



# States of Transition

## Emerging Memory Challenges in MENA Countries





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in MENA Countries

**FRIEDRICH  
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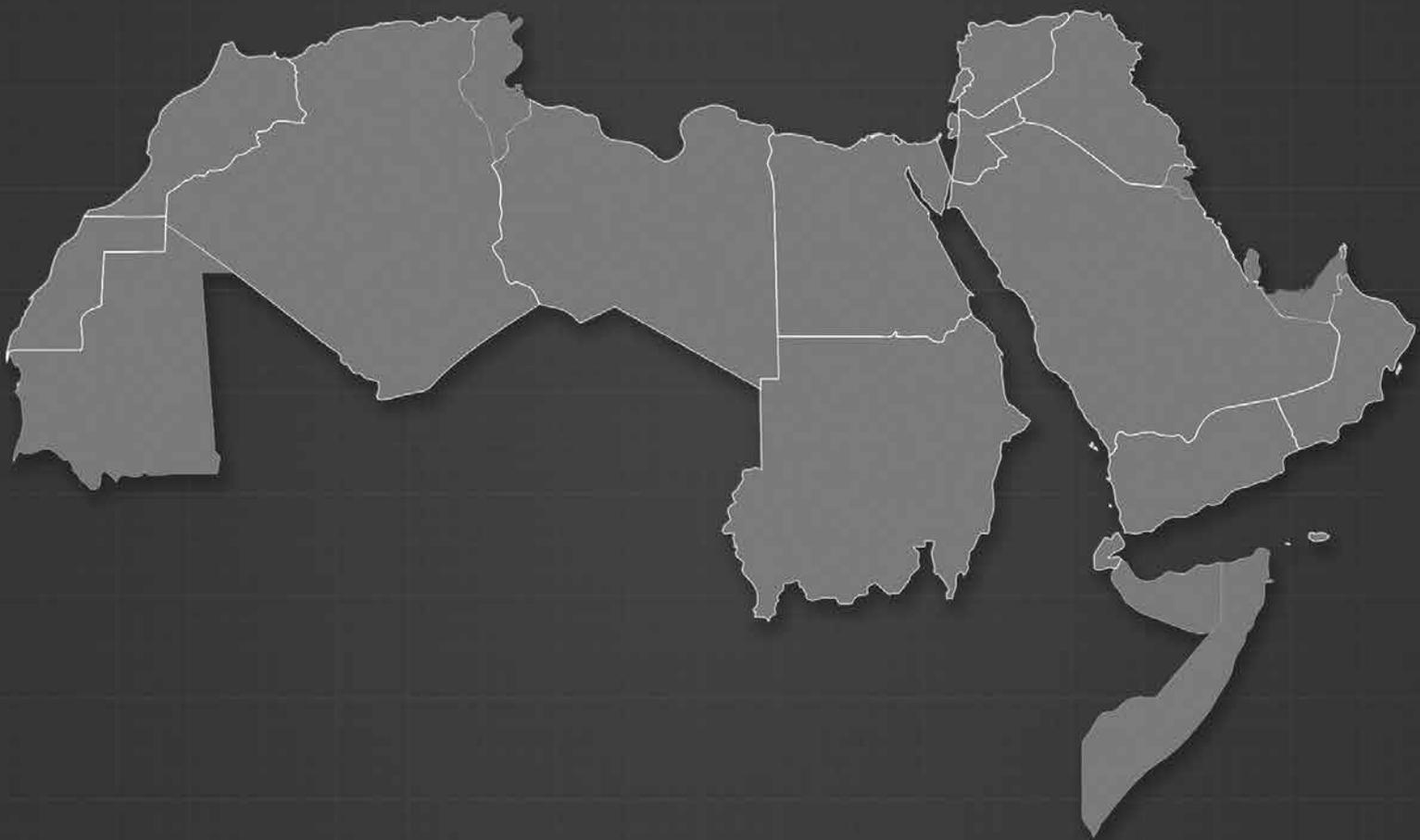
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**BACKGROUND, RATIONALE  
AND KEY ISSUES**



In November 2014, Friedrich-Ebert-Stiftung (FES) and UMAM Documentation and Research (UMAM D&R) hosted a conference in Beirut titled *States of Transition*. Associated with a broader effort in which the two organizations had engaged separately, the symposium was intended to help promote a multifaceted and regionally oriented exchange of ideas focused on issues associated with memory, conflict and transition-related dilemmas including transitional justice. The overall effort necessitated an examination of the many approaches being used by people, societies and governments throughout the Middle East and North Africa (MENA) region to reconcile regime change with the attendant turmoil. Certainly, such examinations must be repeated periodically, as they

must be sufficiently current to parallel with the unfolding situation in the region as well as in each country. Thus, we believe that the 2014 conference should be documented and examined to determine if it should be elaborated upon and perhaps conducted again.

There is some agreement that the turbulence being experienced in the MENA region is unprecedented in terms of its remarkable violence. With that in mind, some people (and organizations) are seeking to contain the situation at any cost, as they are concerned that such instability always leads to greater uncertainty. Alternatively, others believe that stabilization will lead inevitably to challenges, chief among them the questions related to issues we eventually categorized as being related to

transitional justice. The *States of Transition* conference engaged these perspectives by bringing together individuals from throughout the region to review a broad range of issues. All told, 13 MENA region countries were represented by either individuals or organizations. The issues at hand related not only to ongoing events throughout MENA, but also (and primarily) to work that could be done in the areas of transitional justice and memory. Of course, conditions in many MENA countries are not what they were when the conference took place.

Some degree of compromise is usually a prerequisite to implementing transitional justice, not only when no clear victor emerges from a conflict, but also when the need arises to treat the "vanquished" fairly (if such an extreme exists in this case). Hence, a principle goal of the *States of Transition* conference was to convince regional stakeholders that beyond being a viable option, compromise is perhaps the most effective approach to achieving lasting reconciliation in post-conflict societies. Moreover, the ability to overcome a societal dichotomy that comprises only perpetrators and victims is a precondition to peaceful political transition.

To prepare for the conference, its organizers shared their blueprint for ideas and suggested discussion topics with the invitees. Of course, while that blueprint certainly carried a "time stamp" from the date it was drafted, the presentation began by reminding everyone that for the last several years, MENA has experienced a number of political and social convulsions, some of which were discussed at length. Amid that turmoil, many parties attempted to implement transitional justice initiatives; however, those efforts were met with wildly varying degrees of sincerity and success. Still, several of the following points, which were made during the initial conference, are germane to continued documentation efforts and examination of the relevant issues. For instance, it may seem comforting to pretend that the (MENA) region—particularly the Levant—is experiencing vicious turmoil, which, thanks to the efforts of those countries committed to its resolution, will soon dissipate. In reality, years if not decades will be needed to achieve that outcome. Accordingly, it must be made clear from the onset that this is both a generational issue and process. Yet when we evaluate our shared but precarious "present," our

foremost task is to begin that process by stating clearly that the worst approach that can be taken is to attempt to assert some mystical explanation for the trying times the MENA region is currently experiencing. For example, when the “Arab Spring” peaked less than two years ago [ca. 2012], some opinion makers—who also influence *policy* makers—seemed certain about the next steps that would be taken, and Egypt comes immediately to mind. There, the Muslim Brotherhood came to power via Muhammad Morsi, whose victory in the presidential election was announced on June 24, 2012. The fact that he garnered 51.73 percent of the vote seemed to illustrate that politics and society could advance together democratically, that an allegedly friendly and modern Islam had been introduced and that Egyptians as a whole aspired to change. But that landscape shifted dramatically just a year later. On June 30, 2013, demonstrations erupted throughout Egypt and protesters called for Morsi's ouster. In Syria, things were even worse. As the last Arab country to become embroiled in the Arab Spring in March 2011, the situation there seemed to rely on the uninspired efforts of bored technocrats coupled

with wholesale ignorance of the regional power game. Ultimately, that approach was ruthlessly negated. But not all of those “springtime” outcomes have been quite as bleak. In stark contrast to Egypt and Syria, countries such as Morocco and Tunisia have experienced limited success. In fact, Morocco's truth commission (concluded in 2005) was the first of its kind in any MENA country. Additionally, Morocco instituted a reparations campaign for victims of prior state injustices. Following along a similar line, Tunisia arguably emerged as MENA's most stable democracy based on its successful elections and ratification of a new post-revolutionary constitution. Jordan and Bahrain, however, are examples of countries in which (following popular unrest that fell short of full-scale conflict) leaders have tried to discourage turbulence by applying a combination of appeasement and repression tactics. Yet even the most inspired and “successful” initiatives in the region continue to face significant obstacles. Considering those circumstances from the perspective that constructive exchanges of knowledge could and should occur, it was clear to FES and UMAM D&R that an event capable of “taking stock”

of the extant state of current affairs would be of significant benefit for present and future initiatives.

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Among other objectives, the *States of Transition* conference was intended to address the questions and difficulties posed by circumstances related to MENA transitional justice initiatives. The following is a synopsis of the most prominent topics suggested and around which the detailed conference agenda was drafted.

### **Emergent transition models peculiar to MENA**

While today it seems chic to describe MENA-based transition processes (even those that are violent) as being based on ideals, such as the chasm that separates “extremism” and “moderation,” those transitions are occurring against a backdrop of socioeconomic conditions that must also be considered. The assessment this conference aimed to provide in these regards was twofold: (1) to give a general description of the socioeconomic context in each country represented and (2) achieve a more detailed description of the “state of transition” in each country. For instance, what experiences (i.e., legislation, resultant

action or changed realities) have been noted in countries such as Morocco, Algeria and Lebanon? What achievements or shortcomings in national and/or state initiatives (such as Morocco's Truth Commission or the amnesty programs in Algeria and Lebanon) have been realized? Moreover, what successes, failures or deficits have been observed among civil society initiatives, advocacy programs and lobbying/pressure groups?

### **Emerging memory issues**

If we assume that the ongoing and conflicting narratives of current events in each MENA country fall within the category of “memory issues,” we can estimate the magnitude of the situation with which each of these countries must deal, regardless of whether they retain or adjust their historic identity. And as long as the past is constantly invoked to justify the use of wholesale violence, those who want this region to enjoy a genuinely peaceful future (as opposed to militarily enforced stabilization) have a responsibility to address the importance of memory issues.

### **Documentation challenges**

With respect to the above issues, there are significant challenges associated with the act of

documentation. The diverse process of documentation has finally become a legitimate part of MENA-specific activism, particularly in terms of the advancement of human rights and accountability. Indeed, the process of documentation has achieved shared value status, even among people who do not share the same definition of justice (Islamists, for example, are often as keen on documentation as secularists). However, new challenges are emerging due to the proliferation of globalized social media portals. As social media is used not only for communication, but also for preservation through records (of the self, the state, etc.), the volume of data available on these portals prompts serious consideration. What should be done with the innumerable records and accumulation of various pieces of documentation—especially those typically used for propaganda purposes?

### **MENA's fluid transitional justice environment**

Based on a review of a compendium of related UN literature, "Transitional justice processes and mechanisms do not operate in a political vacuum, but are often designed and implemented in fragile

post-conflict and transitional environments." Understandably, the environment in which transitional justice must be implemented is an important criterion for judging its current and future prospects for success on a national, regional and international level. One starting point may be to map the countries that have recognized transitional justice (albeit to varying degrees) as an essential element in moving forward (e.g., Egypt and Yemen) and those that either have declined or hesitated to recognize it as such. Another approach might be to evaluate the relative success of transitional justice models in countries where the state's partial or total failure caused fragmentation of the country involved. To utilize such approaches, however, we must examine how countries deal with the past relative to previous and ongoing conflicts, and how they manage transitions when regime change is not a factor.

### **Legacies of past and present violence**

In light of the foregoing, it seems appropriate to initiate a mapping process that identifies "old" and "new" trauma within MENA. While state oppression (e.g., imprisonment, torture, enforced disappearance, etc.) has been a typical source of

trauma, new and excessively violent practices (that often hijack religious texts to justify such acts) are creating new syndromes of trauma. Facilitated in large part by the ubiquitousness of social media, the brash publicity of such practices broadens the target group of victims.

### **Can MENA still talk about a "shared experience?"**

While it seems comfortable to describe the MENA region based on the common denominators shared by its people and societies, the transition processes taking place reflect a steadily increasing number of idiosyncrasies.

Similarly, the very way that change itself is being selectively handled and mishandled is fraught with numerous discrepancies. While the persistence of "sentimental" bonds between the Mashreq and the Maghreb cannot be denied, they are being relaxed. Indeed, one of the key features in cases of pre -and post-Arab Spring transition is that uniquely opposite dynamic: while the transition strengthened some nation-states (such as Tunisia and Morocco), it hastened the decomposition of other states, such as Libya and Syria. Accordingly, the question that focuses on the very relevance of the MENA concept deserves

revision based on this highly experimental observation.

### **When is the right time to address the past?**

One of the most loaded questions to emerge each time we talk about transition relates to the length of time that must pass before people are ready to come to terms with their historical demons. There is also the question of whether transitional justice can be attempted in countries that are still in a state of conflict. Is it appropriate to focus on the past while the present conflict continues to rage, or is it wiser to resolve those ongoing struggles before commencing that effort?

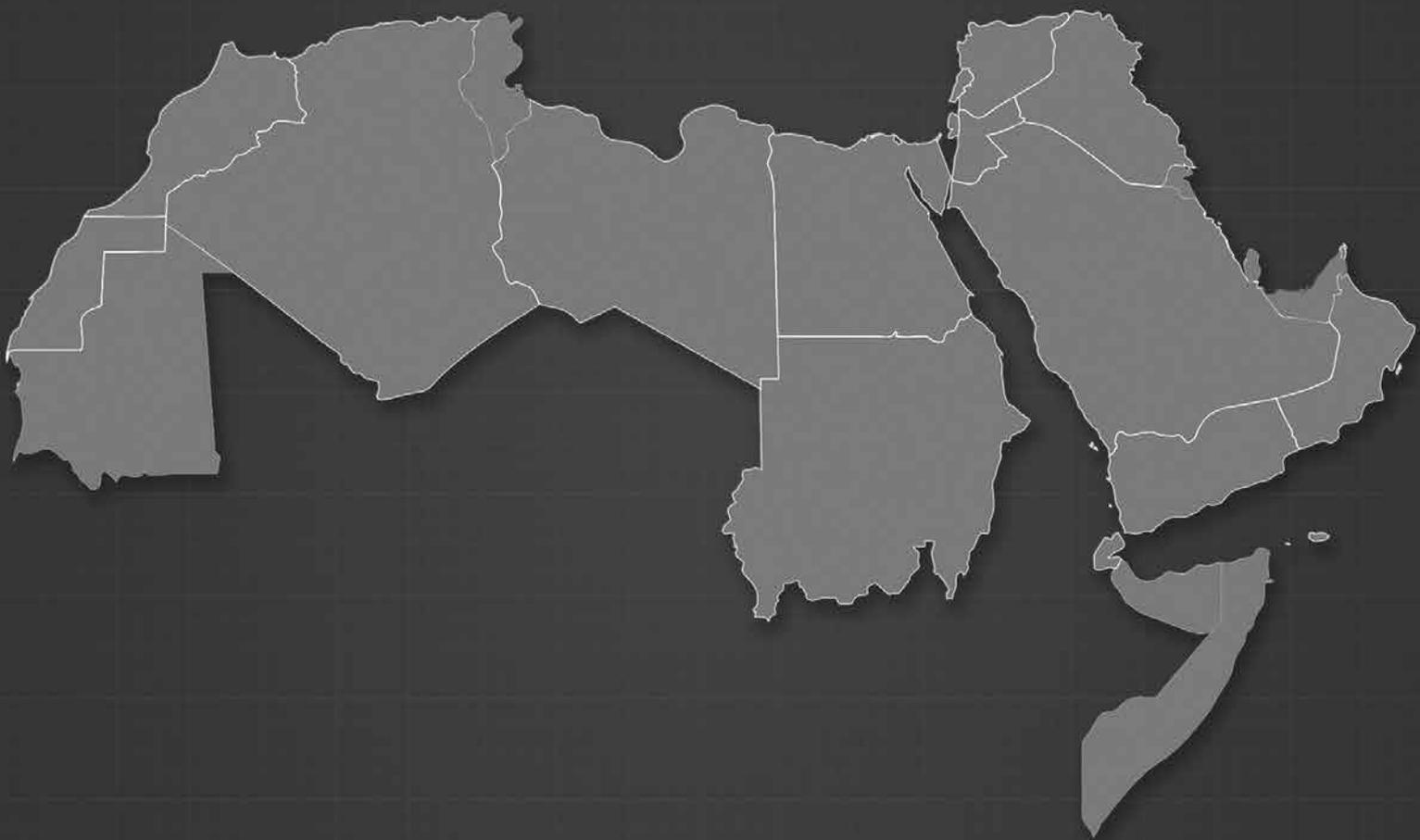
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From a very general perspective, the *States of Transition* conference aimed to give voice to the many ways available to address these complex issues. It became clear during the conference that while there is no magic potion that helps individuals reconcile with the past or present MENA regimes responsible for inciting political violence, many individuals, organizations and even governments in the region are still struggling to devise ways to heal their societies, atone for the past and pave the way to a brighter future. Notably, this conference

was part of the effort to identify and evaluate such methods. In general, however, the symposium became an opportunity for peace-minded individuals from throughout MENA to assemble, socialize and confer on their best ideas for transitioning away from conflict and toward peace. In this vein, all such initiatives have

merit, if only to keep alive the hopes and dreams of a promising future in one of the oldest and most important geographic areas on the planet. The conference opened with two keynote speeches given respectively by Achim Vogt, who heads Beirut's FES office and Lokman Slim, the co-director of UMAM D&R.





## KEYNOTE SPEECHES



# Achim Vogt

## Friedrich-Ebert-Stiftung

Good morning, everybody.

To all who have arrived from other countries, welcome to Lebanon. On behalf of the Friedrich-Ebert-Stiftung, I'm very happy to extend a warm welcome to those of you who have come all the way from Morocco in the west, Yemen in the southeast, and from all the countries in between. We are very happy to have everyone here for this gathering on *States of Transition*.

Today, we will be discussing the challenges to transition in the MENA region, while today and tomorrow, we will be discussing questions about dealing with the past. In the last two decades, we have seen quite a

number of institutions emerging worldwide, from Cambodia to Chile, from Timor-Leste to Bosnia, and of course, the Truth and Reconciliation Commission in South Africa following the end of that country's apartheid regime.

As a representative of the Friedrich-Ebert-Stiftung and a native of Germany, we had to deal twice with our past. First, when the Nazi regime fell in 1945, and later with the legacy of the former German Democratic Republic (GDR). Essentially, we had to deal with all the same questions we will be wrestling with during the next two days. These include questions surrounding documentation and memory, as well as the challenges of justice.

In Germany, we dealt with notions of transitional justice that were imposed on us from outside the country after the Second World War and from inside the country when the GDR fell apart in 1989.

Because of our past, we Germans often had—with very good reasons—quite some difficulty being proud of our country. Interestingly, this changed only recently, when members of my generation began expressing pride in our country because of the way it has dealt with its past. That is certainly a very positive change, and I can give some good examples of how it can be accomplished. It should be noted here that we at FES deal not only with countries in the MENA region, but also around the world, including the West. When I consider countries like France, and the legacy of its past in Algeria or the nuclear tests it conducted in the Sahara and the Pacific, or when I think about the U.S. and its legacy of dealing with the native Americans, the war in Vietnam or other issues, then I believe there is still much to be done in most countries around the world.

The Friedrich-Ebert-Stiftung is Germany's oldest political foundation. Founded in 1925,

it fell victim to the German dictatorship and was forbidden entirely by the Nazis in 1933. After the Second World War, it was reestablished. It commenced by giving scholarships to students and later focused on political education in Germany, where it remains active. Abroad, FES works in 107 countries worldwide, including nine countries in the MENA region.

I recall being the resident director of FES in Morocco from 2000 to 2002. At that time, along with our partners and friends in Morocco, we organized the first conferences on transitional justice after Morocco's new king, Mohammed VI, succeeded his late father. Those initial workshops focused on trying to find ways to deal with the past and the legacy of King Hassan II, a process that eventually led to Morocco's Truth and Reconciliation Commission. For quite a while, that was the only experience of its kind in the MENA region. Another example of the work being done by FES—albeit on a different continent—was an international conference focused on dealing with Cambodia's past.

Where the MENA region is concerned, I don't really have much to tell you all, since you are the experts on that matter.

You are the experts who will contribute to the success of this event today and tomorrow.

We have 19 countries—if you'll permit me to temporarily exclude Djibouti, the Comoros and Somalia—so when we talk about the core of the Arab region, we are referring to those 19 countries. Of course, they could not be any more diverse. In fact, their experiences are so different that it becomes difficult to make simple comparisons or to draw common conclusions. Each of those countries is in some state of transition because politics and societal development never end. Both are in a constant state of development. That means as well that transition is a constant process. So, the challenge we face is that of understanding that when a transition is so notable, we must try to deal with the past.

Because we are focusing on the past, we carefully chose the title of this conference—*States of Transition*—because we are talking about the countries themselves on the one hand, and the state in which a given country now finds itself on the other. In that latter case, the country must deal with questions of its past. We must ask ourselves questions not only

about regime changes and the way forward following that turbulence, but also questions about what we can and should do while the conflict is still ongoing. What action do we take when a regime or government is unwilling to deal with the past? And what do we do when no substantial change occurs? If no regime change takes place, there is a margin in which we can maneuver, a margin for activity that will enable us to deal with the past—as happened in Morocco or Jordan, to give just a few examples.

As I said, I was in Morocco for quite a long time, and it remains the only example where a truth and reconciliation commission actually came into existence.

Although there had been some initiatives before 2011, it was not until that year (and the years since) that dramatic changes began to occur in the Arab region. Of course, regime changes have taken place in some countries, but a second aspect that is equally important in my view is that in all these countries, the regimes of fear have collapsed. Today, people stand up and demand answers. They demand ownership of their own destiny, including their own past. Remember these two key

words that all of us have heard time and again since 2011: respect and dignity. Looking at this from another perspective, we can ask: when we deal with the past, how should we deal with its legacy?

We do not want simply to host a series of lectures. Rather, we hope to exchange experiences. We want to discover, together, where ways to the future can be found. In the end, it will all come down to some common questions. Considering all the diversity we see in the region, how can we manage the uneasy balance between reconciliation, justice and truth? Unfortunately, those three key words somehow don't seem to fit easily together.

We'll be working on four key issues, such as how to heal, reconcile or forgive; how to seek justice; how to tell and talk about the truth, and how to find the truth; and finally, how to manage reparations. I would like to mention one last aspect briefly. With regard to working on the past, our efforts

should encompass societies at large and entire countries, but those efforts should deal with individuals as well. I am very happy we were able to assemble a panel in which we will deal with the questions of trauma.

My thanks this morning go to our friends and partners at UMAM Documentation and Research, especially Monika Borgmann and Lokman Slim. I think we have worked very well together using the same set of ideas that brought us together in the first place. We are happy and thankful to all of you who have made considerable efforts to come from countries like Yemen, but I would also like to recognize Libya's representatives. Because of the ongoing conflict in that country, it is not easy to travel to other countries from there.

So, we welcome all of you to Lebanon from wherever you came, and we hope we have a very worthwhile debate during the next two days. Thank you very much.

## Lokman Slim

### UMAM D&R

Good morning, and thank you Achim.

I would like to begin by thanking Friedrich-Ebert-Stiftung, which selected UMAM Documentation and Research to be its partner in organizing this meeting. As most of you know, UMAM D&R has long dealt with issues related to conflicts, memory and human rights, and more specifically, with topics related to “transition” in the broader sense, including “transitional justice.”

Our work was focused originally on Lebanon and Lebanese issues. Fortunately or otherwise, it quickly broadened to include issues of a non-Lebanese nature. At any rate, one of the challenges of dealing with

Lebanon's civil war is that it did not *exclusively* pit Lebanese against each other. It was far more complex than that. For a while, Lebanon was the “exception” to the general situation in the MENA region. While stability seemed to reign in the region, Lebanon was the only country on fire. But that situation has changed since 2010 - 2011, and even countries that are not experiencing violence are not spared from being “in transition.”

As Achim Vogt said, this conference is meant primarily to encourage exchange between “transition practitioners” from throughout the MENA region, so I believe that a comment about the title of this conference, as

it appears in Arabic, may help facilitate those exchanges. In Arabic, the title literally reads, “each era has its own states (of things).” It follows—as you may know—a maxim that can be interpreted as “during each era a state (of things) prevails.” This slight tweaking, which essentially shifted the state (of things) from singular to plural, aptly describes a great deal of the events occurring in the MENA region.

For decades, the people of this region lived in what may be described as the “fear of plural.” It was a foregone conclusion that the MENA region was a single, integrated *Umma*, that political power was the prerogative of one leader or one party and that the “enemy” was both well known and well defined. When the Arab Spring exploded into being—regardless of the debate over what happened from the end of 2010 to the beginning of 2011—the rule of the singular was called into question. Today, the MENA region is displaying its diversity. Old and new dictators are sticking to the “ancient regime” model and are being forced to confront their own citizens to remain in power. Moreover, the “enemy” is no longer the one we knew for decades before. To be sure, animosities are emerging.

Obviously, the plural, the diverse and the multi-chromatic are always more attractive than the dull singular. Yet, two major issues must be dealt with to achieve the desired *kingdom of plural*. First, how can we guarantee the transition between these two states will occur, and second, what must we do with the legacies of the *ancient regimes*? And here, I'm using the plural purposely to underscore the notion that it is not about one *ancient regime*, but multiple *ancient regimes*.

Let me try to seek some help from the genius of the two languages that are the *lingua francas* of our conference. In English, “state” means steadiness, stability. In Arabic, the word is *dawlah*, which from an etymological perspective, is the opposite of steadiness. It refers to alternation and rotation. We may even translate *dawlah* to “state of transition!”

Perhaps I'm a bit adventurous in suggesting this translation, but I use it precisely to trigger discussion. It may seem counterintuitive based on our linguistic habits to use *dawlah* as a synonym for *state* to describe that the MENA region has been experiencing a state of transition for years. But why does that state require such blood, violence

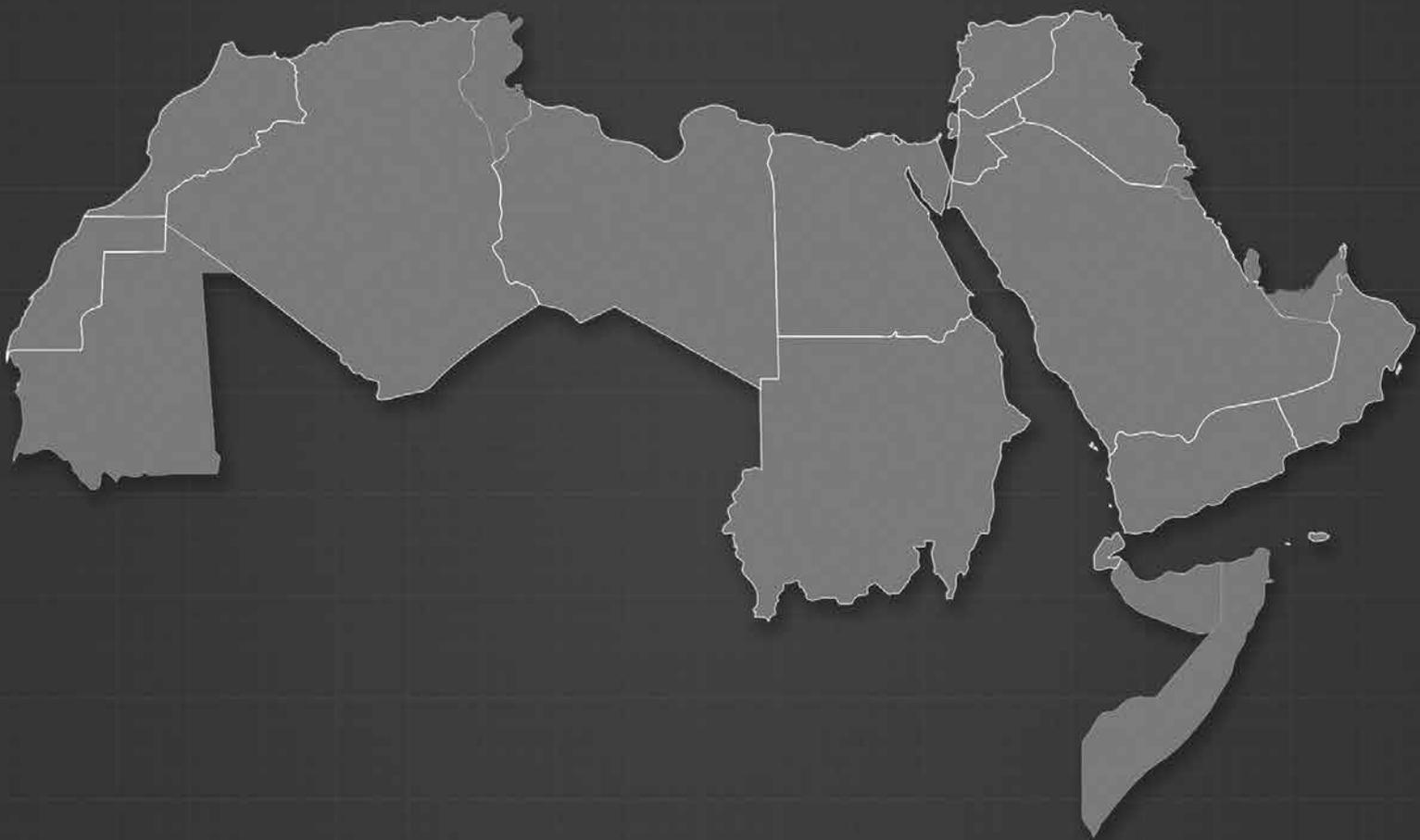
and hostility? It's certainly a legitimate question, when we consider that transition is a state of things over which we have no control; that we cannot influence. From a fatalistic point of view, all of this seems like biblical-level calamity. But from a historical perspective, the prevailing absurdity is not quite so unfathomable. We may disagree on the analysis of its origins, whether it has occurred in the near or distant past of the MENA region or in the near or distant past of each of its countries, but there is some origin. And once we agree that a traceable origin exists, then qualifying it as an example of transition becomes less shocking.

I won't be longer, but let me suggest a final idea that may or may not make sense. I believe that a common denominator among those gathered in this room is that they believe, in one way or another, that transition

is not just a political issue or a set of turnkey reforms. Rather, we consider transition to be an issue of values. Managing the ongoing transition is also an issue of standing up for some values. While this ongoing transition continues to demonstrate the magnitude of mythical and disillusioned beliefs that pervade our single, Arab world, which stretches from the shores of the Mediterranean to the shores of the Atlantic, the overall situation gives us an opportunity to reconsider and hopefully reestablish this community based on liberal, open, human values rather than the *Blut und Boden* ideology that has so many of us in mourning. Am I too optimistic? Honestly, I'd rather align with this cynical, open-ended optimism than any competing, messianic, sugarcoated vision.

Thanks again for your attention, and I give the floor to Mr. Vogt to moderate our first session.





**STATE OF TRANSITION  
IN SNAPSHOTS**



## What is going on?

### Examples of transition in the MENA region

Initial discussions focused on different models of transition in MENA, using Tunisia, Syria, Egypt and Jordan as examples of countries that have had dramatically different experiences with attempts to induce transition. Prior to the presentations, the moderator made a number of points, including that political transition has emerged as a discrete academic discipline and that a contrast exists between Latin America/Europe and MENA. Specifically, Latin America/Europe have become adept at implementing relatively short and successful transitions, while MENA experiences far greater violence.

#### **Tunisia**

Although Tunisia is often referred to as the only (relatively) successful Arab uprising, the presentations emphasized that while that country has indeed been successful compared to other Arab countries, caution should be exercised before deeming it an objective success. At present, the overall result is not yet known, and it cannot

be determined yet whether the transition will meet the demands of the people. Moreover, successes in Tunisia such as holding elections and instituting constitutional reform, have been counterbalanced by obstacles encountered by reformists, such as the infiltration of elements of the old government into the new government, a lack of economic and social (as opposed to merely

political) reform and persistent corruption. Emphasis was also placed repeatedly by attendees later in the conference on correlating Tunisia's relative success with the lack of external intervention.

### **Syria**

Missed opportunities for a relatively peaceful transition since the uprising began in 2011 were highlighted in the presentations. Although this failure may appear to stem from the regime's unwillingness to heed the vox populi, the presentations highlighted that external factors played a significant part in confirming the government's intransigence. The militarization of the conflict (the genesis of which must still be evaluated in detail) was considered a reason for the initial loss of democracy and accountability. The international community was deemed incapable of dealing with the Syrian crisis, and a suggestion was made that Western backers of the opposition did not have the requisite knowledge of local groups that would have enabled them to lend support that was more effective. There was also criticism of the suggestion that decentralization could be implemented as a solution to the Syrian conflict. The claim made during the presentations was that given the extant state of the

conflict, decentralization would only advance division—a view reiterated by another attendee during the open discussion that followed.

### **Egypt**

The speaker asked whether Egypt experienced a transition at all and supported the premise by providing two contrasting perspectives. The first claimed that the Mubarak government remains essentially intact in Sisi's government, while the second claimed that Egypt is now undergoing its fourth transition since Mubarak fell in 2011. Both Sisi's government and the interim government of Adly Mansour have mentioned implementing certain transitional justice initiatives, efforts that were both condemned—Mansour's as being little more than a political attempt to discredit Morsi, and Sisi's as simply fortifying an authoritarian regime under the façade of a liberal mechanism. Such criticism marked the introduction of another theme that surfaced repeatedly throughout the conference: the potential for the abuse of transitional justice tools. The presenter also asserted that a lack of balance exists relative to how the past is addressed in Egypt, such as focusing on crimes committed by the Muslim Brotherhood and ignoring

those committed by Mubarak's government.

### **Jordan**

In this presentation, it was stated that the reforms implemented by the government cannot be equated to a "revolution." Certain concessions were made in the wake of the uprisings and protests that erupted in Jordan, such as constitutional amendments, the dissolution of parliament and the consultative paper sent out to the population by King Abdullah. However, the protests that were shut down by the government did not intensify, as was the case in other MENA countries. This was attributed to Jordan's own idiosyncrasies, such as its social fabric and proximity to Israel. Moreover, many Jordanians reportedly considered the fates shared by Syria and Libya, and wondered if they wanted the same for their country. While the Muslim Brotherhood may have influenced politics in Jordan, reformist leftist and nationalist movements gained strength at the executive levels but ultimately reneged on the promises they made.

### **Associated discussion**

During the discussion, reference was made to the situation in Libya. It was noted that 80 percent of the country's

population came of age while Gaddafi's government held power and may have been influenced by his ideology as a result. It was also emphasized that NATO interference promoted the militarization of that uprising, though it was also claimed that some intervention was necessary to prevent massacres and genocide.

Commentary was also devoted to Tunisia, and a more optimistic (or at least less cautious) view of the country's current circumstances than was previously given was offered. That perspective holds that factors such as the influence of trade unions and improved education are propelling Tunisia further down the road to democracy. It was also noted that when secular parties won in the elections, Islamist parties admitted their defeat, and Tunisia was spared external intervention (which seemed in other countries to suggest that such efforts were intended to halt democratic transition). Obstacles have certainly been present, however, including those related to increasing regional extremism and strong competition between local Tunisian rivals.

Other opinions on Tunisia held that although measures have been taken toward transitional

justice, such as establishing a ministry to address the issue, efforts have still been limited. For instance, while some interest was expressed in addressing memory, doing so has been hampered by the official refusal to implement demands for free access to information (including opening state and police archives). It was also noted that the security situation there remains tense, and no official tally has been made available of the number killed during the uprisings or who killed them. It was also claimed that the old government has largely kidnapped the revolution.

Comments about Syria and Egypt noted that local initiatives to deal with the past in Syria

failed to receive attention, and that a third uprising in Egypt was unlikely, although the government there may be forced to enact some internal changes. The theme of abuse of transitional justice was revisited, with a claim that the so-called Islamic State (Daesh) is implementing its own version of transitional justice in areas under their control. On a separate note, it was claimed that MENA intelligentsia have remained unhelpful in addressing the crises in their countries and tend to react to, rather than set the agenda. The idea that democratic transition was eventually inevitable in the region was also contested, and the assertion was made that regression is evident.

## **"Handling" the past**

### **Attempts at transitional justice**

After introducing the issues and asking how we might ensure that amnesty leads to reconciliation rather than impunity, the participants addressed some of the issues related to amnesty and reconciliation in Morocco, Algeria and Tunisia. The second issue discussed was "successes and failures," and the dialogue addressed instances of impunity facilitated by transitional justice in Lebanon, Iraq, Yemen and Palestine. Comments were made that the need to address impunity was one of the core functions of transitional justice, and that balance needs to be achieved between forgetting the past and respecting claims for justice made by victims. Also, a synopsis was given of the UN position on impunity, which holds that it encourages the repetition of crimes.

## **Morocco**

The presentation focused on the outcomes of efforts to address vital national issues including enduring corruption and the memory of the violent "Years of Lead" between 1956 and 1993. Prior to the reign of Mohammed VI (1999), measures included the release of political prisoners (1991) and establishment of the ministry of human rights (1993). With that reign came a constitutive declaration that included promises to build a new Moroccan society and properly address the "Years of Lead," but those actions never materialized. Alternatively, the Equity and Reconciliation Commission was established in 2004 (with FES support), which became a landmark as the first truth commission in the Arab world. It was stated the commission has reinforced a human rights culture in Morocco and is working toward transitional justice (efforts in which the involvement of civil society was also discussed). However, the commission has also been viewed as an externally imposed solution that simply cannot fulfill its mandate. Other efforts include amending family and nationality laws to become more egalitarian.

## **Tunisia**

This period focused on the legal

aspects of Tunisia's transition. The presentation given referred to a "paradigm shift," since civil society has for the first time proposed a draft law covering issues of memory, identifying the victims of past state injustices and citing gross human rights violations. That law reconciled applicable national law with international standards. It was also noted that the law could create problems. Identifying the victims has taken on a political tone, as certain groups are identified at the expense of others. Further, such new prosecutorial abilities mean that individuals previously granted amnesty (many of whom now hold public office) could face investigation—which might spark conflict. The speaker also noted that the Tunisian approach has been legal rather than social, and concluded that transitional justice in Tunisia remains deficient.

## **Associated discussion**

A difficulty facing Tunisia's Truth and Dignity committee was mentioned, this time based on the notion that it might permit impunity for perpetrators of gross human rights violations. It was also claimed that an institutional revolution is underway in Tunisia, which lays the foundation for respect of human rights. The view was repeated that

transitional justice work in Morocco has been imposed externally, though it was also noted that the work being done during public (frequently televised) hearings rather than closed committees has had a positive effect.

Participants asked how much time would pass before Syria and Iraq inventory the crimes still being committed, much less start the arduous process of establishing accountability for, and determining which crimes are punishable (versus those that should be forgiven). Many of the attendees considered it impossible to separate conflict resolution from addressing the past, hypothesizing that conflict cannot be truly resolved until the ghosts of the past have been exorcized. Tangentially, in her book *Regarding the Pain of Others*, the late American author Susan Sontag questioned the extent to which memory work should be conducted at all: "There is simply too much injustice in the world. And too much remembering embitters. To make peace is to forget. To reconcile, it is necessary that memory be faulty and limited."

The discussion also included commentary on the general concepts of amnesty and reconciliation. The difficulty

of balancing the wishes of different elements of society on issues such as punishment was highlighted, particularly those of victims, who may feel they have been abandoned by amnesty measures. Other practical limitations to transitional justice measures were noted; for example, that any transitional justice measures implemented are likely to be watered down by political compromise, and that blanket amnesties are often necessary when the number of crimes is particularly high (e.g., thousands of people). Again, the risk of transitional justice measures being abused for the benefit of those in power was emphasized.

### **Lebanon**

The presentation focused on how far the country has gone to implement transitional justice and address impunity. A survey of 15 focus groups composed of 130 Lebanese citizens was mentioned, in which the prevailing opinion that since the Lebanese conflict had essentially never ended, transitional justice is irrelevant. The same survey also indicated that the Lebanese lack confidence in the State and its authorities, which was then contrasted with the fact that these same politicians are continually reelected. The presentation also

examined the events following conclusion of the Lebanese war in 1990 (mandated by the Taif Agreement). The statement was made that the warlords granted themselves amnesty in 1991 and reconciled among themselves, but failed to consult or address the real victims of the war. The Lebanese were largely told to choose between peace and accountability, a mentality that invited impunity and led to the past being forgotten.

Despite the opportunities that seemed apparent following Syria's withdrawal from Lebanon in 2005, change has still not occurred, and Lebanon's social fabric (torn apart by the war) has remained vulnerable to external crises. While some asked if Lebanon can be said to have entered a transitional phase, it was also noted that thanks to Lebanon's civil society organizations (CSOs) and their international supporters, this process can at least be said to have begun. Still, the fact was emphasized that in Lebanon, the real process of documenting the civil war began in earnest only recently, despite the preference of many powerful stakeholders to keep it buried.

### **Iraq**

The discussion began by exploring the philosophy of

punishment. The statement was made that Europe and MENA are governed by two different philosophies: Europe by ideas of deterrence and rehabilitation, and MENA by those of revenge. It was stated that Iraq has failed to address its past and has in part fallen victim to the competing philosophies mentioned above. Thus, Iraqis are confused about the purpose of punishment. Examples of Saddam Hussein and the Baath party were given. Hussein, it was claimed, was prosecuted in an attempt to end his politics rather than to punish him, even though such punishment was meted out brutally. Meanwhile, the various attempts to address the general legacy of the Baath party have not succeeded, and laws addressing ways to deal with former Baath figures have been misused for political purposes. It was implied that this failure has been compounded by the 2013 transfer of Iraq's management from the U.S. Department of State to the U.S. Department of Defense.

Other points included emphasizing that Iraq has its own cultural, religious and social peculiarities that have influenced post-conflict management of its affairs, and that the country's circumstances serve as a lesson to foreign powers (who have

chosen a less bold intervention in Syria). It was noted further that the tools of transitional justice have been abused equally by IS (Daesh) and former Baath party figures. In conclusion, it was stated that Iraq demonstrates that transitional justice cannot be successful unless it is applied comprehensively, which includes addressing issues such as social cohesion and the victims of injustices. Conferees noted that the country remains in a state of conflict and has not begun any transition. When that phase begins, however, the Baath party will be a prominent issue and civil society must play a significant role.

### **Yemen**

The presentation emphasized Yemen's uniqueness and noted that violence is integral to the country's social structure (e.g., endemic insecurity, tribal sentiment and a proliferation of arms). Although Yemen does not have a long history of transitional justice attempts, some have been made since 2011, including some social media-based efforts. The Gulf initiative of 2011 included transitional justice elements and resulted in the 2014 national dialogue conference (attended by a transitional justice team), which produced important conclusions.

Nevertheless, failures were also mentioned. A resolution was made to establish an independent committee to investigate the events of 2011, but that organization has not been seated. Further, total immunity was given to former President Saleh and his associates, and a transitional justice law was proposed but not passed, despite passage of the immunity law. It was also noted that the initiative came from non-democratic Gulf states that do not recognize transitional justice, that ignore corruption, where those who have committed crimes are still in power, and where victims are systematically overlooked.

In general, Yemen is a good example of how rapidly things have changed during the last two years. While it was possible in 2014 to discuss transitional justice, form committees and produce texts, by 2017, it has become apparent that Yemen is little more than a smoldering battlefield on which external and domestic actors are fighting several wars.

### **Palestine**

The notion was advanced that Palestinians cannot pursue their goals regarding the ICC, UN Security Council, UN General Assembly and Geneva

conventions without transitional justice. Palestinian civil society has been disrupted from working on transitional justice by several parties, including the Palestinian Authority, international donors, the Israeli occupation and traditional family/tribal pressures. The claim was made that the Palestinian Authority is unaccountable and unprepared to change this, while foreign donors are equally unprepared to work on such issues. This presents Palestinians with a choice between peace and accountability, and extant policy appears to encourage Palestinians to forget the injustices they have suffered. Palestinians are also affected by the laws imposed on them by several disparate sources, including Ottoman laws, Jordanian laws, Palestinian laws, Israeli laws and Egyptian laws. Further, none among the Palestinians knows how to use these laws to achieve accountability, and the decision-making processes have largely been removed from the hands of Palestinians. The presentation concluded with the observation that for transitional justice to succeed, a legal framework must be built, after which the politics will follow.

### **Associated discussion**

Discussion commenced with a spirited defense of Yemen's national dialogue conference. It was claimed that the ensuing document addressed transitional justice comprehensively, proved crucial to overcoming Yemen's challenges, and that the country had fallen victim to the interests of external parties. The assertion that Palestine was not receiving international support for transitional justice was also challenged several times. In the segue toward Iraq, the statement was made that the law addressing Baath party figures was perceived as targeting Sunnis, and that the country became the model on which Libya's attempts at transitional justice were based. More generally, it was noted that international criminal law can still apply even if local amnesties have been granted (citing the example of the ICC prosecutions in the former Yugoslavia), and that local procedures should be conducted with this in mind. It was also claimed that impunity is inevitable if transitional justice is undertaken when conflict is still ongoing.

# Documentation and memory

**"The harvest is plentiful but the workers are few."**

Luke 10:1-12 (NIV)

Using the examples of Syria, Bahrain, Lebanon and Palestine, the introductory questions focused on whether we are discussing the same things when we talk about documentation in the MENA region (documentation while under conflict versus documentation in post-conflict situations) and whether documentation done previously allows us to learn from it or merely reopens past wounds.

## **Syria**

After an introduction, which held that the Syrians discovered "documentation" concomitant with the outbreak of the revolution as a practical means of disseminating their message, the role of new media in that Syrian documentation effort was highlighted. Since a great deal of documentation is smartphone-based, the Syrian case was exemplified using two initiatives that varied significantly in their respective starting points and approaches; however, both initiatives illustrate the development of documentation efforts among Syrian civil society activists. The first initiative mentioned was the Creative Memory of the Syrian Revolution. The Creative Memory initiative "...aims to archive all the intellectual and artistic expressions in the age of revolution; it is writing, recording, and collecting stories of the Syrian people, and those

experiences through which they have regained meaning of their social, political and cultural lives."

The second initiative, known as the Syrian Prints Archive, is an offshoot of another program referred to as *Enab Baladi*. The Syrian Prints Archive seeks to document the history of the Syrian revolution via the alternative media outlets being published during the earliest days of the revolution to the present. According to the presentation given, "documenting" is tantamount to an act of resistance. The statement was also made that this work counters the narrative seized by the international media, which reports assiduously that Syria's revolution has become totally and irretrievably militarized. The speaker cited the work of French philosopher Jacques Derrida, who held that archives control memory,

and that the level of a state's democracy can be measured by the freedom of access to its archives.

### **Bahrain**

In a presentation that focused on Bahraini history, the presenter noted that the Bahraini state gained its independence from Britain in 1971 and adopted its constitution in 1972 after a UN delegation found that the population preferred independence to assimilation by Iran (advocated by Shah Reza Pahlavi). When Hamad bin Isa Al Khalifa took power in 1999, a reformist project was proposed, which culminated in the National Action Charter, a document endorsed in a referendum by more than 98 percent of the population in a referendum. After its ratification, some political prisoners were freed, CSOs were given more latitude and a shadow parliament was proposed that would ensure a balance of power within the cabinet. In 2002, however, Khalifa introduced a new constitution, which prompted boycotts of that year's elections by many parties. In 2006, the (largely Shia) opposition decided to participate and received 63 percent of the vote, yet did not obtain more than half of the seats due to the distribution of the country's parliamentary constituencies.

By 2011, the Arab uprisings influenced the population to assert claims for reforms, and in February of that year, protesters took to the streets to demand the abolishment of the [undemocratic] Shura council and strengthen the parliament. Negotiations took place with the government and seven principles were agreed upon, which included forming a new cabinet, granting more power to parliament, discussing state property/land ownership and modifying constituency boundaries. But the same day those principles were agreed upon, the government began to suppress the demonstrators. State violations were committed, civilian organizations were dissolved and some 37 [opposition] mosques were demolished. The speaker highlighted the need for a new transitional justice project in Bahrain by stating that the government does not recognize the true scope of the country's problems.

As was mentioned above regarding Yemen, the situation in Bahrain is becoming steadily more intense. In fact, conditions there have degraded so substantially that the country has essentially been "demoted" to the status of a "cold" battlefield at the forefront of the struggle

for regional influence between Saudi Arabia and Iran.

### **Lebanon**

The Lebanese case was discussed by referencing the work being done by UMAM D&R, to include its online database initiative known as Memory At Work ([www.memoryatwork.org](http://www.memoryatwork.org)). Of note, among its other activities, the site gives the Lebanese a publicly accessible database that functions as a factual base for informed discussion about the Lebanese war. The speaker described that following the end of Lebanon's civil war in 1990, very few people (Lebanese or otherwise) understood how the war ended. With hindsight, however, it has become clear that a negative process consecrated overall power to the warlords, who were quickly appointed to prominent positions within the government. The Taif Agreement that ended the war also endorsed the Syrian Baathist occupation of Lebanon, which brought not only its military force but also imposed the same culture of silence that had been forced on Syria in 1963. Consequently, forgetting the war became the State's real religion, and anyone who saw things differently was deemed a threat to national security. The speaker noted that the 2009 establishment of the

Special Tribunal for Lebanon (after the assassination four years earlier of former Prime Minister Rafik Hariri) was an important step practically and symbolically toward ending impunity and realizing that truth-seeking endeavors are indeed legitimate. The presentation concluded by advancing the notion that pursuing accountability through documentation is based on a simple premise: if we fail to be transparent with our past, we will fail to be transparent with our present. Using that as a point of departure, some of the primary characteristics of the Memory At Work website were discussed. For instance, Memory At Work is a project that is evolutionary in nature, and thus must be viewed as a "construction" effort rather than successive attempts to achieve completion. Similarly, UMAM D&R does not consider the Memory At Work website an "asset" that belongs exclusively to the organization. In reality, it is but one approach among many others by which the organization can invite the public to recognize that Lebanon's civil war is a shared legacy, the management of which is a responsibility that must be shouldered by all Lebanese.

### **Palestine**

The presentation about Palestine

centered on the Nakba Archive project, an effort founded in 2002 to capture the history of Palestinian refugees in Lebanon. According to its online portal, the Nakba Archive, "a grassroots, collaborative project...has been conducted by a collective of Palestinians from the camps; the goal has been not only to compensate for an incomplete written record, but also to involve refugees in documenting community histories in their own terms. The Archive is both a record of the memories of a passing generation of eyewitnesses and an act of witness to the legacy of 1948 and its continuing impact on the Palestinian refugee community in Lebanon. A growing selection of interviews and subtitled excerpts can be viewed online."

The speaker opined that the Palestinians are not in a transitional phase, as their conflict is still ongoing. Some emphasis was placed on the financial challenges faced by the archive, which were attributed to the tendency to prioritize fields such as relief and education over memory work, which is thus persistently underfunded. The speaker also highlighted the issue of verbal narratives. Many of those who witnessed the Nakba were illiterate farmers, who were

of the attitude that only the educated could inform others about history. Thus, recording these individuals speaking simply about the events they witnessed was of great importance. Other obstacles to Palestinian national memory were also addressed, from campaigns that predated the Nakba era (which sought to spread the idea that no Palestinian people existed as such), to contemporary Israeli actions undertaken to eliminate Palestinian identity by destroying museums and cultural centers. The Palestinian authorities were also blamed for the gaps in Palestinian archival efforts.

### **Associated discussion**

In the discussion, much commentary was devoted to general issues surrounding memory work. Questions were raised, such as how memory is defined and how it serves a different function according to the circumstances of a given society (e.g., the function of memory work during an occupation may be different from its function during a civil war). It was also emphasized that archival and memory work are only a small part of the solution in reconciling societies—they are not a magic potion. The speaker stated that making material available in its raw form may not be the best solution, in

part due to the graphic nature of some material that should not be accessible (e.g., child victims of violence). However, it was noted as well that documentation should include archival and dissemination components. It was also stated that the notion that a truly collective memory can be created and solve conflict is illusory: the struggle over memory is one over narratives, which are simply stories. It was emphasized again that the experiences of other countries provide valuable examples, which do not require that a country deny its peculiar specificities. Lastly, it was noted that transitional justice can be used either to encourage reconciliation and truth-seeking, or to encourage vengefulness, particularly when legal attempts and accountability have failed.

The discussion also featured a general commentary on transitional justice in Libya. It was noted that while Libya has a law related to transitional justice, it has many shortcomings, has attracted criticism and has not been enforced. The most important criticism was that the law does not define the "victims" mentioned in its reparations articles. This oversight makes it easy for these victims to be overlooked. The truth-seeking and reconciliation commission

that has been suggested for the country has never materialized. In addition, the observation was made that some four million weapons are spread throughout Libya, and that Misrata's prisons alone host some 8,000 political prisoners. Libya's human rights council has visited 35 unofficial prisons/detention centers and has tried to register them with the ministry of justice, but many remain untallied. A separate party also mentioned the (infrequently discussed) issue of Libyan refugees in Egypt, and the importance of discussing taboo issues in general. It was also noted that many old Libyan manuscripts have disappeared or been destroyed.

It was noted as well that after the Tunisian revolution, the Tunisian archive committee felt pressure to seek the government's protection of its archives, as many of its holdings were disappearing at the hands of members of the former government who wanted to protect themselves. It was also noted that it will be difficult for Algeria to regain its archives, as France has consistently refused to hand them over, and that the reign of the former warlords in Lebanon encourages selective memory, which offers a partial explanation of why the country has not had transitional justice.

# Legacies of past and present violence

## The trauma-related issues

The legacies of the past and those occurring presently that are quickly becoming elements of that greater past are neither exclusively political nor ideological in nature. For instance, legacies such as these also include both obvious and latent physical effects and the overall outcome of human suffering. Although regime change is the smoothest method to arrive at the best results, it should be viewed as anything but a panacea. Considering all of the factors involved in producing this trauma, other measures are needed to heal or attempt to heal the wounds of the past that have been carved into so many souls and bodies. In this area, presenters included a doctor who directs an organization dedicated to dealing with victims of trauma in Kurdistan Iraq; the director of a film (Tadmor) based on the testimony of former Lebanese detainees in the notorious Tadmor (Palmyra) Syria prison who recreate their experiences in the film by playing the dual roles of victims and perpetrators; one of the former detainees featured in that film and a psychotrauma expert who consulted on Tadmor.

During the presentation on Tadmor, the conference watched a clip that depicted "watering," a routine in which prisoners were ordered to bring water canisters into the yard and empty their contents while being beaten and verbally abused by the guards. As the scene ends, the prisoner (a conference attendee and former Tadmor Prison detainee) is beaten to the ground and made to lap up the water. The severity of the abuse depicted, coupled with the physical presence of one of its victims at the conference, was a powerful reminder not only of trauma's immediate effects, but also of its potential to endure long after the abuse has ended.

The film's director emphasized the importance of building trust with the former detainees during the film's production and expressed her belief that participating in the film had a therapeutic effect on them (by allowing them to come to terms with/reinterpret their suffering) by enabling them to share their experiences. In that regard, she suggested that torture victims are often transferred from their

literal prison to a metaphorical "prison of silence" after their release, where they feel too ashamed to discuss their experiences. She also pointed out that the actors often needed to communicate nonverbally (e.g., gestures, body language, etc.), as they simply could not verbalize their experiences. On a related note, it was suggested that interviews alone are limited in their ability to convey adequately the extreme trauma the prisoners experienced. Thus, the decision was made that the former detainees would not merely talk about their experiences during the film but would act them out, and in a sense, "relive" them.

Emphasis was placed on the importance of security [i.e., a secure, trusting environment] within which trauma therapy can be conducted. This was related on a broader scale to transitional justice, such that if citizens are still living in war zones, effective treatment for trauma is very difficult. The subject of health workers' own well-being was also addressed, and it was noted that helping people who have been exposed to significant mental or physical trauma can also be a significant burden. As well, the importance of cohesion between members of health worker teams was highlighted,

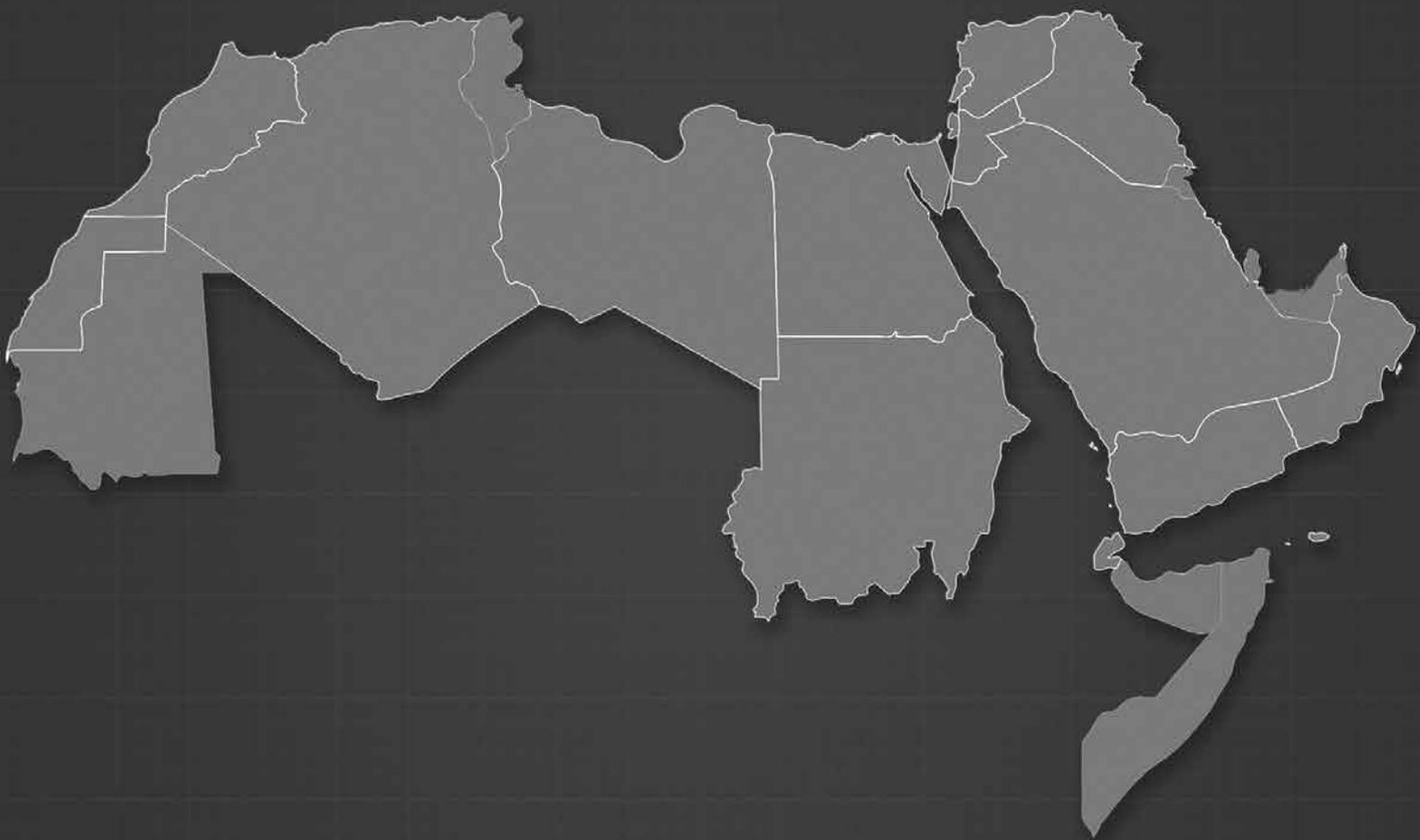
such that if conflict arises within a team (which it often can), it can have an adverse effect on the therapy/treatment being provided. Such potential pitfalls can be addressed by supervising those who provide therapy—"working with people who work with people"—and ensuring their needs, in addition to those of their patients, are addressed.

The doctor who directs an Iraq-based organization that deals with trauma victims described his organization and some of the specific effects of trauma. The organization, established in 2005 in cooperation with the Berlin Center for Torture Victims, began work in the Kirkuk Center for Torture Victims and was intended to assist traumatized victims of violence in Iraq by providing free medical, psychological and social assistance. It also addresses the needs and rights of survivors and their access to rehabilitation. The organization has specific projects for Syrian refugees, including psychological treatment and training for Syrian physicians and human rights activists. It has had more than 12,000 patients between 2005 and 2014. The speaker noted that the effects of trauma can include feelings of shame, stigma, guilt, aggression, vengefulness, depression,

inability to concentrate, social withdrawal, anxiety and suicidal ideation. He also stated that in civil war, the effect on civilians is often greater, so the number of

individuals exposed to trauma is usually higher. However, he expressed positive sentiments about the potential of therapy to help PTSD patients.





**Conclusions**

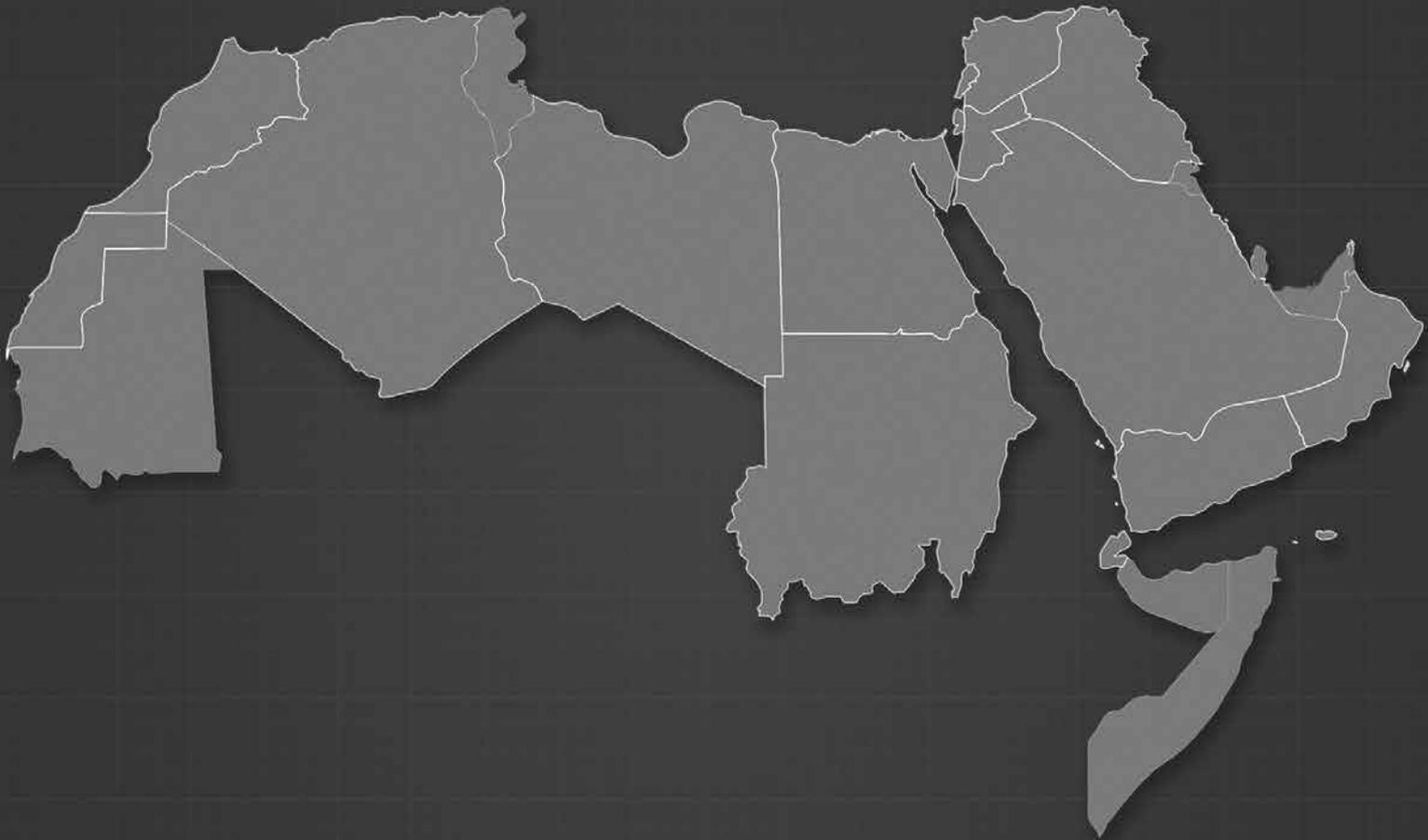


Two summary presentations were given during the closing proceedings. The first presentation concentrated on evaluating the conference per se, to include its organizational aspects, overall usefulness for the participants and the feasibility of organizing a follow-on symposium. In contrast, the second and markedly more theoretical of the two noted that despite a slow start, the region has seen a gradual mushrooming of transitional justice initiatives in the last two decades. A number of potential next steps for the participants were suggested in the form of leading questions. For instance, can common MENA themes be used to create a value base or serve as common ground for the future? Can we devise some concrete initiatives/ recommendations, such as events like this? Can we create

a regional knowledge base? Can we conduct "outreach" and engage the population in the processes of working with memory and transitional justice? In terms of review, the speaker commented on some of the conference's most frequently asked questions. Is there only one model for transitional justice? When is the time right to commence transitional justice initiatives? Can different countries be treated alike? How do we identify a transitional period? How do we implement transitional justice in areas that have not yet built a homogenous society? Will national unity lead to transitional justice, or is it the other way around? In other words, can transitional justice be used to stop ongoing conflicts? Other points that were frequently mentioned included the uniqueness of each Arab country and that violence is a

common denominator in all such countries. The importance of objectivity when documenting was also noted, as there can be no selectivity in recording material. The presenter stated that human rights activists face many challenges and may have different ideological perspectives that must be considered. Finally, it was noted that the conference did not discuss the views of the public—what importance does the public attribute to transitional justice, and how do citizens view the measures undertaken in the region thus far? What is

the natural preference to use transitional justice to advance one's own agenda? The presenter explained that this means each of the conference participants likely had different intentions where transitional justice is concerned. Moreover, we may sometimes work under the name of transitional justice while trying to advance our own political ideologies, but this is normal and should not prompt any shame whatsoever. In contrast, he emphasized that the notion of not having a political agenda behind transitional justice initiatives is an illusion.



*States of Transition Album*













