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NATIONAL RECONCILIATION IN THE ARAB SPRING COUNTRIES: LESSONS FROM BULGARIA, IRAQ, MOROCCO, AND SOUTH AFRICA

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P R O C E E D I N G S

MR. SHARQIEH: All right. Welcome to our public event today on national reconciliation. I would like to welcome everyone today for our public event, Brookings public event on national reconciliation and what this means for the Arab Spring countries. The countries that are going through that experience now, of course, there are challenges, there are serious challenges facing the concepts of national reconciliation and relief.

And, for that, we wanted to focus more on this and try to learn how other countries did it and how, what are the lessons, what are the best practices, success stories, lessons learned from other countries that went through the experience already. It doesn't mean in any way that the experience of other countries that can be just the transform or the most rigid form applied to this country, but there needs to be a level of

adaptation to fit the cultural context to make sure that it's applicable to this region. So why we're learning about what other countries have done and what they went through, we keep an eye on insuring that what applies is what applies to this context, in particular.

As you know, with the beginning of our revolution, there were high expectations about changes in the region and about bridging change and transition into more democratic systems, but what we have noticed that, really, that real change or the real challenge has begun when those regimes were changed. So, I must say that the most difficult thing of changing a dictatorship is actually the day that follows that fall of the regime. So that's when the real challenge begins, and it tends to be, as we've seen, probably in Tunisia and Yemen, or even in Libya that probably that was the easy part of changing the regime. But

now, the reconstruction, the rebuilding of the society, of the economy, and most importantly, also bringing everyone together, building a national reconciliation process tends to be probably more way challenging, way more difficult than what we anticipated in the beginning.

One of these major challenges is what to do with the former regime individuals; do you do like what we did, or what happened in Iraq of DeBaathification, excluding everyone, or maybe including changing the process of exclusion to more of an inclusive process. So how do you deal with that former regime individual, and on what basis do you deal with them. Another challenge of this open question, actually, the challenge that Arab societies that are going through that transition is how to deal with their past. There is a lot, a lot has happened in the past, do we really want to know what happened? And why that means, or the rise of

the victims that they need to know, and they want to know, but at the same time, to what extent do you really want to share that with the victims everything about what happened with them?

There are concerns that this will cause serious social problems and will threaten the social cohesion of the society, because, as you know, there were informants and secret police, and to what extent do you go and reveal this information about it? So another thing, another challenge, the victims that they suffered under the former dictatorships, they're entitled to some sort of compensation, reparations. So what happens to what they endured under that former regime. But then the question is, do we, can we really repair what happened, can this damage that happened in the past, can it be repaired? And, if so, how? Do we really, monetary compensation, financial compensation, would that address the needs of the

victims and what they went through? And, if not, what?

So as these challenges and others are now facing these societies in Yemen, in Libya and Tunis, and then the rest of the Arab countries have been going through the experience, that they have to make a position on these issues and they have to deal with it. And, to share with you from research of countries that they went through some sort of civil war in the past between 1945 to 1995, almost two-thirds of those societies that went through civil wars and ended up with a settlement, that continued to struggle with some sort of conflict in their transition and in the post conflict situation. So, to what extent, really, can we make these decisions? Because the decisions that we make now, they will determine the future of these countries.

So, to answer these questions and to see

how other countries have dealt with these challenges, I am pleased today to welcome our great panelists who have great experience from their own countries about how their countries dealt with these questions, and how they dealt with the national reconciliation concepts in their countries, and to what extent their experience can really inform the Arab societies that are going through the transition today.

I am happy to welcome His Excellency, Nicolay Mladenov, the former Prime Minister of Bulgaria, to share with us his experience in Bulgaria. Mr. Mladenov, he was a member of the European Parliament, he was also the Defense Minister in 2009. Welcome. I have also Dr. Hussein Shaban from Iraq. Dr. Hussein is a General Director for the Documentary Center for International and Humanitarian Law in Beirut. Dr. Shaban is an academic researcher and legal

consultant, and author of over 50 books in international law, constitution law, politics and other fields.

I have also Yasmin Sooka, the Executive Director of the Foundation for Human Rights in South Africa. She practiced as a human rights lawyer during the apartheid era, in '95, she was appointed as a Commissioner of the Truth and Reconciliation, and was responsible for the final report, as well. And I'm also pleased to welcome El Habib Belkouch, he is the President of the Centre for Human Rights and Democracy in Morocco, he is an expert on human rights issues and national reconciliation in Morocco.

Welcome to our event, and, with that, I would like to start with a question to Dr. Shaban. You, in Iraq, you had in 2003 what's known as the DeBaathification of dealing with the former regime, with the bad regime of excluding the former regime

and trying to build a different process. How do you evaluate this experience, and to what extent do you think, in your view, can be applied to the societies that they're going through the transition today?

DR. SHABAN: Thank you very much, first of all. Iraq has suffered for years from policies of marginalization and seclusion, and this should have been ended, but, unfortunately, after the occupation of 2003, this policy continued under the name of DeBaathification in a manner which caused a great deal of harm to tens of thousands of citizens who committed no crime except, of course, belonging to a certain political creator ideology. Needless to say, this was a decision by Paul Bremer, a decision he took three days after his arrival to Baghdad on the 16th of May, 2003.

Another decision, the second decision he took after the DeBaathification one was the

disbandonment (sic) of the Iraqi Army, which also caused a great deal of harm to country and pushed it towards chaos, violence and the loss of the prestige of the state in which the army was instrumental in protecting. Also, the transitional governing council, which was formed in July 2003 was formed on the basis of a sectarian and ethnic court system, which consolidated the division vertically. In the past, there was some sort of an oppression by the regime, a dictatorial totalitarian regime, after the occupation, because of this court system based on the different ethnicity or sectarian backgrounds, made this division more vertically and deeply entrenched in society.

Transitional justice means, amongst other things, revealing the truth, what happened, how it happened, and why it happened. It also means reparation, it means also the payment of damages

materially, restoring the rights morally, until eventually we reach a point where we reform the judiciary, the security agencies, legislative environment to create an environment which is conducive to national reconciliation, which, unfortunately, did not happen in Iraq. That's why you may notice that Iraqi society moved towards violence, terrorism and Takfiri organizations, terrorist organizations, Al-Qaeda and the like. And if this was dealt with from the beginning, and we didn't have the kind of isolationist, seclusionist policies, things wouldn't have taken the direction they had taken, and maybe civil stability and national reconciliation would have been achieved, and we really would have achieved a transformation from a totalitarian regime into a democratic one, a regime which was supposed to have laid the foundations for national unity, and with all its different trends and directions, political

and other blogs.

MR. SHARQIEH: Just to remind you, actually, some examples of how the countries, Arab countries now struggling with how they should really how to deal with the former regime. We have, in Yemen, as you probably know, there was some sort of a settlement, a deal that, for Saleh to step down for immunity against prosecution about the past violation. And, in Libya, where there was more of complete dismantling of the former regime, everyone is out, and everyone, that entire regime will be or has been dismantled, and that led, at some point, to a collapse of the state.

And, now, we are dealing with some issues of political exclusion in Libya, which is similar, Dr. Hussein, to --

MR. SHABAN: No --

MR. SHARQIEH: -- DeBaathification --

MR. SHABAN: DeBaathification in Libya

was applied, first of all, on the head of the National Conference. At that time, when the country needed a different environment, it's going through a transition from totalitarian regime into a democratic one, to lay now foundations for this change, whether at the level of the constitution or legislation or building the institutions or the application of law and others, this is very important. In my estimation, the courage of the victor is made apparent including the defeated party in the process, and the courage of the defeated lives, and the fact that they should recognize the new situation.

And this happened in Chile after some 15 years of bloody struggle between the authorities and the opposition, after the coup de état by General Pinochet, and 15 years followed where 3,000 people, citizens which were killed and tortured. 38,000 citizens were subjected to torture, but

neither the state could get rid to the opposition nor could the opposition depose the regime. They reached a settlement based on compromise whereby the opposition agreed to Pinochet issuing an amnesty, and then elections will be held after the amendment of the constitution, as a result of which the opposition won the majority of the seats.

Therefore, the system was transferred without violence from a totalitarian dictatorial regime established by the CIA, and which was loyal to America, and the oil cartels to more of a pluralistic system through peaceful means and based on legal and constitutional foundations. What we need is dialogue. Unfortunately, this is what we lack in the Arab world, whether between the regimes and their opponents or between the different political factions, which always tends to push the countries towards violence. If this kind of dialogue was to take place in Syria, we wouldn't

have seen what is happening. The peaceful and the justified and legitimate demands of the demonstrators were to be achieved, the terrorist elements and the violent elements wouldn't have found their way into the struggle.

Now it's become like a Roman-style struggle where either one party will be killed or the other will reach the point of total exhaustion, and this will, in turn, impact the entire region. If the Syrian ruler was to respond positively to the demands of the protestors, we wouldn't have reached the situation we are in today.

MR. SHARQIEH: In Tunis, another experience is that we're treating the former regime individuals more within a legal framework where, taking the court and the justice system as an approach to deal with it. While, in Yemen, again, as we said, there's more of a settlement. And then, in Libya, more of an Iraqi model of

DeBaathification. We'll watch and see how things unfold in the future, and the model that should be really used to reach national reconciliation, and to be able to pass this period and enter more of a sustainable peace and development in these countries. Thank you.

Your Excellency Mladenov, you and your country face a serious problem of dealing with, see a challenge of dealing with the past. In particular, the national archive, the information; would everyone want to know what happened, what was in the archive, the secret police, informants, and really how to deal with it. While you're struggling between the rights of those who suffered under the former regime, of their rights to know who reported them and what was written about them, and at the same time, the concern that revealing this information would cause serious, challenge of serious threats again to that social fabric of the

society, of the Bulgarian society.

So how did you deal with the fact and the concept, in particular, the Truth Commission, knowing what happened, and the archive?

MR. MLADENOV: Well, thank you for that question, which sounds rather complicated, but, in fact, oversimplifies things. Because, apart from having to deal with the past in the first days of transition, I think all of our countries in central or eastern Europe had to deal rather quickly with setting up institutions for the future. And, to a certain extent, there's an urgency in both. There's an urgency to deal with, to understand what happened in the dictatorship, because that, not only do you need to close that page for the benefit of society, but because you need to, as quickly as possible, dismantle the networks of the dependency that dictatorial regimes usually leave in their aftermath.

And they're quite good at it, they're very effective at hiding and abusing the opportunities that democracy and freedom provide for them to clear out the traces of the past. And I think, in fact, Bulgaria struggled with this for quite some time, it took us a long period of time to get to the point at which the archives of the former secret services were made public, everyone could go and check and see what file they had on themselves. But also to have a process through which public officials, if they were part of the former ministry, regime, security services, that was publicly announced, and their files were made open to everyone, as well.

Bulgaria did not face a process of, to compare to DeBaathification --

MR. SHARQIEH: No.

MR. MLADENOV: -- or a process of lustration, as we would call it. But we did face

the process through which the information was put out in the open, to the benefit of everyone, and everyone needed to understand how, what happened, so that they could then make their own decisions whether to vote if these people are running for office, or else.

But if there are two key pieces of advice from this first immediate beginning of transition, that would be dismantle the security apparatus of the former regime as quickly as possible. It would come at a high price, obviously, but the price of not doing it in the beginning and paying it much later comes with a very high interest --

(Pause)

MR. SHARQIEH: Your Excellency.

MR. MLADENOV: So, before we got interrupted, my point was that you need to, as quickly as possible, dismantle these security structures and put the information out in the open.

Firstly, because, if it is not done in the beginning, it has a higher cost for society if you do it much later. But secondly, and perhaps this is the most, a big danger for any country in the beginning of transition, is that it leaves behind networks of dependency that do not allow a normal political process to unfold. Things begin to happen in your society which you cannot explain unless you understand these networks and these dependencies across the board.

Suddenly, institutions seem to have some sort of a glass ceiling above which only certain people can rise and others cannot, or you see that the debate is twisted in a manner that it only highlights the good memories of the past but hides all the bad things that happened in the past in a way that misleads the next generation. And thirdly, and perhaps this is the biggest challenge, is that these networks adapt to, continue existing

after the end of a dictatorship, they become the source of corruption in a society, economic corruption and political corruption. And, at the end of the day, in all of our countries, whether those, in central and eastern Europe, whether in the countries of the Arab awakening, when people rose up against the dictatorships, part of the reasoning why they stood up was because they did not want to have that corruption of the past anymore.

They wanted to have the dignity to live a normal life, to have economic opportunity, and to participate in the decision making of their own country. This is why this is, within the first days, an important part of the debate, and Europe recommended, at the beginning, said that the most difficult day of transition is the day after the regime. I think countries will quickly realize, well, not quickly, but in a year or two they are

realize that perhaps the most difficult day is when you really start grappling with the complicated problems in a society like pensions and health care, and how you deal with education system. Because the initial excitement of freedom, democracy, and the opportunity wanes with the everyday problems that every society has, and suddenly people remember that they need to have more economic, more fairer economic opportunity, or they need to have access to good health care.

And reforming these systems from a dictatorial system to a democratic one in which people participate is a far more difficult task than one can perceive in the very beginning. So if I had to finish with one broad comment, that would be that, look at the experience of central and eastern Europe, look at the successes that we've had, but please also look very carefully at the failings which we've had, and all the mistakes that

we've made, so that, hopefully, you can at least avoid making some of them, if not all.

MR. SHARQIEH: Thank you. If I may follow up with a question, actually, on this. Because you mentioned an extremely important thing about the security sector, actually, and how it played an important role in the past, especially because most of the torture and the human rights violations that happened in the past mostly happened at the hands of the security that evolved.

Now, we see in some Arab countries where, actually, the security system remained unchanged, whether it's in Egypt or in Tunis, for example, and to a large extent also in Yemen. So would that be something that's alarming, or to what extend that the countries should engage in deep security reform? Because, realizing also that, in order to be able to continue and not to have a power vacuum, and you need a security system. So where do you

draw the balance between holding accountable those who committed human rights violations and at the same time, you don't want the state to collapse, as the way it happened in Libya, where the states collapsed and there was no function.

So how would you reflect this on the case of Bulgaria?

MR. MLADENOV: The careful balance which you need to strike on a country by country basis, very difficult to draw general conclusions, particularly because transition in each country starts in a different way. And Yemen was more or less of a negotiated agreement for President Saleh to step down against some sort of an immunity; in Libya, obviously, it was a violent affair; in Syria, it's de facto destroying the very social fabric of a country as we speak.

Egypt is an interest case because, in Egypt, to a large extent, it reminds us in

Bulgaria, we find many similarities between the two. In a way, it's a two-step revolution because, initially, the dictator steps down, but then the public's demand for change continues, and that leads to a further step of change. I remember one morning I woke up to read in the newspapers that a certain police station that happened to have the archives of the Egyptian security service, happened to be set on fire during the night. We had similar incidents, and this happened across other countries, as well, archives disappear.

It's important to -- so, in whichever way you actually have this debate, it's always important to end it on the side of accountability of the security services. There is no reason, there is no explanation why the security services of any country should not be accountable to democratically elected government. As painful and as difficult as it is, one of the biggest

challenges, obviously, is to establish a capacity within civil society to have that debate. Experts who do not belong to the military establishment or to the security establishment who are capable of understanding how these systems work.

So, in any case, this is vital for the sustainability of change, because revolutions and transition begin on a high note, and soon, however, people return to their daily lives, and if they do not see an immediate effect of that change on their daily lives, anger continues. Look at Iraq, Iraq is a perfect example where large parts of the population, what is it, more than ten years after Saddam Hussein is gone, has no access to electricity, no access to health care, no access to drinking water. Not because the country lacks the finances of it, but because the system is incapable of delivering these services to people, so the anger is still there.

This is the situation you want to avoid, because at the end of the day, with all the freedoms of expression, of democracy, of voting, the protection of human rights, if all of it is there but you don't have the access to the basic services for a society to function, anger still continues and will boil again in a country.

MR. SHARQIEH: Right. Thank you. Let me turn to El Habib Belkouch. In Morocco, you have a national reconciliation process way ahead of everyone. You began in 2004, and in 2004, you wanted to address the grievances of the victims and the political prisoners, and all those that they had issues with that former regime. And there are some who argue that your experience in 2004 helped, actually, and strengthened the position of Morocco to respond to the changes that are happening today. Because you addressed all the anger and the issues that built up in the past in 2004, and tried to

engage with the victims and their families, and this happened Morocco respond and deal with the changes that are taking place now.

To what extent, in your opinion, your experience of reconciliation in 2004 in Morocco, response to the changing that are happening today, and what would you see that applicable to the countries, the Arab countries that are going through that experience today?

MR. BELKOUCH: Thank you very much. First of all, I thank you very much for organizing this very topical conversation. First of all, I would like to emphasize the fact that each experience has its own peculiarities, whether we're talking about Morocco, or any other countries, each country has its own priorities. It's a different experience, we cannot export this wholesale and have one size that fits all, each country has to deal with the questions pertaining to transitional

justice and other related subjects in its own way. The other thing, when we talk about dealing with human rights violations and national reconciliation as just an accompanying mechanism, it cannot totally replace what politicians should do in order to facilitate a successful transformation.

So, therefore, this is just an agent of change and help rather than the entire process. This is in view of the fact that policies of oppression, lack of transparency, et cetera, so therefore, this kind of mechanism which crystallized through the different experiences of different countries can be an instrument of change. How can this happen? So far as the Moroccan experience is concerned, the first characteristic of the Moroccan experience is probably the Moroccan experience is the only one of its like in the world because the entire process of change takes place under the same regime, and this has been happening

for some time now, maybe nearly two decades now.

That is a long process of reform, and dealing with the issue of human rights violations. And amongst this new vision and this kind of treatment, there was a series of reconciliations. These acted as entry points into a much bigger and longer process, the first of which was considered a basic and a fundamental one was the reconciliation between the different political components in Morocco and what we call the power sharing based on consensus. And the opposition, after decades of opposition now heads the government, or head of the government, headed by a person (inaudible), who received a death sentence and spent years in prison, et cetera. He facilitated the way for different political powers to engage, whether Islamist, Leftist, Marxist, like the current Justice and Development party which heads the government now. This was the result of that.

And, of course, acknowledging the rights of the Moziki people, women's rights, et cetera, where major gains in this direction. All these conditions laid the ground for a more important step of the establishment of justice and reconciliation, or truth commission. This was, in fact, the fruit of a long struggle by the human rights movement. In this environment, this was not an easy process by any standard, and it's not easy for outsiders to understand if it wasn't for the royal decree and the long engagement of the human rights movement and organizations defending the rights of the victims, different political factions both from the left and the right, and also there were other powers who did not think this was, the whole entire process was necessary.

They thought the country needed another direction, and that is development rather than engaging in the process which, the consequences of

which are not known. But, in any event, this kind of process created a mechanism which paved the ground for the state to admit responsibility. When the announcement was made, the royal palaces, the King was in attendance, and the main political figures were there, and this led to the state acknowledging and admitting responsibility, and consequently, the restoration of rights of individuals and organizations, all people who were harmed as a result of a long process of oppression which the country had experienced, all of this led to something maybe, according to international experts, led to a new approach when it comes to gender issues, human rights issues.

And led, then, to the enrichment of the draft constitution which was adopted later on, which consolidated the existence of the commission and it criminalized the false disappearances, torture, gave more guarantees of human rights. And

all of this acted as mechanisms towards the transition into more of a new sort of judicial system and transitional justice, and everybody began to think or to work on how to make the country transfer from years of oppression to an era of democratization. Heeding this lesson for us was an essential element, and this led to other experiences like what happened in Spain between the right and left in order to achieve this transformation and transition.

What happened about the elderly and wives in South Africa, like Mandela, the clerk and others to act to effect this kind of transformation under very difficult conditions. Because everybody had in mind the interest of the country, and this is, unfortunately, and I conclude by this, this is what we notice that lacks in our experiences where a narrow, vested interest in perspective takes precedence over the desire to create change for the

entire country.

QUESTIONER: Mr. El Habib, if you please allow me to say, you used to be a political detainee, and you lived this experience through it's different aspects, one of the criticisms made at your doorstep is that you try to, in a quite healthy manner, to deal with the issue of the rights of the victims. But one aspect of the transitional justice was absent, like for example, the public naming of some of the perpetrators of crimes. And when it comes to truth commissions or political reform, some critics of the Moroccan experience say there was an attempt to buy the silence of the victims.

To what extent do you agree with this analysis, so far as your experience of it goes?

MR. BELKOUCH: First of all, I am not of the opinion that the right of victims, the reparation or restoring of their rights and getting

compensation for the rights they lost and the damages they suffered. This is all right for them, this is acknowledge at the level of the United Nation's Security Council, and also at the level of the opinion of experts and legal jurists like, also religious jurists like Bassoony and others, they all said all victims have the right to restore their rights. This is not a favor anybody bestows on them, first of all, they should be compensated for the danger they faced and endangerment of their lives, and this should be dealt with at both moral and material level. Also, to deal with this as part and parcel of the transitional justice.

As for what can be said that the Moroccan experience avoided the public trial of some people or not allowing the truth to be revealed, I don't think any such process can be looked at in absolute terms, but we should be looking at it according to the archives, the political environment inside any

society, and its ability to embrace the truth. And it's a revelation. It's not the responsible in terms of state, but the political parties in South Africa that I talked about, that responsibility of the different parties and elements and agents of change. In fact, we have gone a long way in achieving certain things, but we still have the case of Manoozi, (inaudible), and other cases that still remain unsolved. There may be some 800 cases, they say.

As for the reforms, the recommendations by the truth commissions are not cast in stone, they are the manifestation of political will. So, therefore, what we can do about them is the responsibility for all, and some reforms have taken place, prominent amongst which is the draft constitution and the issues pertaining to the transitional justice were strongly present in there. Of course, things will remain unsolved

because democratization is a process, is a graduation into better things, and also where the state takes part, political parties take part, judiciary takes part, the civil society takes part, all of this requires the consolidation of the participation of many actors to enable this process to see the light of day.

I think the Moroccan experience has done enough, and the testimony of the UN Secretary General in his report before the General Assembly has said so much. Thank you.

MR. SHARQIEH: Yasmin, South Africa always is mentioned as the prime example and the most successful example of national reconciliation and how to deal with past injures and violations, and how to bring everyone together and how to move forward, and emphasizing concepts of forgiveness and compensation, and all of that, and public apologies.

You were a commissioner on the Truth and Reconciliation commission, so to what extent do you think the South Africa experience can benefit, or can Arab societies in transition now can learn from the South Africa experience when dealing with the concept of national reconciliation and transition?

MS. SOOKA: Thank you, Ibrahim, and thank you for inviting me to speak. I think it's important to say right up front that I don't think you can, you know, take one model that's worked somewhere else and simply transplant it somewhere else, like a cookie cutter approach. Because I think that every context is unique, and one must remember that the South African experience was certainly, it was a product, really, of the negotiated settlements at the end of the conflict. There was no winner in South Africa, we didn't win the war, the parties actually had to come to the table. The one side, because the Cold War had

ended and there was no more funding for the Liberation movement, and on the other side, the banks were no longer willing in do more countries to prop up apartheid.

And so, of course, the big question was how were we going to find ways of living together, knowing, of course, that the minority owned most of the land, and also was in charge of the economy. And so, almost from the outset, one could say that the key mechanism that the new liberation movements were going to push was this question of reconciliation and building national unity. So the negotiations took quite a long time in South Africa, and while these were taking place, there was really political violence in the country. In fact, 25,000 people lost their lives during the negotiation period alone, and right at the end of that period, as people say, at the stroke of midnight before the interim constitution was going

to be signed, the issue came up of what was going to happen to those who had perpetrated gross human rights violations.

What is very clear was that, within the liberation movements, there were some who said they want Nuremberg-style trials. The military on the side of the form for state was saying we want a blanket amnesty, and, of course, the human rights lawyers were saying there has to be some way of dealing with accountability. A key question, of course, is why do we deal with the past? Is it a luxury that we can afford to, or should we ignore the past? And I think the prevailing wisdom in what we have seen around the world is that societies who don't confront their past are really doomed to repeat these violations again.

And so we don't fight to build a better past, but what we try to look at is what can we learn from that, and how do we ensure that it

never, never happens again. So, of course, under the leadership and stewardship of President Mandela, who himself had spent 20 years in jail, he was determined that we should find a way of dealing with accountability, but at the same time not creating new enemies for the new state. And so what they agreed upon was that there would be a conditional amnesty for those who had perpetrated violations, but that there would also be a process which would allow victims to speak about their experiences, but the format of that would be determined when the new government came to power.

And so, of course, the elections took place in South Africa, and the new government came to power, and then the discussions began in South Africa about what form this Truth Commission should take. There was an agreement that the amnesty could only be done on individual application, it had to be done by way of a public confession.

There was an amnesty tribunal within the Truth Commission, and this was almost taking the form of a quasi trial. One of the reasons for that was also we had agreed that the officials of the former state, as well as the judiciary would remain intact. And we certainly couldn't trust the judiciary to preside over trials which would involve their own people, and so the Truth Commission was seen as this particular avenue.

And this is how the Truth Commission came to be set up in South Africa. Its mandate from the outset was to look at really serious violations, so extrajudicial killings, the disappearances and abductions, torture, and, of course, severe ill treatment. A key challenge, of course, for South Africa, I think, was the Commission spent an enormous amount of time doing a public outreach program, and really tried to reach every part of our country. We were also the first Commission in

the world to hold public hearings, and this was very a very specific reason; we had to deal with the fact that even the white minority had been taken off guard when the former government made the negotiated settlement, and they really didn't believe that their government had perpetrated these crimes.

So it was really important to deal with the denial in the country on the part of what the former state had done. And so, initially, when the public hearings took place, first victims began to speak, and when the victims gave testimony about the violations they had suffered at the hands of the state, the white people in my country said this is not true, these acts and incidents are exaggerated. But when the amnesty hearings began, and they began to see former members of the military and the security forces begin to testify about the crimes they had committed, for the first

time in my country, the discourse changed and people actually asked the question, how could these things have happened, and we didn't actually know?

At the end of the work of the truth commission, we, in fact, made findings, and we made findings about the role that the former state had played. We indicated that, after 1980, the state had become a criminal state and had set up death squads in the country to take out anybody who was seen to have an opponent of the state. But we didn't only look at the conduct of the former state, we also examined the conduct of the liberation movements. And while we found that the liberation movement had fought a just war, we were very clear that, in some instances, they had violated the Geneva Conventions.

A key part of our work was to give victims the opportunity to testify. We also, of course, performed a fact-finding function. And so,

at the end of our work, we had to file a report which we handed over to the South African government and to the public. Very importantly, a big component was, of course, the reparations policy and making sure that we were able to give victims a public acknowledgment of the suffering they had undergone, as well as to make sure that they would receive reparations. And one must remember, you can never repair a victim completely, you can't bring someone back from the dead, but what you can do is at least ensure that there is an acknowledgment of the wrong doing that they had suffered.

If there is one mistake about South Africa, I think our Commission was largely modeled on the Latin American experiences where the transition had been from a military dictatorship to civilian rule, and what that meant was, of course, that the mandate of the Commission largely looked

at the questions of what we call civil and political rights violations, and we didn't really have the mandate to explore what I call the structural questions, the socioeconomic rights and the cultural violations, which I think are an important part of rebuilding a new society. And so there was a lot of criticism of the South African Commission around this particular point, because, if you look at the legacy that South Africa is grappling with today, it is around this inequality.

We have the highest GDO coefficient in the world, and so while our economy has grown, it has grown for the 30 percent at the top, and the 70 percent at the bottom, which is largely black, remain absolutely poor. And one of the reasons for this is, of course, the huge privilege and benefit of the apartheid period and the structural policies that benefitted the white minority in my country. And so this question of economic crime and the

collusion between business and, of course, the government in power, I think these are critical questions to look at, because if a new state is to survive, it needs to understand how those linkages work.

Another issue is, of course, the link between political crime and ordinary criminality, and this is something that affects most states in transition, and one that we need to be careful of.

MR. SHARQIEH: Thank you very much. Thank you, Yasmin. Now, I'll open it up for questions. Yes, go ahead.

QUESTIONER: First of all, the case of Egypt, you are a witness of the revolution of Egypt. Egypt's case is a unique one, this was reforms; Bulgaria is different; Iraq is occupation, American occupation, that was the constitution; South Africa is different. But in Egypt, we have two things, reconciliation to the old regime and

the rebels, or the revolutionaries. And consensus between the difficult parties of the revolution are the opposition and the people in power now. We suffered from the old regime, and our suffering, our torture was, because we called for, to complain from torture, just to say we are suffering. And, nevertheless, we are ready to forgive everything.

But how can we forgive those who made mistake against Egypt itself? 50 years Egypt had been going backwards, Egypt has lost everything, so how can you have reconciliation? Yes, reconciliation with the people, how can we have reconciliation with those who had mistakes against the homeland of the country? I will leave the answer to you.

MR. SHARQIEH: Forgiveness is about whether to forgive or not, the question becomes, is about how to deal with it. You have the former regime that's in place, they exist, and they

transformed themselves into, like in Tunis and new parties, and in Yemen, they're part of the new system, so how to deal with them and what to deal with them, what is the most effective way. That's when it becomes the challenge of these countries. You have a question?

MR. MLADENOV: I have a comment. I'm not even attempting to answer the question. One of the driving questions for us in central and eastern Europe was, at the end of the communist dictatorship, what is it that you want to achieve? Do you want to have continuity of the state, do you want to go back to something that you had before the second World War, and defying the period of the dictatorship as the exception from what the old country would have normally have evolved into, which became more or less the consensus across the board.

The end of communism meant Soviet troops

leave, dismantle the system that was established after the end of the second World War, and in most cases, go back to fundamental principles of the old society that existed before that dictatorship. Now, in some cases, that meant countries went through painful discussions whether they want to revert back to monarchy, because the republic came with the dictatorship in 1944. In our case, we went back to a constitutional model which was very similar to the one we had in 1800s. So there are different ways of doing it.

And why am I saying all this? Because I think, for Egypt and for a large number, if not all of the countries of the Arab awakening, this is still a fundamental question. Are you trying to build an Egypt that is new, or are you trying to go back to some parts of Egypt or fundamentally some principles of Egypt that existed before Nasser's regime, and then Mubarak, et cetera, et cetera.

And this will lead you to some sort of an answer on your question of reconciliation and national dialogue.

Because I believe that, in all of our societies, and this is different country to country, but it is fundamentally the same, the principle is the same; we want to have continuity of our state, we want to have continuity of our societies, we want to clean our societies of the mistakes that we've made or the dictatorships that we've had, but we do not want to dismantle them completely. This is what keeps countries like Libya together still, despite all the differences that exist between the east and the west and tribally, et cetera

I believe that, in Syria, one day, hopefully, when we have Bashar out of the picture that there will be a driving force within Syria that will want to go back to a civil state of

society that existed before the Bashar dictatorship emerged. In Iraq, it's completely different, in Iraq, people are trying to build a completely new country base on different principles. So to answer your question in a way, in Egypt, this needs to be integrated into the debate, and I don't think it's still there. I don't think people in Egypt themselves would answer that question for themselves, or have even thought about to what extent how they want to see their country develop from this point forward.

And it's a matter of reaching some sort of a consensus after a public debate, which is usually painful, difficult, probably long, but at the end of it, very healthy for every society. And particularly for complex societies such as Egypt is.

MR. SHARQIEH: Thank you. El Habib and then this person.

MR. BELKOUCH: I think that it's difficult, really, to talk about the kind of change which we see in Egypt. We see, now, two camps, the camp of revolution and the camp of the remnants of the former regime. The question is how we can make a direct transformation, similar to what happened in Egypt and Libya immediately after moving into a new situation. We forget that all of us were behind this change, and then we see differences in the camp of the revolutionaries becoming the basis of a new dilemma faced by the country.

At least the new basis of the new regime which should take the country into democratization should be based on principles agreed upon on the basis of national consensus. We see what happened in Spain was rather different and the transitional justice was not on the agenda. Now, 40 years after the departure of Franco, we have transitional justice now, it's part of the political memories of

the currently. The Spanish people want to know what happened, so therefore, the moment of laying the foundations may be required at different kind of work, then maybe the different parties will differ on what democracy requires. This is evident in different experiences. You may see that not only in Egypt, but -- and this is not a criticism of the political parties in Egypt directly, but it is due to the absence of a culture of tolerating the different opinion and national dialogue.

And this we did not have, and maybe that's why we are living now, going through some formidable complex challenges which require a great deal of wisdom on everybody's part. Because a success in one area, in one country can consolidate the other countries, because our regional was the last to join the march towards democracy in the world.

Can the speaker use the microphone,

please?

QUESTIONER: There are more than 40 different experiences in the world pertaining to transitional justice. These experiences follow the development of the countries, whether at the cultural level, political, economic. The experience of Portugal and Spain is different than that of Greece, all of these took place in the 70s. The experience in eastern Europe differed from one country to another, for example, if you look at a country like Poland and Hungary, and to a certain extent Czechoslovakia, went through the idea of continuity. For example, Germany went through a different kind of disconnect with the past, everything to do with the former regime, the DDR as a country ceased to exist and became part of Federal Germany or West Germany, and the laws which criminalized or banned communism which made it a crime punishable by law, which was imposed on the

citizens of West Germany began to be imposed on the citizens of eastern Germany.

And the status of the security apparatus, et cetera, this is an important point which should be taken into consideration, similarity to what happened in Latin America and Chile. Their experience is difference than that of Argentina. And Argentina, if we want to present all the perpetrators of crimes before the courts of law, there would be total chaos in the country, maybe civil war or civil strife. And this may not facilitate democratization at all, and also really do not allow for any national reconciliation. So, therefore, the peculiarity of each country should be taken into account.

So, therefore, I always try to differentiate between transitional justice and what's known as retributional justice. There is always a possibility that people want to settle

scores, especially in the transitional period, because we are talking about justice, and we are talking about a period of transition. Maybe some armed conflict took place, civil war, or the country moved from one totalitarian dictatorial regime, and a despotic regime into another regime which is edging its way closely towards democratization.

And this will not stop at penal policy and punishing the perpetrators of crimes, but can also be extended, the political, economic and societal aspects. And there are some victims, of course, does not become obsolete, we're talking about crimes like murder, torture and false disappearances, et cetera. These will be on the agenda of a transitional justice. Egypt is one of these cases which warrants really close studying because even the totalitarian regime went through different phases. This is first.

Secondly, the former regime has still many supporters, especially in view of the fact that the results of the election led to some sort of polarization in society. Some people started the revolution, although their agenda was different to that of the revolution, especially where, really, one thing to achieve social justice, distribution of wealth, the respect of human dignity. The camp of the revolution was divided between the Muslim Brotherhood who won the elections. And a liberal leftist, another movement, and this allowed for some remnants of the former regime to find their way into the struggle against the new regime.

So this would be included in the wholistic approach that we should aim to have, and this should be part and parcel of national reconciliation. Reconciliation does not mean forgiveness or tolerance or opening a new page and

canceling out the former grave violations which took place in the past. Especially so when there are, it's a right of the individuals, individual victims and their families to seek the truth and to restore justice to its right track, whether we're talking about transitional justice or the proper legal court that any country should have.

This takes into consideration the commonalities that we talked about in the previous session, which are conditions for the transitional justice which are to provide the common ground in the forensic science and judiciary system, and legal system which changes towards democratization.

Dr. Halet?

DR. HALET: Not a question, if I am allowed.

MR. SHARQIEH: No, no, of course.

DR. HALET: This is only a comment. Just kind of maybe to shed more light on, I would say,

another dimension on the whole idea of democratic transition that has to do with foreign and external dimension. In a number of Arab countries, especially in the eastern part of the Middle East, say the countries surrounding Israel, namely Jordan, Libya, Syria, and to a certain extent, Iraq, as well, and Egypt, you have the external dimension, and in this case, Israel, it's very influential. And if you have this case all over, maybe, the globe, that is, you know, the foreign (inaudible) maybe between regional or super powers, Russian, Americans and so on and so forth, in the Middle East, in this part of the world, you have this effect is compounded.

You have the classical one, now you have the Russian, American, say, rivalry over Syria, then you have Israel. And if we kind of zoom into these cases, if you think of any sound democratical transition in Jordan, I think the country is now

facing an impasse, real impasse, and this is because the consequences of the continuation of the Israeli occupation. Because, in Jordan, you have almost 50 percent and plus from Palestinian origin, and if you have a sound democratical process, this means that Palestinian majority will take over. And, in this case, of course, this will create so many complications.

In the case of Lebanon, as well, you have the refugees, the Palestinian refugees, maybe half a million or more, they would affect any sound, again, democratic setting, they would affect the very delicate demographic balance, or maybe even imbalance in Lebanon. When it comes to Syria, like I said, it's very obvious, and if you think of the Assad Dynasty, the father, the son and the unholy spirit, maybe, the only underpinning legitimacy of the regime has been the rhetorical conflict with Israel. So you have this component that's really

in play all the time over the past, maybe, 60 years. And, nowadays, even in Syria, if you think of this cowardice on the side of, the Western side and the lack of support to the Syrian people, it comes, again, from the concern about the security of Israel.

Just maybe to complicate the case. There are so many cases, and there are peculiarities in the discussion. Thanks.

MR. SHARQIEH: Thank you for making it even more difficult. Let's here from Justin please.

MR. JUSTIN: Thank you for your contribution so far. I wanted to ask you about the role that you see constitution drafting is having in national reconciliation, and any particular practical experiences of your countries as you look back with hindsight as to what affects of the framework or the process in your constitutional

drafting, how that contributed or was the negative factor of reconciliation that might be relevant for some of the countries in the region that have either recently drafted constitutions or are in the process of doing so?

MR. SHARQIEH: Thank you, Justin. And I'd like also to hear also from Padma.

MS. PADMA: Thank you. On the topic of successful examples of truth and reconciliation commissions, Desmond Tutu said that we need to open up wounds, cleanse them so that they don't fester. So, to attain successful national reconciliation, a form of justice needs to be attained, and that form of justice should be in the form of restorative justice rather than retributive ones. Therefore, how do you perceive this to be possible, restorative justice to be possible in the Arab Spring countries considering a retributive mentality dominates the society as a whole?

MR. SHARQIEH: Thank you. Before you pick any of the questions to reflect on, I will add also my question, so to give you more choices, and making it more difficult and complicated for you. Which is; in theory, we talk about national dialogue and the need for national dialogue, and how important it is in order to have this inclusive process that involves everyone, and that will allow us to reach a consensus or agreement that will eventually lead to national reconciliation?

Now, we talk in theory about this a lot, but now let's test it now, let's talk about it and how realistic this is. Again, the case, or, you know, the elephant in the room, which is the case of Syria. Do you really think that national dialogue at this stage can really work in Syria, can you involve or initiate this national dialogue there, and that can eventually lead to some agreements?

So you can, you have a number of questions, you can feel free to reflect on any of the questions that you like. Let's start with Yasmin.

MS. SOOKA: I think that the question on the constitution is, I think, is critical thought, because on the one hand, we're looking at the past, but we're not looking at the past to make it better, we're also looking at the past to understand what we need to change and to put in place. And I think what a constitution does is, it actually states out a vision and is in agreement for the kind of society we want to build. So, if you look at the South African constitution, the three things it talks about is an egalitarian society, one in which equality is always respected, and thirdly, it's about restoring dignity.

And what is linked to the interim constitution is this question of looking at the

past, so I think the linkages between a commitment to dealing with the past is a very important ingredient to put in a constitution. Because, even if you don't deal with the past now, later on, you can use that clause in the constitution to hold the new government accountable. If I look at the South African constitution, one question which was the product of compromise was the question of land. And, you know, this year, we commemorate 100 years since the legalized dispossession of the majority of their land. And so, if you look at the constitutional question, there, it looked at a process in law which would deal with destitution. And, of course, this has been very, very difficult to do.

So, in terms of this question of the retributive model and the question of restorative justice, the question of practicality is really what is going to drive what happens in any country.

If you look at the best examples in the world of prosecutorial models, you will find that, in the best ones, perhaps 20 people at most were prosecuted over a particular period. And so, in reality, you also have to explore do you have the legal system or the courts or the judicial offices who will be able to pre side over those trials. And, I mean, this question came up when a number of us had this discussion in Libya where people said, if we could help it, we would take them and hang them up publicly and do to them what they did to us.

The problem, of course, is that what you want to do is to draw a line between what was and what we want our society to be. And what that will require is an enormous national dialogue in which people are taken through what it means to rebuild a society and what kind of society we want to have, and do we want to be like them. And this is a

question that Nelson Mandela asked, do I want to be like them, locking people up, torturing them, detaining them without trial, or do we want to restore our society to the rule of law. And to do that means we have to educate people, we also have to make sure that we transform their lives so that the quality of their lives changes. And there, we can use a number of restorative models to actually achieve that.

MR. SHARQIEH: Thank you. Habib?

MR. BELKOUCH: The question about the constitution, I think, that the monarchal experience may be as different from what I learned about other countries because of the specificity of the context there. But it is worth studying and following and learning from it, because the constitutional document in Morocco was not born by a constitutional assembly or a diction note, it was the result of a national dialogue supervised by a

committee of experts, Moroccan experts, through some hearing sessions, and meetings between different political parties, the unions, (inaudible) of the civil society, the lawyers, judges.

And the projects for a document (inaudible) positions to be submitted to another committee where there is the King's adviser and presenters of all political parties. This was the political mechanism to adopt a document that would be agreed upon by all the different parties, and consequently, the document was produced which I think, within our experience in Morocco is a very advanced document, even compared to what was proposed in the memorandums of the political parties. So this dynamism or this mechanism can be learned a lot of. As I said this afternoon inside the workshop, I consider that going directly into elections to choose people for a committee that

will adopt or write the constitution means that the constitution will be dominated by the majority, while what we wanted is that the constitution should be the result of belonging to all the different parties of the country, not only the majority.

And that, had that been that way, it would be a source of (inaudible) from the beginning, and this is what is called, what the Arab called the Arab Spring or Arab democracy. I agree that one cannot say that we have a revenge culture or we are backwards, but if we are starting with is that we cannot do better than what was done in the past means that we have not made any changes, would be reproducing the same agent of past, previous regime but with new figures and people, and the question of change will remain on the agenda. That's why one should learn the lesson, the lesson so that we can improve the

moment of change which are usually difficult and worrisome, and we must win the biggest number of bets in it, because the challenges are mostly from outside, and from inside at the same time, and the challenges of tomorrow might be more difficult than the challenges of today.

And we find that, how countries in Europe are collapsing financially and economically speaking, we see how that, the identity closure is increasing in many countries all over the world, and you find that even the democratic choices are on the agenda facing big challenges that require, especially from the political elite who are taking a chance to be wise and to overcome their egoisms to serve this prospective hope for their peoples.

QUESTIONER: (off mic)

MR. BELKOUCH: This required the change, change is a process that is very long and is full of challenges and turning points, some of which

might be dangerous. There is no revolution of any change process in the world that would not deface or be followed by some turning points or some setbacks, and some sufferings. You can see this right from the French Revolution, to all the other revolutions that took place during history. Revolutions usually reveal the most noble and the most beautiful issues, but at the same time, they also reveal the ugliest and the worst kinds of things or qualities.

All this comes from the bottom to go into a conflict that might require a long time, that's why the transition period will be accompanied by a lot of setbacks and failures. The French Revolution, during the seven first years, paid 4 million victims, and continued in a conflict within itself and a series of setbacks and coups d' état, and for 100 years and list the values of fraternity, brotherhood and freedom were

established and were settled.

This is something that happened all the revolutions, that's why this democratic process or these revolutions that work to go to democracy will need and be faced with a lot of challenges, but the curve will continue going up, serving the change process. The past is the past, and you cannot bring it back, as Gramsci said, the past has died, old things have died, but the new things have not yet been born, we are going through labor, a lot of labor, and there are many forces that are polarizing each other, and conflicts that depend on the direction this conflict is going to. It might deviate, it might setback, it might stumble, but it has started walking and going forward and will never stop, no matter how big the challenges.

It requires some time, that's why this transitional period, if there is, this consensus is something that is over the constitution to sit

(inaudible) over and beyond the constitution, that is to say, the rules and the values of revolutions should be fixed before writing the constitution. This would, might lead to positive results. So far, the countries that witnessed the changes are four countries, Tunisia, Egypt, Libya and Yemen, and maybe in Syria, which is waiting for this hard labor, which has become very difficult. But if you should notice that, in all these countries, nobody is thinking of going back to the past.

The past is gone, it is the past, despite all the setbacks, the lacking points and the problems of these countries, especially the lack of security, the increasing number of rapes and crimes, corruption which has accompanied over revolutions of the world since the beginning of history to now. That's why I think that it requires a lot of thought, a lot of work that should be done by the folks that are taking the

change, they should move in the direction that will serve their destination for which they have made sacrifices and have called for. Especially, there are some setbacks of some intellectuals who think, some of them actually think all that happened was the work of exterior hands, and that the West's hand and influence is everywhere, and all that's going on is something from the outside, external forces that want to destroy our countries and our nations, without looking to the dictatorship and how domination and how the totalitarian regimes have made the people suffer and how much the reformist and the rebels have made sacrifices in the Arab countries.

This does not mean that the West does not have its own agenda, it has its own interests that it wants to benefit of this wave. France's position in Tunisia's revolution is different from that of Libya. It wanted to defend (inaudible) to

the last minute, when, in fact, they have even suggested to him that they can protect him, protect his regime by themselves. But, given the role played by the public opinion, and given that the regime in France is a democratic one, and the position of the media Sarkozy had not to do so, and then they had this tough position regarding Libya and then Syria.

And this is all part of this agenda, the direction or tendency that had been launched and began moving and that cannot be stopped now, anyhow.

MR. SHARQIEH: -- cites to their experience of their national reconciliation of their countries and for reflecting that on the transition process that they are going through in Arab societies now, Arab Spring countries, and I would like to thank you all for coming and for participating in this discussion. I hope you found

it insightful and helpful of understanding the processes and what we're going through.

Thank you very much again, and shalom, we'll see you later at future events. Thank you very much. (Applause)

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