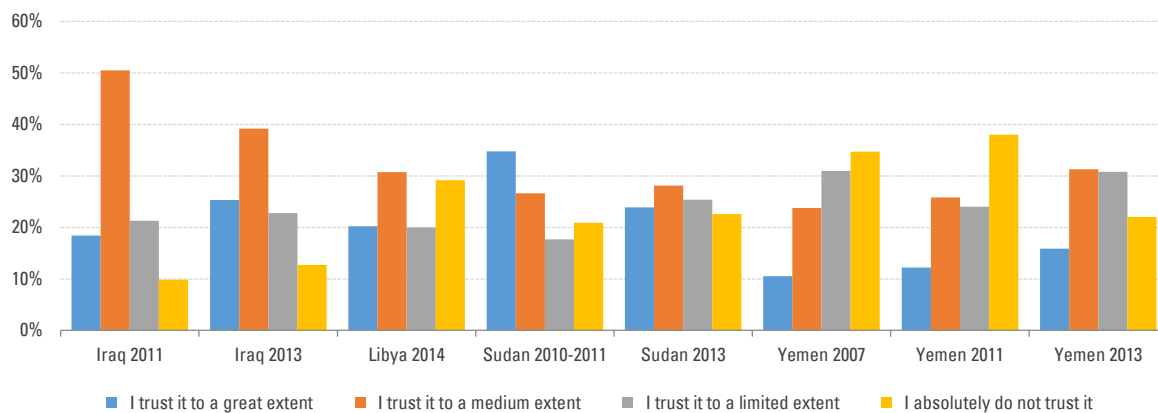
**A. To what extent do you think the lack of respect for human rights for security purposes in your country is justified?**



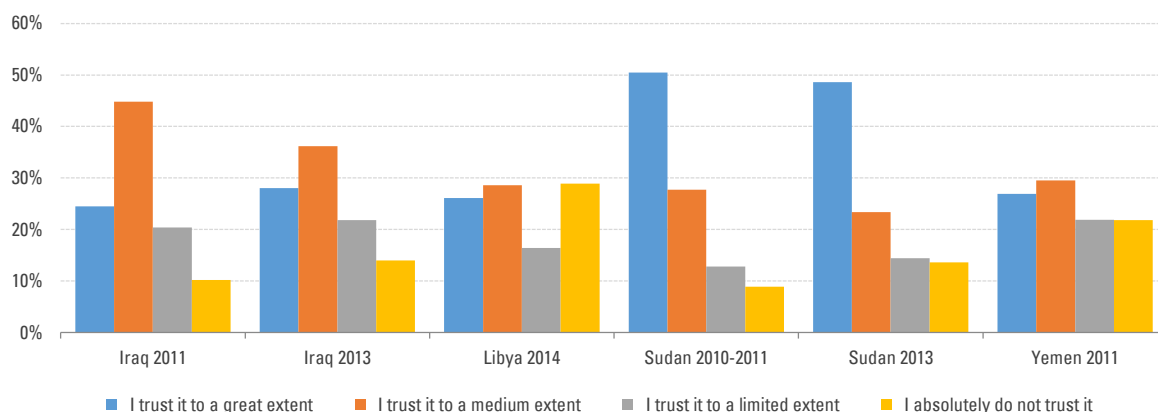
**B. How would you evaluate the police in carrying out its tasks and duties?**



### C. To what extent do you trust the public security institution (the police)?



### D. To what extent do you trust the armed forces?



Source: Arab Barometer. Available from <http://www.arabbarometer.org/> (accessed January 2016).

## B. Monitoring administrative institutions

Administrative institutions play an important role in conflict prevention and post-conflict reconciliation and recovery. These institutions should ensure that essential public services, such as health care, education, water and sanitation, and welfare, are delivered to all the population. They should be in charge of planning, implementing and monitoring public policy in an autonomous, independent,

competent and efficient manner. They should also promote equitable and sustainable development for all, and help to achieve economic growth and social progress, which could reduce the likelihood of conflict relapse. These institutions can also mitigate causes of conflict by providing equal treatment and fair opportunities in terms of resources, service provision and public employment to all citizens, regardless of age, sex, ethnic and religious group, and territory of residence.



As described in chapter 4, administrative institutions should have the following characteristics in order to play their service provision and policymaking roles effectively and, in doing so, mitigate some of the grievances that could fuel conflicts:

- (a) Productive, competent, skilled and professional bureaucracy;
- (b) Merit-based recruitment and promotion in public employment;
- (c) Salary competitiveness, career stability and opportunities for advancement;
- (d) Autonomous, independent and impartial policymaking;
- (e) Rules-based procedures;
- (f) Transparency and access to information;
- (g) No corruption.

The monitoring of administrative institutions in a conflict or post-conflict context is challenging. Measuring such abstract notions as professionalism, impartiality and effectiveness is not a straightforward task. It becomes even more complex in the middle of fighting where records may be unavailable, systems are likely to be only partially operational at best, and entire areas of the territory could be inaccessible, among other challenges. However, some databases do provide information on the state of administrative institutions, which could be integrated into a monitoring dashboard for this class of institutions. Table 7 and figure 8 present these databases and the most recent scores for Arab conflict-affected countries.

These data give a partial image of administrative institutions in terms of overall management practices, performance, efficiency,

policymaking processes, transparency, corruption, State capture, and meritocratic recruitment and promotion. For example, rows 8 and 9 of table 7 and figure 8.B and figure 8.C show that corruption is widespread in all five countries. However, the situation seemed to improve between 2011 and 2013, albeit marginally, in the three countries with data for both years (Iraq, the Sudan and Yemen). The most corruption-prone services seem to be utilities, tax revenue, and registry and permits for Libya and the Sudan; and, police, land services, and registry and permits for both Yemen and Iraq. Based on row 11 of table 7 and figure 8.E, administrative institutions do not seem to follow a merit-based system for recruitment and promotion in public employment and, instead, rely on contacts and networks based on political or ethnic affiliations. State capture seems to be an issue, particularly in Iraq and Yemen (figure 8.D). Transparency, efficient use of resources and effective policymaking also seem to be an issue: according to table 7, all countries with available information score in the lower half of each indicator for practically all variables.

Many indicators of high-quality administrative institutions that could shield against conflict or prevent violence relapse are missing from available surveys, or have not been updated recently. The following is a non-exhaustive list of some indicators that could complement the monitoring tool:

- (a) Updated indicators for “impartial public administration” and “professional bureaucracy”, based on the methodology described in Dahlström and others (2015) on the quality of government;

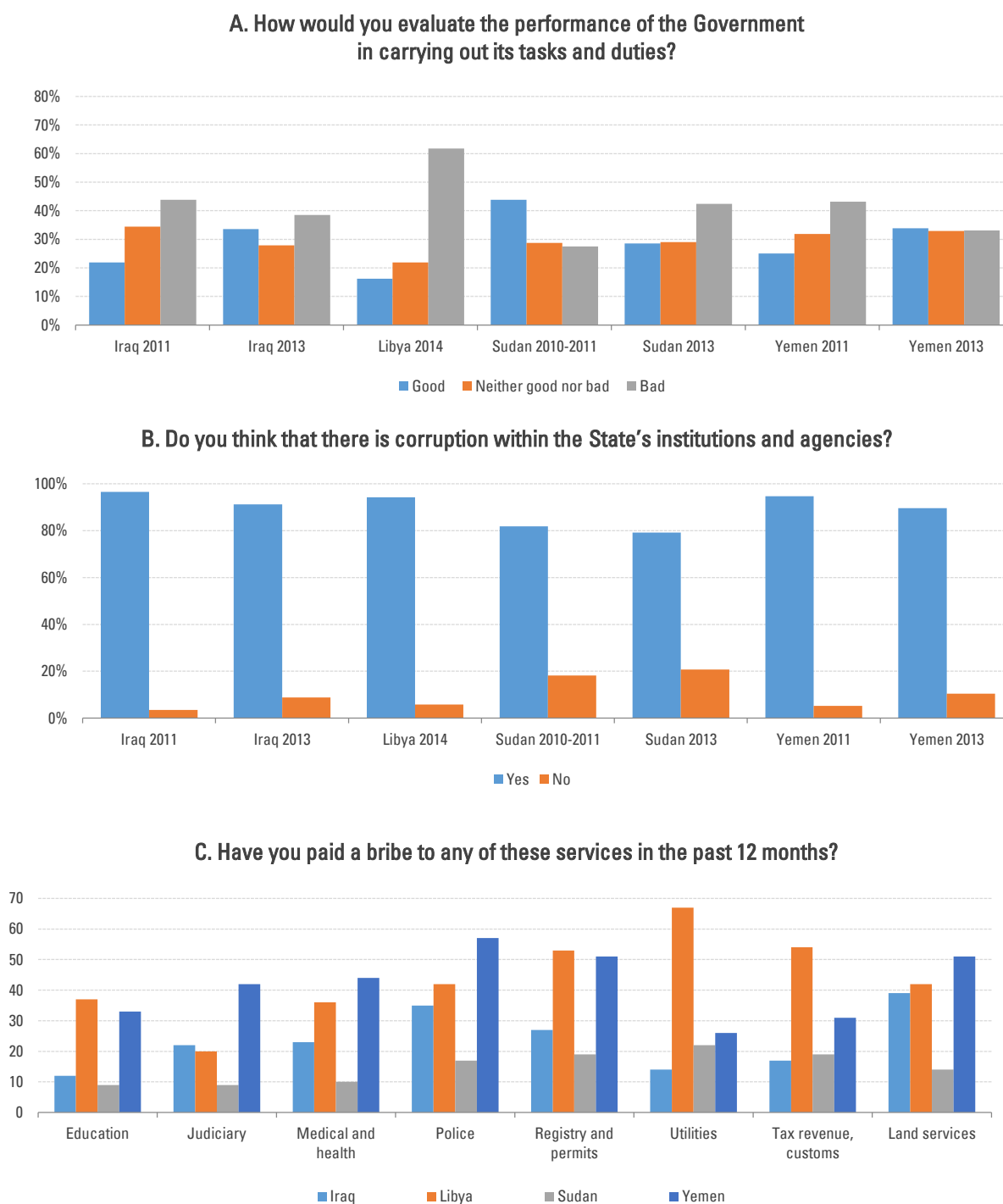
- (b) An updated version of the Index of Public Investment Efficiency published by the International Monetary Fund (Dabla-Norris, 2011);
- (c) Measures of efficiency of public expenditure in the provision of education, health, protection and other services;
- (d) Complete Public Expenditure and Financial Accountability (PEFA) assessments and the indicators that could be derived from them, especially that not a single Arab country in conflict has participated in those assessments;
- (e) Measures of the credibility and independence of central banks, which could be applied to Arab countries in conflict and extended to all administrative institutions (using methods proposed in Rigobón, 2007 or Maslowska, 2011 for example);
- (f) A survey of transparency and access to information that goes beyond the budget and public accounts, covering all countries unlike the Open Budget Index (table 7), and also covering the accounts of State-owned firms, the central bank and public banks, among others, and a review of the availability and accessibility of information on the operations of the different ministries and agencies that compose the public sector;
- (g) Assessments of country policy and institutions in all Arab countries in conflict, such as those performed by the World Bank in its Country Policy and Institutional Assessments but are carried out only for countries that receive development assistance from the Bank, namely the Sudan and Yemen currently;
- (h) Additional questions in perception surveys such as the Arab Barometer, the Arab Opinion Index and the Global Corruption Barometer, particularly on such topics as recruitment and promotion in public employment, quality and coverage of public services, access to information and bribery;
- (i) Comparison of remunerations and career opportunities between similar posts in the public and private sectors.

The precise list of required indicators and variables is extensive and varies from country to country because it has to be adapted to the specific attributes of the institutions and the characteristics of the conflict or post-conflict context. They also need to be evaluated through time, recording the changes in the institutions. Together with what is already available, they could constitute a dashboard, pointing at strong and weak points and suggesting policy interventions that could improve the fairness, effectiveness, inclusiveness and accountability of administrative institutions and their contribution to alleviate the root causes of conflict.

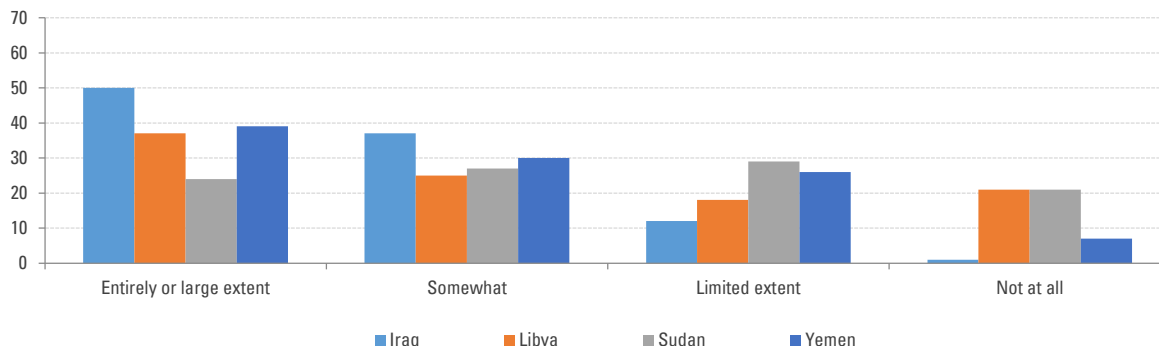
**Table 7. Monitoring administrative institutions: expert assessments, most recent data available**

Variable	Dataset	Publisher	Range	Year	Iraq	Libya	Sudan	Syrian Arab Republic	Yemen
<b>Public sector management</b>	Country Policy and Institutional Assessments	World Bank Group	1 (worst) – 6 (best)	2014			2.2		2.7
<b>Efficient use of assets</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	3.0	3.0	2.0	2.0	3.0
<b>Quality of the public policymaking process</b>	Institutional Profile Database	French Development Agency and Centre d'Etudes Prospectives et d'Informations Internationales (CEPII)	0 (low quality) – 4 (high quality)	2012	1.6	1.2	2.0	2.8	
<b>Effectiveness of policy implementation</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	5.0	3.0	2.0	1.0	3.0
<b>Policy coordination</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	3.0	5.0	2.0	3.0	3.0
<b>Transparency of government policymaking</b>	Global Competitiveness Index	World Economic Forum	1 (worst) – 7 (best)	2014		2.9			3.7
<b>Open budget</b>	Open Budget Index	International Budget Partnership	0 (worst) – 100 (best)	2015	3.0		10.0		34.0
<b>Perception of corruption</b>	Corruption Perceptions Index	Transparency International	0 (worst) – 100 (best)	2014	16.0	18.0	11.0	20.0	19.0
<b>Level of administrative corruption</b>	Institutional Profile Database	French Development Agency and CEPII	0 (low corruption) – 4 (high corruption)	2012	4.0	4.0	3.0	4.0	
<b>Bribery depth</b>	Enterprise Surveys	World Bank Group.	0 (no bribery) – 100 (high bribery)	2009 – 2014	34.0		8.0	34.0	61.0
<b>Role of networks for recruitment and promotion in public administration</b>	Institutional Profile Database	French Development Agency and CEPII	0 (no role) – 4 (important role)	2012	4.0	4.0	4.0	3.0	

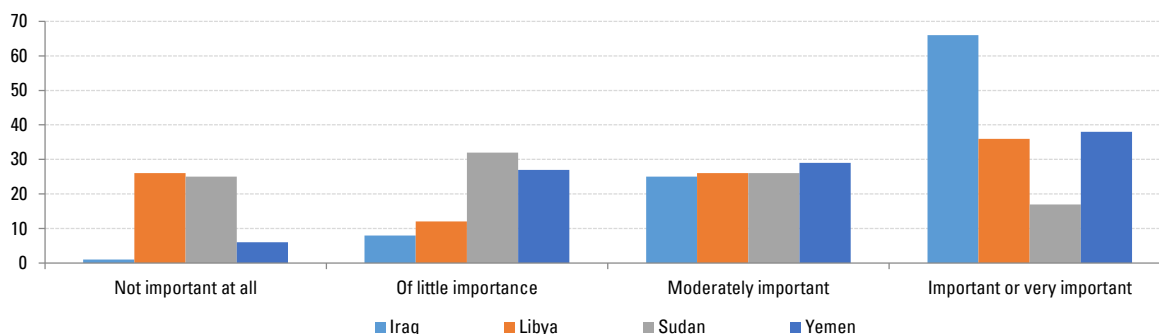
**Figure 8. Monitoring administrative institutions: perceptions surveys, most recent data available**



### D. To what extent is the Government run by a few big entities acting in their own best interests?



### E. How important are personal contacts to get things done?



Sources: A and B: Arab Barometer. Available from <http://www.arabbarometer.org/> (accessed January 2016); C, D and E: Transparency International, Global Corruption Barometer. Available from <http://www.transparency.org/research/gcb/overview> (accessed January 2016).

## C. Monitoring judicial institutions

Reforming the judicial institutions is often an overlooked process, despite the critical role played by the judiciary in alleviating grievances and in mediating conflicts and disputes peacefully. The judiciary is better able to judge the actions of such actors as the security institutions and ensure that all players conform to the constitution. Recording case outcomes may help to establish a precedent for the rule of law and order. Well-institutionalized judicial institutions ensure that neither corruption nor organized crime is permissible. A strong judiciary is also better able to enforce property

rights and the rule of law. Access to justice must be ensured if a society is to be truly based on the rule of law.

As underlined in chapter 4, judicial institutions should perform the following:

- Guarantee judicial independence and the rule of law;
- Uphold human rights and provide access to justice for all;
- Enforce property rights;
- Provide a strong legal framework that ensures a secure investment environment, among others;

- (e) Strengthen the status and skills of criminal justice actors;
- (f) Improve detention conditions, reduce reoffending, and consolidate rehabilitation and resocialisation;
- (g) Guarantee low levels of corruption and lower rates of organized crime.

The monitoring of judicial institutions in conflict and post-conflict settings is very challenging. Often in post-conflict situations, a new constitution is drafted and countries go through periods of transitional justice. However, some databases do provide information on the state of these institutions and could be used as a monitoring tool for judicial sector reform and development. These sources and most recent scores of Arab conflict-afflicted countries are presented in table 8 and figure 9.

Figure 9 shows that a large proportion of respondents to the Arab Barometer and the Global Corruption Barometer believe the judiciary is extremely corrupt in Iraq, Libya and in particular the Sudan; and a large percentage of the surveyed population has paid bribes for judicial services in the previous months in Yemen. The 2015 wave of the Arab Opinion Index yielded similar results.

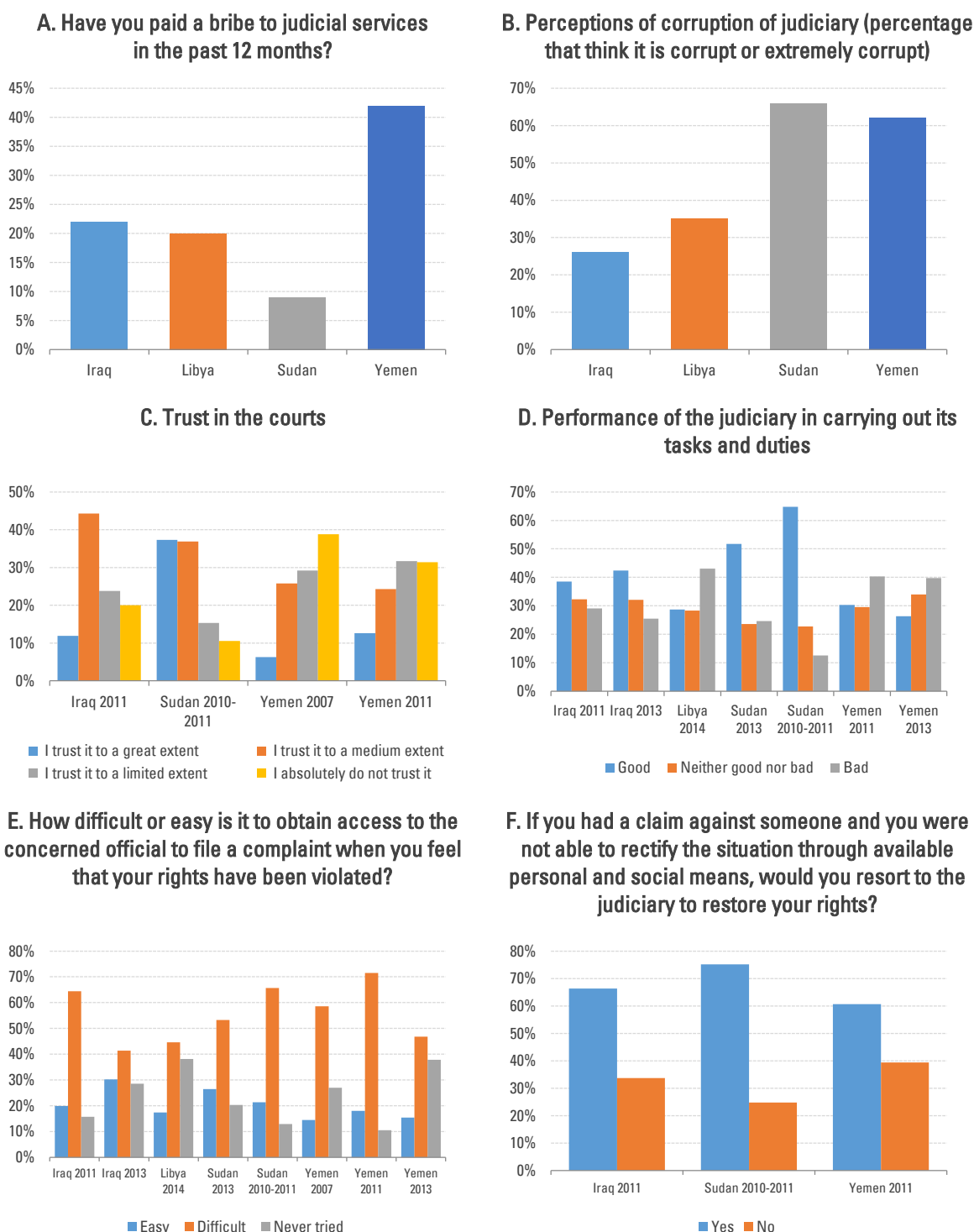
Listed below are additional indicators that could help to provide a wider picture of the state of judicial institutions in the region and monitor progress in their development. Some are already collected for other regions and countries of the world but not currently available for Arab countries:

- (a) Evaluation of corruption in the administration of justice using indicators produced by the Global Integrity Report, which assesses anti-corruption legal frameworks and the practical implementation and enforcement of those frameworks, and particularly allows evaluating if there are conflicts of interest, safeguards, and checks and balances in the judicial branch, if judges are fairly appointed, and if there is public access to information from the judiciary;
- (b) Extension of coverage of the World Justice Project Rule of Law Index to Arab conflict-affected countries, thus providing original, impartial data on how the rule of law is experienced by the public in those countries, and assessing constraints on government powers, corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice and criminal justice.

**Table 8. Monitoring judicial institutions: expert assessments, most recent data available**

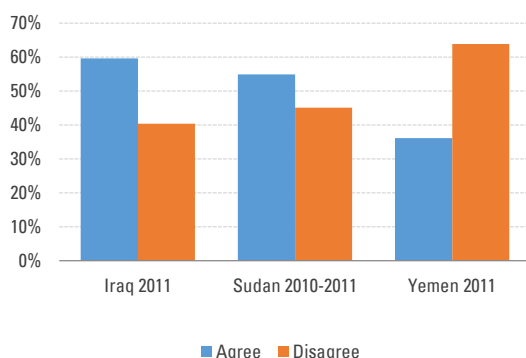
Variable	Dataset	Publisher	Range	Year	Iraq	Libya	Sudan	Syrian Arab Republic	Yemen
<b>Enforcement of judicial decisions</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very low enforcement) – 4 (strong enforcement of decisions)	2012	2.0	2.0	3.0	4.0	
<b>Timeliness of judicial decisions</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very slow decisions) – 4 (fast decisions)	2012	1.0	1.0	3.0	3.0	
<b>Degree of judicial independence vis-à-vis the State</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very low judicial independence) – 4 (strong independence)	2012	1.0	2.0	3.0	2.0	
<b>Efficiency of legal framework in settling disputes</b>	Global Competitiveness Index	World Economic Forum	1 (extremely inefficient) – 7 (extremely efficient)	2014		2.4			2.3
<b>Efficiency of legal framework in challenging regulations</b>	Global Competitiveness Index	World Economic Forum	1 (extremely difficult) – 7 (extremely easy)	2014		2.4			2.5
<b>Independent judiciary</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	3.0	3.0	2.0	2.0	4.0
<b>Legal and regulatory risks</b>	Risk Briefing	The Economist Intelligence Unit	1 (no risk) – 100 (most risky)	2014	78.0	93.0	75.0	83.0	73.0
<b>Enforcing contracts</b>	Doing Business	World Bank Group	0 (worst) – 1 (best)	2015	0.56	0.54	0.52	0.48	0.54

**Figure 9. Monitoring judicial institutions: perceptions surveys, most recent data available**

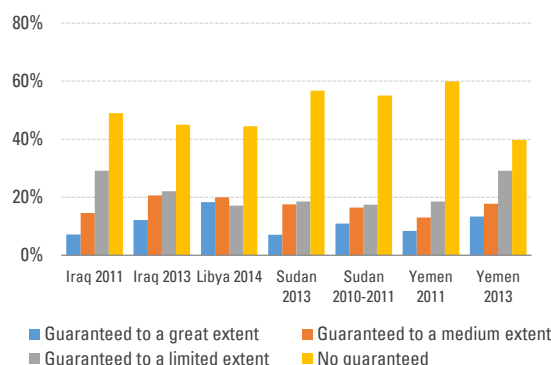




**G. Please identify the extent of your agreement or disagreement with: “The judiciary penalizes guilty persons even if they are senior officials in the Government”**



**H. To what extent do you think that freedom to sue the Government and its agencies is guaranteed in your country?**



Sources: A and B: Transparency International, Global Corruption Barometer. Available from <http://www.transparency.org/research/gcb/overview> (accessed January 2016); C to H: Arab Barometer. Available from <http://www.arabbarometer.org/> (accessed January 2016).

## D. Monitoring political institutions

The key effects of political reform are difficult to measure. The focus of survey data is usually on how political parties and parliaments are viewed. Not surprisingly, the levels of trust in either institution are not high in the Arab region. Parties in particular do not receive high levels of trust from the public. Much of this owes to the perception that they are not created to serve the interest of the public, but rather the interests of the politicians who join them. A history of weak parties has made it more difficult for strong ones to emerge after the Arab Spring. While parliaments are also not highly trusted, they are considered more reliable than political parties, maybe due to their role in policymaking. In the region, however, parliaments are largely impotent, which explains why they do not garner large levels of trust and support from the public.

Political institutions should perform the following in order to be effective and, in so doing, prevent conflict from occurring and/or lessen its likelihood:

- (a) Scrutinize, debate and pass legislation;
- (b) Create legal frameworks for development activities;
- (c) Deliberate on and approve national budgets;
- (d) Exercise effective budget oversight;
- (e) Monitor the implementation of budgets by the executive branch;
- (f) Represent citizens' interests in preparing policy and formulating laws.

The monitoring of political institutions in conflict and post-conflict settings is very problematic. Effective legislatures should ensure that the State is accountable to citizens and can competently deliver services. Three key roles should be monitored, namely: (a) how well the political institutions represent the public; (b) how effective

they are at passing legislation; and (c) how well they oversee government.

Table 9 presents indicators related to these roles from expert assessments and scores for Arab conflict-affected countries, which all appear to

rank low. Similarly, figure 10 shows that political institutions are perceived as corrupt in those countries. The public's perception of corruption is a good indicator to monitor institutional change; it would be very useful to collect such data for all countries in the region more regularly.

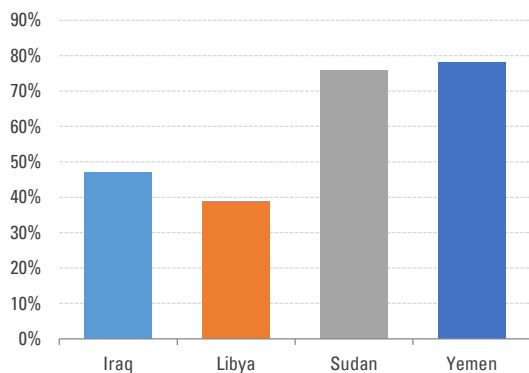
**Table 9. Monitoring political institutions: expert assessments, most recent data available**

Variable	Dataset	Publisher	Range	Year	Iraq	Libya	Sudan	Syrian Arab Republic	Yemen
<b>Effective power to government</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	4.0	3.0	2.0	1.0	2.0
<b>Policy coordination</b>	Bertelsmann Transformation Index	Bertelsmann Stiftung	1 (worst) – 10 (best)	2014	3.0	5.0	2.0	3.0	3.0
<b>Respect for the rules governing the assumption of political office</b>	Institutional Profile Database	French Development Agency and CEPII	0 (no respect) – 4 (full respect)	2012	4.0	0.0	3.5	2.5	
<b>Functioning of political institutions</b>	Institutional Profile Database	French Development Agency and CEPII	0 (widespread irregularities) – 4 (perfectly fair)	2012	2.5	2.7	3.3	2.3	
<b>Capacity for State reform</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very low capacity) – 4 (strong capacity)	2012	2.0	2.0	3.0	2.5	
<b>Capacity for sectoral reform</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very low capacity) – 4 (strong capacity)	2012	1.2	2.0	2.0	3.0	
<b>Obstacles to public action</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very limited) – 4 (severe)	2012	3.8	2.6	2.0	2.2	
<b>Political authorities decision-making autonomy</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very limited) – 4 (strong)	2012	3.0	2.0	4.0	4.0	
<b>Quality of the public policy making process</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very low) – 4 (very good)	2012	1.6	1.2	2.0	2.8	

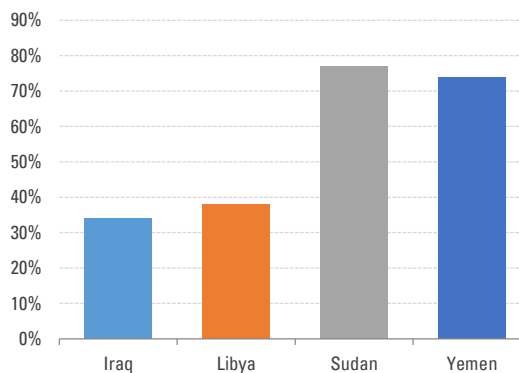
Variable	Dataset	Publisher	Range	Year	Iraq	Libya	Sudan	Syrian Arab Republic	Yemen
<b>Role of networks in the selection of senior leaders</b>	Institutional Profile Database	French Development Agency and CEPII	0 (very limited) – 4 (very important)	2012	4.0	3.0	3.3	4.0	
<b>Influence of donors</b>	Institutional Profile Database	French Development Agency and CEPII	0 (no influence) – 4 (significant influence)	2012	3.0	2.0	2.0	0.0	
<b>Efficiency of legal framework in challenging regulations</b>	Global Competitiveness Index	World Economic Forum	1 (extremely difficult) – 7 (extremely easy)	2014		2.4			2.5
<b>Transparency of government policymaking</b>	Global Competitiveness Index	World Economic Forum	1 (worst) – 7 (best)	2014		2.9			3.7

**Figure 10. Monitoring political institutions: perceptions surveys, most recent data available**

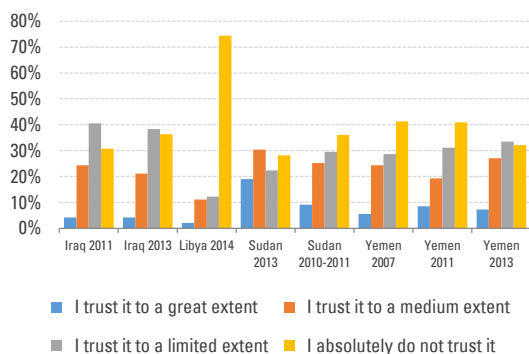
**A. Perceptions of corruption of political parties**  
(percentage that think that they are corrupt or extremely corrupt)



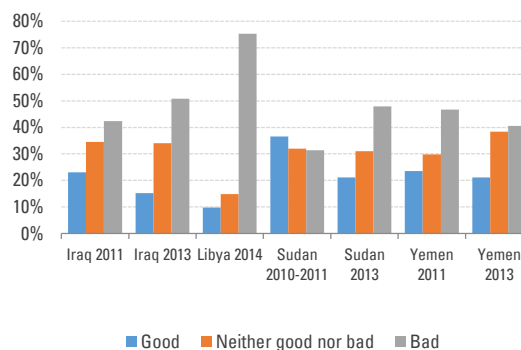
**B. Perceptions of corruption of parliament/legislature**  
(percentage that think that they are corrupt or extremely corrupt)



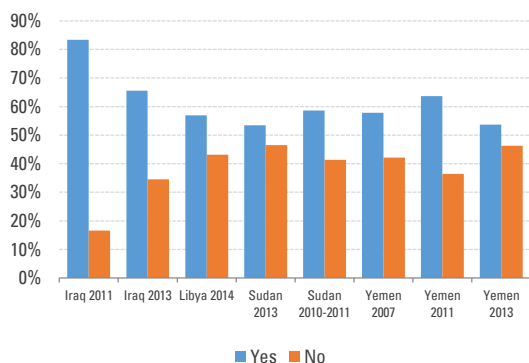
### C. Trust in the elected council of representatives (the parliament)



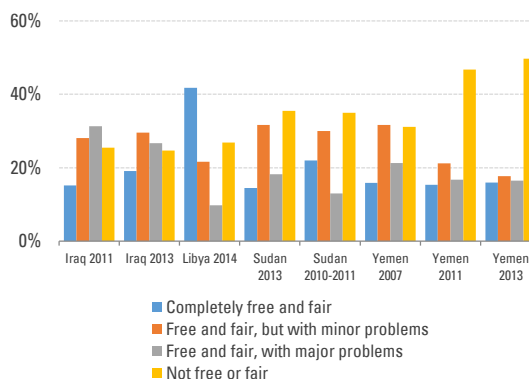
### D. The performance of the parliament in carrying out its tasks and duties



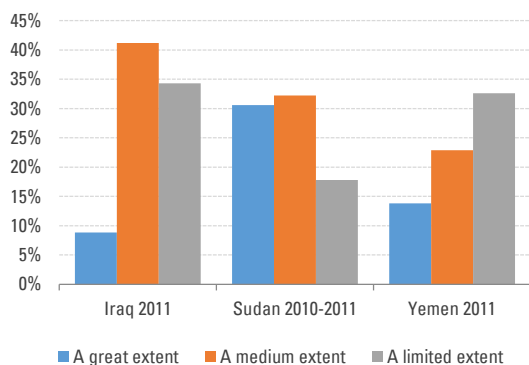
### E. Did you vote in the last parliamentary elections?



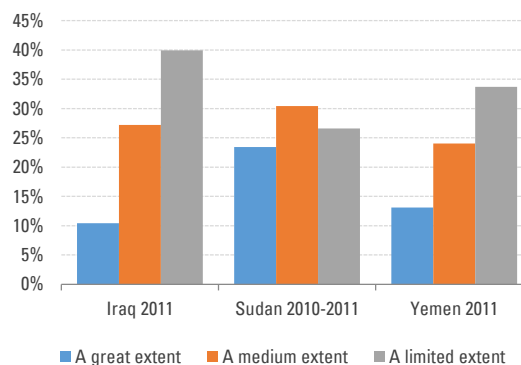
### F. How would you evaluate the last parliamentary elections?



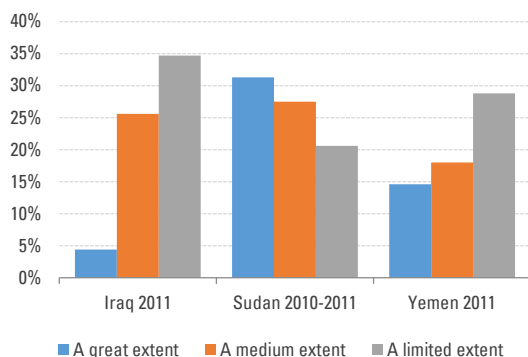
### G. To what extent do you think that parliament (the elected council of representatives) has a role in the formation of economic policies?



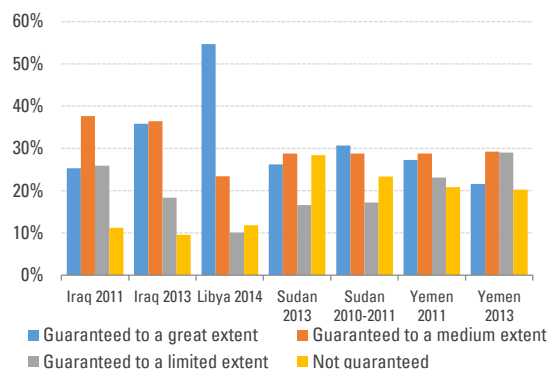
### H. To what extent do you think that parliament (the elected council of representatives) has a role in the formation of social policies?



**I. To what extent do you think that parliament (the elected council of representatives) has a role in the formation of foreign policies?**



**J. To what extent do you think that freedom to vote (parliamentary, municipal and provincial elections) is guaranteed in your country?**



Sources: A and B: Global Corruption Barometer. Available from <http://www.transparency.org/research/gcb/overview> (accessed January 2016); C to J: Arab Barometer. Available from <http://www.arabbarometer.org/> (accessed January 2016).

The Arab Barometer was launched in 2005, with surveys in Algeria, Jordan, Kuwait, Morocco and Palestine. In 2010, the Arab Democracy Barometer formed a partnership with the Arab Reform Initiative to expand the project's scope and range of countries. If the project is further extended to all countries in the region, progress can be tracked across time and more country comparisons can be done.

## E. Conclusion

Monitoring is a function that requires continuous and systematic collection of data in order to provide countries with information of the extent of progress and the achievement of objectives in the process of transforming out of conflict. This chapter has shown that, if the objective is to monitor institutional reform out

of conflict, it is evident that the available information is insufficient. It has suggested a complementary list of indicators, underlining that the required information is highly case sensitive and should be adapted to the specific context in terms of governance requirements and root causes of conflict.

Building a comprehensive monitoring tool to measure institutional development in the Arab region, in particular in conflict-affected countries where data are scarce, is a difficult task. Greater efforts have to be done to collect and incorporate reliable data on all the concerned institutions through a country-specific approach. This will help to understand risks and root causes of conflict, and to highlight key areas where interventions are required to reduce the likelihood of the onset of violence or to prevent violent relapses.

## 6. Conclusions and Policy Implications

Conflict is “development in reverse”, a negative event that can set back years of progress in all spheres of sustainable development and affect a country’s population for generations. In the Arab region, a history of conflict still pervades all aspects of life and violence and instability are becoming recurrent and more intense. Achieving the SDGs will be a tall order for most Arab countries unless inclusive political settlements and conflict resolution are integrated into the region’s sustainable development agenda; reforms are geared towards peace; and security and access to justice are prioritized, based on human rights principles.

Experiences from previous conflicts across the world have led to identify some peacebuilding mechanisms that have shown their effectiveness in halting the violence and reducing the likelihood of conflict relapse. Those mechanisms include negotiated settlements with some degree of power-sharing, possible through mediators and/or enforcers; transitional justice systems; national dialogue processes; disarmament, demobilization and reintegration programmes, with a focus on de-radicalization; socioeconomic programmes that reduce economic grievances; and institutional transformation that addresses the root causes of conflict.

Institutional reform is one of the most effective tools available to target the instigators of conflict and prevent relapse. It involves deep

institutional changes that can only be achieved with political will and a carefully designed long-term plan, agreed upon by all stakeholders. Such reform is very country- and conflict-specific, and it should be led by the national actors themselves. However, there are some general characteristics of high-quality institutions that have proven important for the mitigation of violence triggers. This report analysed these main axes of institutional transformation in security, administrative, judicial and political institutions. It also proposed the development of more comprehensive monitoring tools to identify the current situation in conflict-affected Arab countries and assess progress towards the reform plan.

The analysis of institutional transformation out of conflict leads to the following policy implications. First, there can be no sustained development without peace and no peace without development. This intrinsic link should be an indispensable consideration in the drafting of all development plans and programmes. It was, to some extent, taken into account by the international community when peace was set as one of the global goals (SDG 16) in the 2030 Agenda for Sustainable Development. National and regional planning and interventions should be based on a systematic assessment of conflict and its root causes. Mitigating its short-term impact and responding to development fallout should be the first priority. Consensus-based

national development visions inspired by SDGs should also be embedded in a larger inclusive political dialogue process.

Second, institutional reform is an important component of any framework that could guide a transition out of conflict. However, institutional change is a very complex, country-specific issue. It involves finding common ground among many actors; it can have a high political cost; and progress can be observed only in the medium and long terms. A comprehensive monitoring mechanism should be used to track progress on this front and maintain political momentum and public support. This could be complicated by the lack of publicly available data and the complexity of the issue, which

requires a wide array of qualitative and quantitative information in order to be grasped in all its dimensions. For these reasons, countries that embark on institutional transformation for peacebuilding should consider establishing a reform observatory. This tool would delineate in detail the different areas of change that have been agreed, and all the required information would be collected on a regular basis. This nationally owned monitoring tool requires the participation of all actors, which would grant it the needed legitimacy. Monitoring results should be published in a transparent manner. Follow-up should be ensured so that the whole process leads to the achievement of sustainable peace and development.

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# Endnotes

## Chapter 1

- 1 Data were taken from the Office for the Coordination of Humanitarian Affairs (OCHA, 2015d), according to which displacement affected more than half of the pre-war population (21.5 million): 19 per cent as refugees abroad and 35 per cent as internally displaced persons (IDPs). These figures only include the registered displaced population and would be substantially higher if the unregistered could also be taken into account.
- 2 The other two Arab countries in conflict, namely Iraq and Libya, are not included in the Global Food Security Index data set.
- 3 ESCWA calculations based on data from the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

## Chapter 2

- 1 The Truth and Reconciliation Commission in South Africa remains the only truth commission that had a clear mandate to grant amnesty to perpetrators. That Commission granted amnesties only for politically motivated crimes and upon the applicant's fully and publicly revealing the details of the crimes committed. Other countries have also considered this approach, under the assumption that it would motivate perpetrators to confess (Liberia). However, great concerns are raised over this approach given that it is effective only if serious threats of prosecutions exist, and can, in some contexts, encourage perpetrators. For a detailed discussion on this issue, see OHCHR, 2006b.
- 2 See the example of the Timor Leste Truth Commission, where civil and criminal liability were disregarded for non-serious crimes dependent on full admission, apology and symbolic payment as per Timorese local customs.
- 3 The Sierra Leone Truth and Reconciliation Commission decided that its terms of reference, which called for investigation into "violations and abuses of human rights and international humanitarian law", included economic, social and cultural rights. When persons came forward with such complaints, it accepted them in the same manner as violations of civil and political rights. Other commissions, such as the Peruvian commission, have decided to focus on violations of civil and political rights in their statement-taking, hearings and investigations, although in some cases economic rights are intertwined; often, the final reports do directly address economic, social and cultural rights, especially in the recommendations.
- 4 See <http://www.usip.org/sites/default/files/file/resources/collections/commissions/Morocco-Charter.pdf> for an unofficial translation of the decree establishing the Commission.
- 5 The Tunisian National Dialogue Quartet includes four civil society groups, namely the Tunisian Human Rights League, the Tunisian Order of Lawyers, the Tunisian General Labour Union, and the Tunisian Confederation of Industry, Trade and Handicrafts. The Quartet aligned forces in 2013 when Tunisia was at critical juncture between democratic transition and violence, and essentially drew a road map aimed at a peaceful transition, calling for the resignation of the Cabinet, the establishment of a new election commission and the revision of the Constitution.
- 6 The doctrine of superior responsibility is provided for in Statute Article 7(3) of the International Criminal Tribunal for the former Yugoslavia (ICTY), Statute Article 6(3) of the International Criminal Tribunal for Rwanda (ICTR) and Rome Statute Article 28. The ICTY and ICTR provisions are identical. In order to invoke criminal responsibility under ICTY, Statute Article 7(3) on the basis of superior responsibility, the following must be met: (a) existence of a superior-subordinate relationship between the superior (the accused) and the perpetrator of the crime; (b) the accused knew or had reason to know that the crime was about to be or had been committed; and (c) the accused failed to take the necessary and reasonable measures to prevent the crime or punish its perpetrator.

- 7 Article 8 establishes specialized chambers within the courts of first instance in the governorates that have appeals courts. It states that judges appointed to these chambers must never have participated in trials of a political nature and must receive training in transitional justice.
- 8 Sihem Ben Sedrine, Head of the Truth and Dignity Commission, considers the law an unnecessary parallel procedure that would only hinder the Commission's work, disrupt the transitional justice process and lead to stripping the Commission of its jurisdiction over revealing the truth, holding people accountable, and reconciliation. A number of legislators representing the opposition, including the Democratic Current and the Popular Front, who were present at the large protest of 12 September 2015, demanded the outright withdrawal of the law and encouraged further demonstrations (Samti, 2015).
- 9 More information is available from <http://www.ohchr.org/EN/NewsEvents/Pages/AroadmapagreedforanArabregionalhumanrightsstrategy.aspx#sthash.tNxRjKFB.dpuf>.
- 10 The Arab Charter of Human Rights is available from <http://www.humanrights.se/wp-content/uploads/2012/01/Arab-Charter-on-Human-Rights.pdf>. The Cairo Declaration on Human Rights in Islam is contained in United Nations document A/CONF.157/PC/62/Add.18, available from [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/CONF.157/PC/62/Add.18](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/CONF.157/PC/62/Add.18).
- 11 See <http://bangkok.ohchr.org/programme/asean/principles-regional-human-rights-mechanisms.aspx>.
- 12 See <https://www.crisisgroup.org/who-we-are/crisis-group-updates/crisis-group-congratulates-tunisian-national-dialogue-quartet>.

### Chapter 3

- 1 This need for a security apparatus that is strong enough to execute the orders of civilians, but not so strong that it ignores them, is referred to as the civil-military challenge (Feaver, 1996).
- 2 See, for example, Howe (2001), who argues that, in addition to transparency and meritocracy, accountability helps to elevate security institutions.
- 3 Ottaway (2002, p. 1006) also claims that "accountability of the military and the police to civilian authorities" is critical to stability.
- 4 In addition, Weber saw "patrimonial bureaucracy" as a particular form of bureaucracy staffed with such unfree officials as "slaves or ministeriales", as opposed to administrative institutions that are incompetent and organizationally weak (from Erdmann and Engel, 2007).
- 5 Within that context, Goldsmith (1999, p. 546) writes that "countries that fail to bring their public bureaucracies closer in line with Weberian precepts are going to have a hard time meeting their populations' economic and social needs".
- 6 Studies have shown that bureaucratic efficiency is improved by having clear guidelines, clear assignments and clear feedback for bureaucratic performance (Anwaruddin, 2004, p. 305).
- 7 The achievements of successful countries "have been built on a base of impartial, professional bureaucrats", indicating that "Weberian insights are correct" (Goldsmith, 1999, p. 525).
- 8 The patrimonial bureaucracy is often referred to as a type of administration where civil servants are responsible and loyal to a particular leader, rather than to the State. Corruption levels tend to be high given that government jobs are treated as income-producing assets rather than positions of public service. This report uses the terms patrimonialism and neo-patrimonialism synonymously. The key difference between the two is that the latter is a patrimonial system that also has a rational-legal veneer.
- 9 Evans (1992) argued that the strength of autonomous institutions was in that they are "embedded" with society and able to work with society to achieve collective goals, while not being captured by particularistic interests.

- 10 Of course, judicial independence requires governments that agree to respect the law. As the World Bank (2002, p. 118) writes, forcing “rulers to follow the law is a problem as old as government itself”. This underscores the fact that governments may not want to develop high-quality institutions in the first place, a problem that lies outside of the scope of this study.
- 11 In examining party institutionalization, some correlations can be found which bear more exploration. Looking at the evidence from Africa, countries with the most institutionalized parties, such as Botswana and Tanzania, are also the most stable (Basedau and Stroh, 2008). In Latin America, Chile and Uruguay have the most institutionalized parties. They also are considered to be the most stable countries in the region (Mainwaring and Scully, 2008). In Asia, Japan, Malaysia, Singapore and Taiwan are cited as the countries with the most institutionalized parties (Hicken and Kuhonta, 2011). They are also considered to be very stable. Very few studies have measured the institutionalization of political parties outside these regions.

#### Chapter 4

- 1 Available from <http://www.arabbarometer.org/instruments-and-data-files>.
- 2 Available from <http://english.dohainstitute.org/release/5083cf8e-38f8-4e4a-8bc5-fc91660608b0>.
- 3 There are approximately 350,000 personnel in the Iraqi army and armed forces, and 450,000 in the police. The strongest force is the mostly Shiite Counter Terrorism Service (CTS), which reported directly to former Prime Minister Nouri al-Maliki. Some 4,000 members of CTS are also in the Iraqi Special Operations Forces (ISOF). The national air force remains limited.
- 4 According to the International Institute for Strategic Studies (The Military Balance Database, available from <http://www.iiss.org/en/publications/military-s-balance>), the Sudanese Armed Forces had an estimated 104,800 personnel in 2007, which were supported by 17,500 paramilitary personnel. The number grew to 109,300 in 2011. Irregular tribal and former rebel militias and the Popular Defense Forces supplement the army’s strength in the field. The Popular Defense Forces have the additional duty of maintaining internal security.
- 5 See <http://www.globalsecurity.org/military/world/sudan/pdf.htm>.

#### Chapter 5

- 1 For more details on measuring governance and institutional development, see the extensive discussion in ESCWA, 2014b.
- 2 For a complete description and review of the statistical sources, also see ESCWA, 2014b.

Today, conflicts of varying intensity directly affect at least half of the Arab countries, while the rest endure spillover effects, impeding peoples' fundamental right to live their lives free from fear and want. Conflict in the region has resulted in the catastrophic loss of life, displaced more than 22 million people and severely disrupted livelihoods. At the very least it has reduced the quality of life and significantly undermined opportunities for sustainable development. Conflict has also severely eroded institutions, polarized societies and fractured social cohesion. The Arab region faces daunting challenges to restore political consensus and social cohesion in order to start a rehabilitation process. Countries must first respond to the immediate needs of the population by developing representative, responsive, accountable and just institutions that can deliver services equitably.

This report discerns priority issues for a conflict-sensitive approach to governance. It identifies four groups of priority institutions for reform. First, security institutions should strive to become professionalized, develop a centralized military command structure and be put under civilian accountability. Secondly, administrative institutions need to enact mechanisms that ensure that they are autonomous, that recruitment and promotion follow meritocratic rules, and that salaries are competitive. Thirdly, judicial institutions must be independent, transparent and efficient, and able to provide equal access to all. Finally, political institutions need to include coherent, democratic and representative political parties, as well as strong, independent legislative bodies that can provide a counterbalance to the executive power. The report concludes by proposing to establish an observatory of institutional reform to monitor the main institutional dimensions of a transformation out of conflict.

