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# **National Human Rights Institutions: A Reason for Hope in the Middle East and North Africa?**

TURAN KAYAOGU

**NATIONAL HUMAN RIGHTS INSTITUTIONS:  
A REASON FOR HOPE IN THE MIDDLE EAST  
AND NORTH AFRICA?**

TURAN KAYAOGU

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Turan Kayaoglu  
Doha, January 2021

# EXECUTIVE SUMMARY

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Eighteen national human rights institutions (NHRIs) operate in the Middle East and North Africa (MENA). Some of them have been at work since the early 1990s and others emerged in the 2000s. This analysis explains the emergence, impact, limitations, and potential of the NHRIs in the MENA region.

Often established by executive decree to appease international critics and to assert government authority over human rights discourse, NHRIs did not, as some had hoped, transform the region's dismal human rights record. They remain weak and controlled by their respective governments, upon whose goodwill they rely to do their work. They cooperate with governments to a fault rather than confront them, even when gross human rights violations take place. They also lack powers to protect human rights, such as the legal power to launch official investigations into violations. Consequently, they cannot hold powerful state actors, such as the police or army, to account.

But not all is doom and gloom. Contrary to what the dismissive skeptics say, MENA NHRIs have achieved moderate gains. They help legitimize and increase awareness about human rights in a region where human rights skepticism and cynicism run deep. They monitor and document human rights abuses with publications such as annual reports, even if these reports often fail to elevate victims' voices and instead align with government accounts. They are also active in promoting human rights through education and outreach activities.

NHRIs cannot transform human rights in MENA countries when the latter face major structural barriers, including autocratic governments, the repression of civil society, and security pressures. Still, they are able to promote, if not protect, human rights. By legitimizing human rights norms and providing ideological opportunities for domestic and international human rights advocates, they can advance human rights modestly. Moreover, they hold great potential to do more when structural constraints ease.

The domestic and international human rights communities should continue to lobby MENA governments to strengthen NHRI independence from governments. One way of doing this is to push for greater compliance with the Paris

Principles, which set the standards for and responsibilities of NHRIs seeking United Nations (U.N.) accreditation. Only six MENA NHRIs are in full compliance with the Paris Principles, and they perform better compared to other NHRIs in the region.

Moreover, it is essential to strengthen the Arab Network for National Human Rights Institutions (ANNHRI). Regional forums are an effective way to promote human rights, especially with respect to NHRI independence and effectiveness. Currently, NHRIs in the MENA region are split between the Asia Pacific Forum of National Human Rights Institutions (APF) and the Network of African National Human Rights Institutions (NANHRI). As a regional forum, the ANNHRI has the potential to better support and facilitate mutual learning among NHRIs across the MENA region. However, the ANNHRI remains under-resourced and under-staffed and needs to be strengthened. Finally, NHRIs must collaborate with civil society organizations (CSOs) in order to be effective. As such, the domestic and international human rights communities should continue to support the development of MENA civil society and ask governments to ease political restrictions on CSOs and the human rights community.

# INTRODUCTION

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The international human rights system is based on a seeming paradox. At its core, it asks states, the biggest violators of human rights, to protect and promote human rights. The United Nations (U.N.) and other intergovernmental bodies provide guidance and oversight for state compliance, working alongside a system of nongovernmental organizations (NGOs), such as Amnesty International. NGOs started to multiply in the 1960s and '70s as watchdogs to reinforce state accountability. Yet, states' human rights compliance continued to lag. In the last three decades, a new mechanism, known as national human rights institutions (NHRIs), has proliferated in the international system.

NHRIs are “administrative bodies responsible for promoting and protecting human rights domestically.”<sup>1</sup> These government-funded organizations are established by legislative or executive branches of government. To protect human rights, NHRIs may investigate human rights abuses, punish the perpetrators, and/or provide support to the victims. To promote human rights, they may organize workshops, train officials, and/or lobby for the ratification of human rights treaties. These U.N.-endorsed bodies have become an important part of international human rights governance. If functioning properly, they serve as a crucial link between international human rights law and domestic implementation.

The Global Alliance of National Human Rights Institutions (GANHRI) is a worldwide network of NHRIs with over 110 members. GANHRI accredits NHRIs using the U.N. Paris Principles and coordinates their relations with the U.N., including granting individual NHRIs access to U.N. human rights bodies.<sup>2</sup> Contrary to the earlier skepticism of some human rights scholars about the effectiveness of these administrative bodies in promoting and protecting human rights, recent studies suggest that at least some NHRIs contribute significantly to the improvement of human rights in their countries.<sup>3</sup> While the impact of these organizations is more visible in democratic countries, some of them are also effective in authoritarian countries that have adverse political and security contexts.

Over the last three decades, 18 NHRIs were established in the greater Middle East and North Africa (MENA) region (see Table 1, Figure 1).<sup>4</sup> In the 1990s,

the governments of Algeria, Morocco, Palestine, Tunisia, and Yemen established human rights institutions to increase their domestic legitimacy and to address social and political tensions at home. In the early 2000s, Egypt, Jordan, Qatar, and Saudi Arabia followed suit, largely in response to international pressures and criticism following the 9/11 terrorist attacks. And in the 2010s, Turkey, Sudan, Pakistan, and Lebanon jumped on the NHRI bandwagon. Some holdouts, such as the United Arab Emirates (UAE) and Kuwait, are currently in the process of establishing NHRIs.

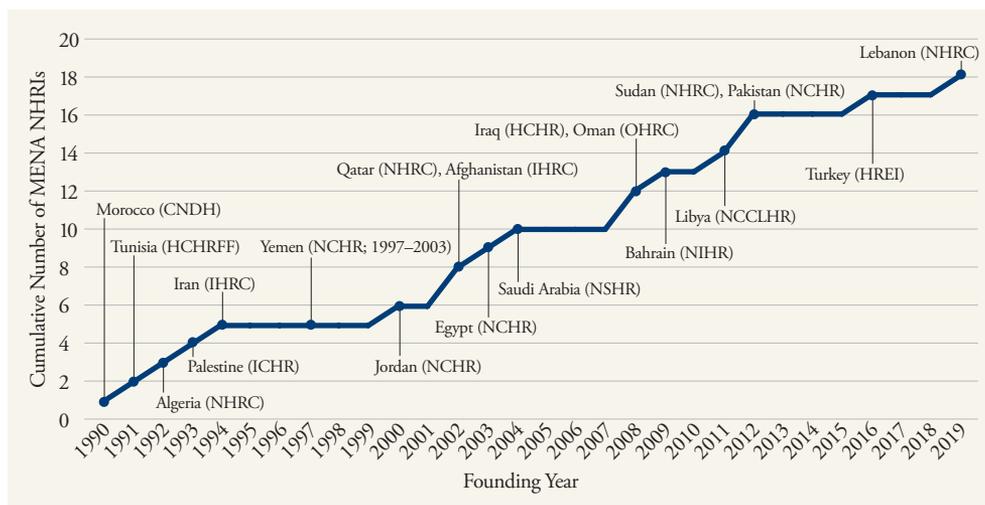
This analysis offers the first comprehensive study of NHRIs in the greater MENA region, focusing on their emergence, structures, impacts, and challenges. In the first section, I explore how the creation of NHRIs was shaped primarily by external pressures and, to a lesser extent, by domestic dynamics. In the second section, I attribute the structural weakness of MENA NHRIs to their lack of independence and their limited mandates. In the third section, rather than dismissing MENA NHRIs as government puppets or glorifying them as a human rights panacea, I argue that they have achieved moderate gains. While NHRIs have helped to legitimize and increase awareness of human rights in a region where skepticism and cynicism of these rights run deep, they lack the necessary implementing powers to protect human rights, such as the ability to launch independent investigations into state violations.

After 40 years, it is clear that NHRIs lack the mandate and capacity to transform human rights in the MENA region. This is in part because they were not designed to create transformation, but rather to serve as part of an ecosystem, protecting and promoting human rights along with other groups, movements, and organizations. They have also been held back in the MENA region by authoritarianism, security sector dominance, and restrictions on civil society and NGOs. But this is not the entire story. Even in these restrictive environments, some MENA NHRIs have been able to modestly advance human rights in their states. However, if NHRIs want to realize their full potential they should secure greater independence from governments; strengthen the Arab Network for National Human Rights Institutions (ANNHRI) to act as a forum for learning, support, and solidarity; and establish stronger connections with civil society organizations (CSOs).

**TABLE 1: NHRIs IN THE MENA REGION**

Country	National Human Rights Institution	Acronym
Afghanistan	Independent Human Rights Commission	IHRC
Algeria	National Human Rights Council	NHRC
Bahrain	National Institution for Human Rights	NIHR
Egypt	National Council for Human Rights	NCHR
Iran	Islamic Human Rights Commission	IHRC
Iraq	High Commission for Human Rights	HCHR
Jordan	National Centre for Human Rights	NCHR
Lebanon	National Human Rights Commission	NHRC
Libya	National Council for Civil Liberties and Human Rights	NCCLHR
Morocco	National Human Rights Council	CNDH
Oman	Oman Human Rights Commission	OHRC
Pakistan	National Commission for Human Rights	NCHR
Palestine	Independent Commission for Human Rights	ICHR
Qatar	National Human Rights Committee	NHRC
Saudi Arabia	National Society for Human Rights	NSHR
Sudan	National Human Rights Commission	NHRC
Tunisia	Higher Committee for Human Rights and Fundamental Freedoms	HCHRFF
Turkey	Human Rights and Equality Institution	HREI

**FIGURE 1: THE RISE OF NHRIs IN THE MENA REGION**



Source: This figure notes the years in which the NHRIs began operations. Data was collected from a variety of sources, including the official NHRi websites; Sonia Cardenas, *Chains of Justice: The Global Rise of State Institutions for Human Rights* (Philadelphia: University of Pennsylvania Press, 2014); Katerina Linos and Tom Pegrarn, “What Works in Human Rights Institutions?,” *American Journal of International Law* 111, no. 3 (2017): 628–88, <https://doi.org/10.1017/ajil.2017.65>; and various country reports created by Alkarama for Human Rights.

# WHY DID MENA STATES ESTABLISH NHRIS?

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Previous research has identified several benevolent reasons why states establish NHRIs, notably: (1) responding to ethnic, religious, and other forms of conflict; (2) combatting systematic human rights violations, such as extrajudicial killings and forced disappearances; (3) protecting and promoting human rights; (4) signaling to external partners the government's commitment to human rights; and (5) helping the government comply with its international human rights responsibilities.<sup>5</sup> However, states have also been known establish NHRIs for darker reasons, such as co-opting human rights language and agendas in order to silence internal and external critics of the government. In addition, research has shown the importance of systemic factors in state decisionmaking, such as the legitimacy of NHRIs in the international community: The increasing prevalence of NHRIs globally accelerated the rate at which MENA states established them, after decades of resistance.<sup>6</sup> As this section will demonstrate, external pressures played a leading role and domestic dynamics played a secondary role in MENA governments deciding to set up NHRIs.

## EXTERNAL FACTORS

### Two Waves of Democratization

One of the most crucial factors driving the proliferation of MENA NHRIs was the Western push for democracy and liberalization in the region, which came in two waves. The first wave was after the end of the Cold War, when Western states increasingly started to push their allies to prioritize liberal democracy, rule of law, and human rights. MENA states rely on European and U.S. political, military, and economic support and are often vulnerable to their criticism. As a result, MENA governments established NHRIs as a tactical strategy to appease Western critics, while combining liberal democratic discourse with authoritarian practices as part of what Daniel Ritter calls “façade democracy.”<sup>7</sup>

For example, Tunisia's ousted leader, former President Zine El Abidine Ben Ali, established an NHRI known as the Higher Committee for Human Rights and

Fundamental Freedoms (HCHRFF) in 1991. In reality, however, Ben Ali's decision aimed to create the appearance of promoting human rights and the rule of law while actually maintaining a fiercely authoritarian regime.<sup>8</sup> Similar factors were at play in Morocco and Algeria's establishment of NHRIs in the early 1990s<sup>9</sup> and Egypt's establishment of its National Council for Human Rights (NCHR) in 2003.<sup>10</sup>

The second wave came with the September 11 terrorist attacks in the United States, after which the U.S. administration enacted two contradictory agendas in the Muslim world. The first was the so-called war on terror, which MENA governments took advantage of in order to combat violent groups, as well as to crack down on Islamist groups and even silence non-Islamist political opposition under the pretext of counterterrorism.<sup>11</sup> The second was known as the "freedom agenda" and was aimed at promoting democracy and liberalization in the MENA region. This encompassed several initiatives launched by the George W. Bush administration, such as the Middle East Partnership Initiative and the Broader Middle East and North Africa Partnership Initiative.<sup>12</sup>

Europe and the United States have also promoted democracy and human rights in the MENA region, including the establishment of NHRIs, for other reasons, such as mitigating African and Middle Eastern migration to Europe. One case that illustrated this dynamic was when the European Union (EU) pressured Turkey to establish the Human Rights and Equality Institution (HREI) in the 2010s to facilitate sending asylum seekers back from EU states to Turkey.

### **The Global and Regional Spread of NHRIs**

A second international factor that facilitated the spread of NHRIs in the MENA region was their worldwide popularity. As more NHRIs popped up around the globe, these institutions became a signifier of a country's commitment to human rights. Countries that did not follow suit became exposed to criticism.

In the 1990s, NHRIs appeared as the dominant institutional means of linking the principle of universal human rights with the domestic implementation of human rights protections.<sup>13</sup> Legitimized by the Vienna Declaration, adopted by the World Conference on Human Rights in 1993, and supported by the establishment of the International Coordinating Committee of National Human Rights Institutions in 1993, NHRIs reached a critical global momentum toward the end of the 1990s, facilitating their swift adoption.<sup>14</sup>

In the 2000s, "NHRIs...exploded on the world stage" with "incredible popularity" at a global level,<sup>15</sup> increasing from only seven in 1978 to 110 in 2004.<sup>16</sup> The U.N. has played a leading role in promoting NHRIs through mechanisms

such as the Universal Periodic Review (UPR), through which the Human Rights Council has consistently recommended that states establish NHRIs.<sup>17</sup> For example, a recommendation from the Committee on the Rights of the Child in 2001 was instrumental in Qatar's decision to establish the National Human Rights Committee (NHRC) in 2002.<sup>18</sup>

In some cases, the ways in which NHRIs were established illustrated the dramatic role of international actors. For example, the Oslo process led to the establishment of the Palestinian Independent Commission for Human Rights (ICHR) in 1993.<sup>19</sup> In Iraq, the interim constitution imposed by the U.S.-led coalition forces stipulated the establishment of an NHRI, which paved the way for the Iraq's High Commission for Human Rights (HCHR) in 2008.<sup>20</sup> Similarly, Sudan's 2005 Comprehensive Peace Agreement included a provision for the establishment of an NHRI, although the government did not establish the National Human Rights Commission (NHRC) until 2012.<sup>21</sup> Lastly, Turkey's HREI was established in part through visa liberalization negotiations with the EU, which allowed Turkish citizens to travel to the Schengen Area for short-term visits without a visa.<sup>22</sup>

NHRIs in the MENA region were also legitimized by the establishment of the ANNHRI in 2011, which provided limited opportunities for collaboration and support. Although the Gulf NHRIs and the Organization of Islamic Cooperation (OIC) both attempted to establish regional NHRI forums, neither initiative gained much traction.<sup>23</sup> In short, while NHRIs have emerged in the MENA region as the dominant mechanism to localize human rights, the region lacks an effective forum that can promote solidarity, support, and learning among NHRIs.

### **Pressure from International Human Rights Advocacy Groups**

Looking at the establishment of NHRIs from 1978 to 2004, one study found that international human rights NGOs have had a major effect on the spread of NHRIs in two ways. First, they use their connection to intergovernmental bodies such as the U.N. and to local NGOs to present the creation of NHRIs as an innovative and legitimate way to improve human rights, in turn leading governments to see NHRIs as the best way to boost international legitimacy and answer local demands. Second, international NGOs engage in "mobilizing shame" by calling out countries for human rights violations and pressuring them to establish NHRIs in order to appease criticism.<sup>24</sup>

For example, Morocco has faced criticism by organizations such as Amnesty International and the Western Sahara Campaign for the oppression of Islamist opposition members and groups; occupation of the Western Sahara; torture; forced disappearances; and detaining political dissidents and journalists.<sup>25</sup> Algeria similarly faced sustained criticism from Amnesty International and Human

Rights Watch (HRW) for torture and disappearances following the 1992 coup.<sup>26</sup> The World Trade Organization's 2001 Doha Round put Qatar in the spotlight, bringing attention to the human rights situation in the country, particularly with respect to labor rights and restrictions on public assembly.<sup>27</sup> Even though international pressures have played a key role in MENA states' decisions to establish NHRIs, governments often deny the role of such pressures, instead citing their interests in good governance and administrative efficiency.<sup>28</sup>

## DOMESTIC FACTORS

### Civil Society Advocacy

Generally, MENA states are highly restrictive when it comes to the activities of the human rights community. In places with fewer restrictions, such as Morocco, Tunisia, Palestine, and Turkey, NGOs are at the forefront of human rights advocacy. Seeing NHRIs as possible allies, these organizations often lobby for their creation, sometimes through transnational activism.<sup>29</sup> For example, in the late 1980s and early 1990s, the Tunisian League of Human Rights reached out to the United States, France, and Amnesty International to pressure its government to create an NHRI, which was established in 1991.<sup>30</sup> In some cases, personal connections have played a pivotal role. Palestinian human rights scholar and activist Hanan Ashrawi, chair of the board of directors of human rights NGO Miftah, leveraged her close connection to former chairman of the Palestine Liberation Organization (PLO) Yasser Arafat to gain his support for a Palestinian NHRI.<sup>31</sup> Ashrawi also collaborated with the founder of the Palestinian NGO Al-Haq, Raja Shehadeh, whose connections to Scandinavian governments and human rights communities enabled the funding and subsequent establishment of the ICHR, which operates in both the West Bank and Gaza.<sup>32</sup>

The Paris Principles, adopted by the U.N. General Assembly in 1993, asked states to work with NGOs to create and operate NHRIs.<sup>33</sup> In the MENA region, while most civil society groups supported the establishment of NHRIs, they were disillusioned when governments failed to involve them in the process of shaping these institutions. With few exceptions, such as Morocco and Palestine, most MENA governments either did not collaborate with local NGOs or deliberately spurned them. For example, Turkish human rights NGOs wanted to collaborate with the state in creating an NHRI, but the government ignored them. This perpetuated fears that the government was merely establishing the HREI in order to co-opt human rights discourse, silence critics, undermine the Turkish human rights community, and promote a state-centric and conservative reinterpretation of human rights. Consequently, Turkish civil society and

human rights organizations contested the establishment of the HREI in their campaign, “Bu Kanunla Olmaz” [Not With This Law].<sup>34</sup>

Across the MENA region, local and international NGOs have often been disappointed by NHRIs’ lack of independence and limited mandates; the tense and sometimes conflicting relations between the NGO community and NHRIs have also undermined the latter’s effectiveness. However, NGO reservations regarding MENA NHRIs have been proven right on many occasions. For example, Egypt’s NCHR and its leaders criticized other Egyptian rights groups and human rights defenders, rather than collaborating with or defending them. Notably, the NCHR has not pressured public authorities to end Case No.173, which targets a number of Egyptian NGOs, human rights defenders, and lawyers.<sup>35</sup>

### **State Interests**

While MENA states are often driven by the need to appease powerful international actors and show that they are respectable members of the international community, they also have an interest in bureaucratizing the protection and promotion of human rights. Increasingly aware of the growing influence of human rights discourse and how it empowers opposition to their regimes, MENA governments have aimed to co-opt, tame, and defang this discourse by bureaucratizing and routinizing human rights protection and promotion.<sup>36</sup>

MENA states have realized that there are many benefits to incorporating human rights into their administrative structures. First, this process takes a powerful weapon out of the hands of regime critics. Second, it allows states to incorporate human rights into the framework of statebuilding and enhancing good governance.<sup>37</sup> Thus, allegations of human rights violations can be lost in bureaucratic maladministration. This can, in theory, prevent violations from going public and mute the potential for anti-regime protests.<sup>38</sup> Third, this administrative incorporation allows states to assert their authority over human rights, against Western and local critiques, by localizing and monopolizing human rights discourse. Fourth, this process allows governments to present themselves as good members of the international community that adhere to international human rights norms.

In short, establishing NHRIs has allowed MENA governments to appease international critics while asserting their authority over human rights issues. Increasing demands for democracy, liberalization, and human rights protections, as well as the growing legitimacy of NHRIs in the international system, made NHRIs a popular tool among governments. The proliferation of NHRIs in the MENA region took place despite adverse conditions, including lack of democracy; frequent and systematic human rights violations; and persistent critiques of human rights discourse as an imperialist tool that is incompatible with Islamic values.

# HOW ARE MENA NHRIS STRUCTURED?

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On a superficial level, NHRIs around the world may look like they all came from the same mold. However, their structures, mandates, and resources differ. Structurally, all MENA NHRIs are like commissions: they have representatives from multiple civil society groups and a committee shares decisionmaking authority. Other NHRIs globally are like ombudsmen, with one person having the authority to receive and address human rights complaints. In terms of mandates, some NHRIs focus on narrow issue areas, such as discrimination against a specific group, while others have broad mandates covering a variety of human rights areas. In terms of resources, access also varies; most authoritarian governments are reluctant to empower an independent human rights body, and thus they provide the NHRIs with only limited autonomy and budgets.

The broad similarities among NHRIs globally stem from the fact that they follow the Paris Principles. These principles set the minimum standards for NHRIs. For example, an NHRI should have a structure independent from the government (including adequate funding and protection of members); pluralism among its members (i.e., representation from NGOs and unions); and a legal basis (such as a constitution, legislation, or an executive act).<sup>39</sup> The Paris Principles also identify the main functions of NHRIs as follows: human rights protection (receiving, investigating, reporting, and addressing complaints of human rights violations, as well as visiting prisons and detention centers); human rights promotion (human rights education and training for officials); advising the government on legislative acts and working toward joining and complying with international human rights treaties; and cooperating with domestic and international bodies.<sup>40</sup>

## ACCREDITATION

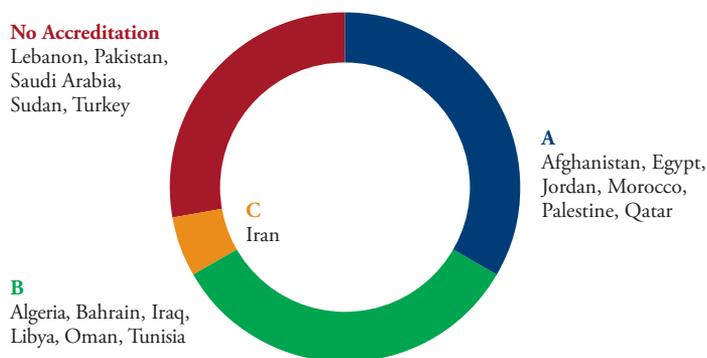
GANHRI uses the Paris Principles for NHRI accreditation, meaning that it places strong emphasis on NHRI independence.<sup>41</sup> Independence is seen as providing the basis for NHRIs to work with CSOs and media, to hold state actors accountable without fear, to set their own priorities, to allocate institutional resources, and to make staffing decisions. In the last decade, while the Paris Principles have

not changed, accreditation rules have been re-interpreted to emphasize: transparency and NGO involvement in the appointment of NHRI commissioners; international collaboration; diversity of commissioners and staff; involvement of women; and government responsiveness to NHRI recommendations.<sup>42</sup>

States want GANHRI accreditation because it brings them prestige and benefits. Acquiring “A” status means full compliance with the Paris Principles and allows the institution to participate in, contribute to, and influence the agendas and topics of discussion at U.N. human rights forums, such as events organized by the U.N. Human Rights Council. “B” status means partial compliance with the Paris Principles and allows the institutions to access U.N. human rights meetings as observers but not as full participants. “C” status is given in cases of non-compliance and thus may lead to suspension from GANHRI.<sup>43</sup>

Globally, there are 80 NHRIs with “A” status and 34 with “B” status.<sup>44</sup> Among the 18 NHRIs in the MENA region, six have “A” status, six have “B” status, one has “C” status, and five are not accredited (see Figure 2). Some were refused accreditation, while others did not even attempt to obtain it. While an “A” status does not necessarily mean that an NHRI is effective, it generally indicates its potential for impact, with the designation itself enhancing the NHRI’s ability to improve human rights. Though rare, accreditation reviews may lead to the downgrade of an NHRI; for example, Algeria’s National Human Rights Council (NHRC) was downgraded from “A” to “B.”<sup>45</sup> Among the four unaccredited MENA NHRIs, Sudan’s NHRC and Turkey’s HREI are in the process of applying for accreditation.

**FIGURE 2: MENA NHRIS’ GANHRI ACCREDITATION (2019)**

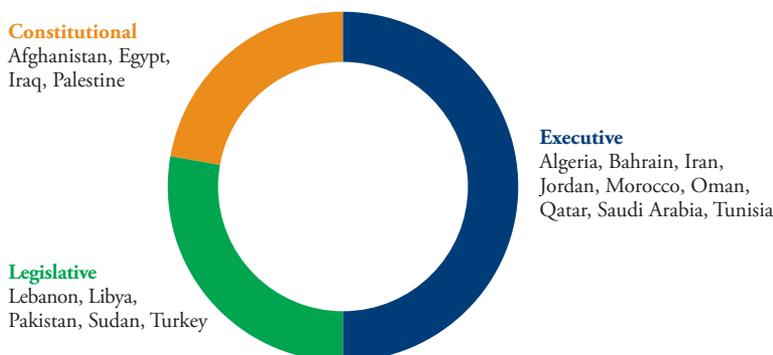


Source: GANHRI, “Accreditation status as of 27 November 2019,” November 2019, [https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20-%20Chart%20\(%2027%20November%202019\).pdf](https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20-%20Chart%20(%2027%20November%202019).pdf).

## FOUNDING INSTRUMENTS

States around the world have established NHRIs in a variety of ways. NHRIs can be created through constitutional mandates, legislative acts, or presidential/executive decrees. The Paris Principles do not require any particular mechanism, but encourage governments to establish NHRIs legislatively or, preferably, constitutionally, to support their survival and elevate their independence and prestige. Reflecting the strong executive role in MENA countries, most of the region's NHRIs were established through executive decree. Among the 18 NHRIs in the broader MENA region, nine were established by royal or presidential decrees, five were established by legislative acts, and four were constitutionally sanctioned (see Figure 3).

FIGURE 3: MENA NHRIs' FOUNDING INSTRUMENTS



Source: Data was collected from a variety of sources, including the official NHRI websites; Cardenas, *Chains of Justice*; Linos and Pegram, “What Works in Human Rights Institutions?”; and various country reports created by Alkarama.

## MANDATES

While all NHRI mandates include promotional powers, some also include protection powers. Promotional functions are about increasing human rights awareness and fostering long-term change. Protection functions focus on holding powerful state actors accountable for human rights violations and providing remedies to those whose rights are violated (see Table 2).

**TABLE 2: NHRI PROMOTIONAL AND PROTECTION FUNCTIONS**

Promotional Functions	Protection Functions
<p><i>Human Rights Education (HRE)</i></p> <ul style="list-style-type: none"> <li>• Run public awareness campaigns</li> <li>• Promote inclusion of HRE in school curricula</li> <li>• Provide human rights training to government officials, security personnel, etc.</li> </ul>	<p><i>Quasi-judicial</i></p> <ul style="list-style-type: none"> <li>• Receive and investigate complaints</li> <li>• Refer human rights violations to courts</li> <li>• Participate in legal proceedings</li> <li>• Assist victims</li> <li>• Mediate between parties</li> </ul>
<p><i>Government Compliance</i></p> <ul style="list-style-type: none"> <li>• Review proposed legislation</li> <li>• Advise government on human rights issues</li> <li>• Lobby government for treaty ratification</li> <li>• Report to U.N. treaty bodies</li> </ul>	<p><i>Monitoring</i></p> <ul style="list-style-type: none"> <li>• Document human rights violations</li> <li>• Inspect police stations, prisons, and detention centers</li> <li>• Hold public inquiries</li> <li>• Issue annual and thematic reports on the domestic human rights situation</li> <li>• Conduct human rights research</li> </ul>
<p><i>International Cooperation</i></p> <ul style="list-style-type: none"> <li>• Coordinate with the U.N.</li> <li>• Coordinate with other NHRIs</li> <li>• Participate in regional and international forums</li> </ul>	

Source: Table adapted from Sonia Cardenas, *Chains of Justice: The Global Rise of State Institutions for Human Rights* (Philadelphia: University of Pennsylvania Press, 2014), 11.

Examining the mandates of MENA NHRIs, it is clear they have limited protection functions and extensive promotional functions. For a state to institutionalize an NHRI with a strong protective mandate, there would need to be either strong domestic pressure or sustained international pressure, or both. Across much of the MENA region, domestic pressures are limited by political systems that aggressively monitor, control, and silence opponents. Likewise, although international pressure played a key role in facilitating the spread of NHRIs in the region, once MENA governments set up NHRIs, even when they were weak and ineffective, this pressure generally subsided. Under such circumstances, rather than establishing a useful NHRI with both promotional and protection powers that can hold powerful state actors accountable, many authoritarian regimes in the MENA region choose to establish promotional NHRIs that serve as low-cost concessions to appease their critics.<sup>46</sup>

# WHAT ARE THE IMPACTS OF MENA NHRIs AND THE CHALLENGES THEY FACE?

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How to understand and measure the impact of NHRIs is a major debate among scholars.<sup>47</sup> The expectation was that they would be transformative in closing the “compliance gap” between states’ international human rights commitments and the lack of domestic implementation of human rights. This expectation leads to several questions: How can we understand the effect of NHRI activities on the status of human rights, when the latter is also dependent on complex structural constraints that NHRIs may not be designed to impact? How can we differentiate between the impact of NHRIs’ protection activities, such as addressing individual violations, and their promotional activities, such as legitimizing human rights discourse and opening political space for NGO activism? Answering these questions is difficult, given that the impact of NHRIs often manifests over a long period of time.

Several studies examine the impact of NHRIs. A study by sociologists Wade M. Cole and Francisco O. Ramirez found that the presence of NHRIs reduces physical integrity violations, such as torture, extrajudicial killings, and disappearances.<sup>48</sup> Another study by Katerina Linos and Tom Pegram looks at four aspects of NHRIs—*independence, inclusiveness, investigatory powers, and promotional powers*—to explain why some NHRIs are more effective than others, concluding that independence safeguards, investigatory powers, and promotional powers can all contribute to NHRI effectiveness, in both democracies and transitional regimes.<sup>49</sup> The authors observe that NHRIs in stable autocracies like Bahrain, Iraq, and Saudi Arabia “are invariably governmental façade human rights bodies.”<sup>50</sup> This is bad news for NHRIs in the MENA region; only the Tunisian NHRI operates in a free country, based on Freedom House scores.<sup>51</sup>

Many authoritarian states have established NHRIs to mitigate international criticism, rather than out of genuine commitment to human rights.<sup>52</sup> This strategic calculation often produces NHRIs with limited powers to operate in a hostile environment. Even so, many scholars and activists hope that once institutions are created they may take on (more enlightened) lives of their own, perhaps changing domestic politics, reshaping civil society and social movements, or affecting the state’s self-image and human rights agenda.<sup>53</sup>

Cardenas identifies three stages, with several indicators and criteria, that can be used to assess the work of NHRIs globally.<sup>54</sup> In the next four sections, I use a modified version of these stages, indicators, and criteria to illustrate the impact of MENA NHRIs and the challenges they face (see Table 3). I divide one of her categories, prevention, into two—legitimization and socialization—to discern the role of NHRIs in legitimizing human rights discourse in a region where its compatibility with culture and religion has been contested by powerful actors, and where the gulf between human rights rhetoric and practice has led to deep cynicism and skepticism. I lay out four key areas of action and impact, including: 1) the legitimization of universal human rights; 2) the documentation of violations; 3) remediation of past and current violations; and 4) socialization, or the prevention of future abuses. In each of these sections, I also discuss the obstacles to implementation. Striking a balance between optimism and skepticism, I show that MENA NHRIs achieve modest gains for human rights by legitimating them domestically and promoting them through education and training. However, they are less successful in monitoring and documenting violations and elevating victims' voices. NHRIs also fail to hold powerful state actors, such as police, army, and intelligence services, accountable for human rights violations they commit.

**TABLE 3: NHRI IMPACT STAGES AND INDICATORS OF INFLUENCE**

Impact	Indicators of influence
<p><i>Legitimization</i> Increasing visibility and awareness of human rights</p>	<p><i>Localization</i> Does the institution’s articulation of human rights align with international human rights standards?</p> <p><i>Visibility</i> Does the institution prompt more human rights discussion in media or emergence of human rights NGOs?</p> <p><i>Acceptance</i> Does the institution’s presence lead to fewer denials of the universality of human rights by state actors and government officials?</p>
<p><i>Documentation</i> Collecting, reporting, and disseminating information about human rights violations</p>	<p><i>Accessibility</i> Are there physical, economic, or cultural barriers preventing victims’ access to the institution? Does the public know about the institution?</p> <p><i>Inquiries, Investigations, and Reports</i> Does the institution publish annual reports in a timely manner? Does it initiate public inquiries? Does it write thematic reports on human rights abuses?</p> <p><i>Narratives of Abuse</i> Do reports elevate victims’ voices as opposed to repeating state narratives?</p>
<p><i>Remediation</i> Addressing past or current human rights violations</p>	<p><i>Access</i> Does the institution have access to places, such as detention centers and prisons, where human rights abuses are likely to occur?</p> <p><i>Policy Change</i> Do the institution’s actions or reports lead to any policy changes that improve human rights?</p> <p><i>Confrontation</i> Does the institution challenge state security apparatus, such as police or military? Does confrontation between the institution and government occur?</p>
<p><i>Socialization</i> Acting to prevent future human rights violations</p>	<p><i>Compliance and Ratification of International Treaties</i> Does the institution lobby the government to ratify international human rights treaties? Does the institution criticize the government for its lack of compliance with ratified treaties?</p> <p><i>Advising on Legislation</i> Do the institution’s reviews and advice lead to changes in legislation?</p> <p><i>Human Rights Training and Education</i> Does the institution regularly conduct training and workshops for government agencies? Does it work to integrate human rights into school curricula?</p>

Source: Table adapted from Cardenas, *Chains of Justice*, 318–19.

## LEGITIMIZATION: INCREASING VISIBILITY AND AWARENESS OF HUMAN RIGHTS

NHRIs are in a powerful position to shape human rights discourse and have achieved modest success in advancing the human rights conversation in the MENA region. While authoritarian states may co-opt human rights discourse for their own purposes, in doing so they legitimize this discourse, which they may have previously rejected as part of a foreign imperialist agenda to undermine local values. Paradoxically, NHRIs started to spread to the global south when many non-Western leaders championed cultural relativism against universal human rights. For example, the 1992 Jakarta Message, issued by the Non-Aligned Movement, stipulated that, “No country...should use its power to dictate its concept of democracy and human rights or to impose conditionalities on others.”<sup>55</sup> In 1993, Asian states and NGOs adopted the Bangkok Declaration, offering a relativist position on human rights, with an emphasis on non-interference, economic rights, and cultural diversity.<sup>56</sup>

The spread of NHRIs in the MENA region undercuts government claims that international human rights norms contradict local values or Islamic principles. According to the Paris Principles, NHRIs have the responsibility to “promote and ensure the harmonization of national legislation, regulations, and practices with the international human rights instruments to which the State is a party, and their effective implementation.”<sup>57</sup> In this way, NHRIs elevate human rights discourse to the state level, thus giving it major legitimacy and visibility.

NHRIs also localize universal human rights norms, articulating human rights in ways that correspond with local values, cultures, and priorities.<sup>58</sup> As such, NHRIs interpret human rights to resonate with local populations, in order to change people’s perceptions, mobilize populations, or push state actors to stop practices that violate human rights. NHRIs may pay particular attention to rights that resonate with local values, such as the rights of the elderly, and develop locally specific norms, such as the “right for the elderly to receive respect from younger authority figures.”<sup>59</sup> In doing so, NHRIs contribute to both the internalization of international human rights norms and the emergence of new norms.

### Islam and Human Rights

One key question related to the localization of human rights in the MENA region is the relationship between Islam and human rights. In 1990, the OIC adopted the Cairo Declaration on Human Rights in Islam, which approached human rights from a conservative Islamic perspective.<sup>60</sup> MENA NHRIs have varied in their approaches to Islam.

Some do not see Islam as an obstacle to the implementation of universal human rights norms. For example, the chairman of Qatar’s NHRC, Ali Bin Smaikh Al Marri, has highlighted the increasingly normative appeal of human rights. When asked about the difference between Muslim and non-Muslim communities with respect to human rights, he rejected the distinction, arguing that “human rights are the prerogative of all human beings, regardless of their nationality, place of residence, gender, national or ethnic origin, color, religion, language or any other status...”<sup>61</sup> Indeed, a review of the Qatari NHRC’s annual and thematic reports does not show any departure from international human rights norms. To the contrary, its framing of issues and recommendations are parallel to those provided by the U.N. treaty bodies. Another example of this is Tunisia’s HCHRFF. In May 2019, the Committee issued a statement during Ramadan to support the right to eat or drink in public—an issue that has traditionally pitted secular forces and Islamists against each other in Tunisia. The committee referenced the human rights principles enshrined in the Tunisian constitution and emphasized the centrality of personal freedoms to the country’s democracy.<sup>62</sup>

There are other countries where NHRIs aim to advance an Islamic formulation of human rights. For example, Saudi Arabia’s National Society for Human Rights (NSHR) defines its aims as:

Protecting human rights in accordance with the Constitution of the Kingdom of Saudi Arabia which is based on the Quran and the teachings of Mohammad and in accordance with the applied regulations, along with the Declarations and Covenants of Human Rights issued by the Arab League, the Organization of Islamic Cooperation, and the United Nations and its agencies and specialized committees, so long as they do not contradict with Islamic Shariah (Islamic Laws).<sup>63</sup>

A few others aim to harmonize Islamic values and human rights. For example, Jordan’s National Centre for Human Rights (NCHR) aims to “Enhance and safeguard the principles of human rights in the Kingdom and shall be inspired in doing so by the tolerant message of Islam, and the values inherent in the Arab-Islamic heritage,” while simultaneously working to “Promote and safeguard human rights...based on the rights and obligations stipulated in the Constitution and the commitments enshrined in international covenants and conventions.”<sup>64</sup>

NHRIs that operate in MENA countries with Shariah-based domestic law systems must tread very carefully. Such is the case with Pakistan’s National Commission for Human Rights (NCHR). In a report advising the state to prevent honor killings, the NCHR draws from the Quran and hadith as much as from international human rights norms.<sup>65</sup> Because the NCHR views honor killings as

being grounded in tradition, rather than in religion, it takes a strong position against them. The NCHR is more cautious in dealing with blasphemy laws. In a report to the Pakistani Senate, the NCHR notes the incompatibility of blasphemy law with human rights and recommends allowing those who are charged with blasphemy to repent because it was what the Prophet Muhammad did.<sup>66</sup>

In short, some MENA NHRIs (such as those in Iran and Saudi Arabia) prioritize Islamic human rights over universal human rights. Others, especially those that comply with the Paris Principles, either prioritize international human rights (such as Qatar's NHRC), or aim to harmonize domestic practices with international human rights norms by drawing on Islamic values (such as the NHRIs in Jordan and Pakistan).

## **DOCUMENTATION: COLLECTING, REPORTING, AND DISSEMINATING INFORMATION ABOUT HUMAN RIGHTS VIOLATIONS**

Another core NHRI activity is documenting human rights violations. Documentation provides NHRIs with an opportunity to elevate human rights dialogue, expand political agendas, and publicize alternative, semi-official narratives that might challenge official state discourse. Public inquiries or thematic reports can hold state actors accountable for systematic human rights violations and may trigger change. To be effective, documentation should provide an accurate picture of human rights violations; however, this is often not possible because of discrepancies in the content, timing, and quality of the reports.

### **Annual and Thematic Reports**

One primary responsibility of NHRIs is to publish annual reports on their activities and the state of human rights in their countries. NHRI annual reports tend to adopt very similar formats, covering civil and political rights, as well as economic, social, and cultural rights. They sometimes provide information on the NHRI's priorities; for example, a third of the 2017 report from Qatar's NHRC is devoted to the human rights implications of the blockade imposed on the country by Saudi Arabia, the UAE, Egypt, and Bahrain.<sup>67</sup> Annual reports may also present information such as the number of complaints the NHRI received, the detention centers it visited, and the training and educational activities it provided, as well as its comments on draft bills and recommendations for how to comply with the country's human rights commitments.

However, these reports are often characterized by gaps and inconsistencies, are published late, or are not made public at all. When they are released, some are only available in English or French, indicating that they are intended for an

international audience, rather than for MENA citizens. For example, the website of Algeria's NHRC lists no annual reports prior to 2013, but notes that the NHRI had submitted annual reports to the country's president in previous years. When asked by a journalist why the reports were not made public, the president of the Commission was unapologetic: "It is beyond my authority. My mission is merely to hand over documents with recommendations to the President of the Republic."<sup>68</sup> Many annual reports, such as those from Tunisia's HCHRFF, do not offer any substantive criticism, analysis, or recommendations, but rather repeat condemnations of terrorism and discrimination in very general language and detail the committee's visits and visitors.<sup>69</sup> The Tunisian case is particularly puzzling given the general liberalization and democratization of Tunisian politics.

Annual reports do not focus on a particular issue at length; thematic reports do. However, most MENA NHRIs fail to publish thematic reports on pressing issues such as police brutality, restrictions on freedom of speech, discrimination against minority communities, torture, long detentions, or crackdowns on political opposition and protests. Sometimes, they produce such reports but do not make them public. For example, in 2008, Algeria's NHRC inspected and documented violations in 34 prisons, but the report was not made public.<sup>70</sup>

Another type of documentation NHRIs provide are reports to U.N. mechanisms, such as the UPR at the U.N. Human Rights Council. Some MENA NHRIs, such as those in Morocco and Jordan, are diligent in providing reports to the UPR for each review cycle. Some, such as Algeria's NHRC, have never done so. Others, such as those in Qatar and Iraq, provide reports irregularly. Some of this variation is due to differences in the financial and human capacity of NHRIs, which this study does not assess.

### **Physical and Political Barriers to Reporting Violations**

MENA NHRIs face major challenges in making it possible for victims to report violations. One barrier is location. Many NHRIs have only one office located in the country capital and are therefore not accessible to much of the public. For example, the Oman Human Rights Commission (OHRC) is located in the capital city of Muscat and is thus far away from many potential victims.<sup>71</sup> To facilitate access, some NHRIs operate several regional offices. For example, Palestine's ICHR, while headquartered in Ramallah, maintains five regional offices spread out in the West Bank (Ramallah, Nablus, Tulkarem, Hebron, Bethlehem) and two in Gaza (Rimal and Khan Younis).<sup>72</sup> This arrangement provides access to victims and allows the ICHR to monitor human rights issues closely and address them quickly. Other institutions, like Jordan's NCHR, have staff travel regularly across the country to ensure that the public has access to their services.<sup>73</sup>

There can also be barriers for those who do not know a country's official language. This is particularly true for marginalized ethno-linguistic minorities such as the Amazigh in Maghreb countries and the Kurds in Turkey, as well as migrant workers in the Gulf. Qatar's NHRC is one of the few NHRIs where the main office includes a help desk staffed with community representatives from common migrant origin countries, such as Nepal, the Philippines, India, and Egypt. By offering language skills and specific knowledge about labor issues facing these communities, these help desks facilitate access to large and vulnerable labor communities.<sup>74</sup>

Most MENA NHRIs have websites in multiple languages and allow victims to submit complaints online. Yet, barriers exist there, too. Bahrain's National Institution for Human Rights (NIHR) asks for a signature for online complaint submission, which requires the victims to access a printer and scanner.<sup>75</sup> Email addresses and fax numbers provided online are sometimes outdated or misspelled.<sup>76</sup> Even if the victims reach the NHRI, they may not get a response. When the international human rights organization Alkarama tried to reach the OHRC via the phone, fax, and email information provided on its webpage, it failed.<sup>77</sup>

Even more challenging are the political barriers. Many people, particularly those who are most marginalized and vulnerable to human rights abuses, are unaware of the NHRI's role.<sup>78</sup> In an authoritarian context, some victims will not reach out to NHRIs because of the perceived lack of independence and power to address the violations. Finally, some will not report because of fear of retaliation. Alkarama makes an observation in its report on Iraq's HCHR that is true for many countries in the region: "where State Security Forces and militias affiliated to the government are too often the perpetrators of human rights abuses, the lack of capacity to protect victims adequately also contributes to a lack of reporting of human rights violations..."<sup>79</sup>

### **Barriers to Publicizing State Violations**

Documentation is about more than just generating documents; it is also about providing substantive context. To be an effective human rights instrument, reports should sketch out an accurate picture of the situation and elevate victims' voices. Yet, MENA NHRIs often fail to meet these standards and instead ignore violations—or worse, whitewash state actions and blame the victims.

Morocco's National Human Rights Council (CNDH) illustrates the mild criticism approach. In a 2008 report, CNDH noted a significant increase in violations of detainees' rights, yet it withheld criticism of the security forces and counterterrorism laws that systematically perpetuated these violations.<sup>80</sup> Similarly, Qatar's NHRC has offered only muted criticism of the country's nearly

two-decade-long delay in holding legislative elections, stating merely that “society is still awaiting the issuance of the electoral law.”<sup>81</sup>

Some annual reports look the other way. The 2013 and 2014 annual reports from Bahrain’s NIHR omitted any discussion about the government’s systematic persecution of opposition, including human rights defenders and journalists.<sup>82</sup> Reporting on Jordan’s NCHR, Alkarama writes that it “normally does not interfere or raise its voice on particularly politically sensitive cases.”<sup>83</sup> This silence can also be seen when NHRIs’ priority areas do not correspond to the major human rights problems on the ground. Iraq’s HCHR, for example, identified 13 priorities, but politically sensitive issues such as free and fair trials, systematic use of torture, and summary executions did not make it onto the list, even though these concerns are widely documented by local and international human rights organizations.<sup>84</sup>

There are many examples where NHRIs become government mouthpieces. Oman’s 2011 and 2012 annual reports supported the government’s narrative about a crackdown on peaceful protestors and ensuing human rights violations that led to dozens of casualties. The OHRC absolved the authorities of any responsibility and blamed the victims by claiming that the government’s actions were justified because the protestors destroyed public property.<sup>85</sup> When, in 2012, a blog accused the state of repressing protests and the authors were subsequently arrested, rather than offering support and ensuring that their rights were respected, the OHRC issued a statement justifying the arrests. It argued that the authors had “abused the freedom of expression.”<sup>86</sup>

The Oman example reflects a region-wide trend. MENA NHRIs mostly aligned with the authorities during the Arab Spring. This elevated the state narrative and gave it credibility. Egypt was at the heart of the Arab Spring protests, and its NCHR failed to act as a genuine human rights advocate. The NCHR established four fact-finding committees for the events of the summer of 2013. These committees focused on the police and army’s crackdown on peaceful protestors on August 14, 2013, which led to the deaths of thousands of individuals. The NCHR report, published in March 2014, failed to effectively and impartially document the violations, especially the use of force by secret services, which led to deaths.<sup>87</sup>

MENA NHRIs also support state responses to international criticism. In September 2017, Egypt’s NCHR rushed to the government’s defense against an HRW report that detailed the torture of political prisoners in Egypt and called it a crime against humanity. The NCHR president denied the report’s accuracy, saying that “there is no torture in Egyptian prisons” and asserting

that the “NCHR is now in constant contact with the interior ministry to make sure that police officers observe human rights and that there is no torture at all in Egyptian prisons.”<sup>88</sup>

While MENA NHRIs as institutions tend to toe the government line, sometimes individual members of NHRIs risk government ire to expose human rights violations. For example, in 2015, three of Egypt’s NCHR members criticized one of its reports for whitewashing human rights violations in Cairo’s Aqrab prison.<sup>89</sup> This decision led to government harassment and arrest. One member, Nasser Amin, was banned from leaving the country and another, Ragia Omran, was briefly detained.<sup>90</sup>

Overall, it is not realistic to expect that documentation will give an accurate picture when NHRIs lack independence and face restricted freedom of speech. Laws such as Egypt’s Law No. 92/2016 on the Institutional Regulation of the Press and the Media severely restrict freedom of speech, making it so that the NCHR and its members may face repercussions for criticizing the government and its laws.<sup>91</sup> This problem is compounded by NHRIs’ lack of independence and fear of militias, such as in Iraq, or secret service, such as in Egypt, which can commit human rights violations with impunity.

## **REMEDICATION: ADDRESSING PAST OR CURRENT HUMAN RIGHTS VIOLATIONS**

NHRIs should do more than document violations—they should address them. NHRI mandates and contexts inform their methods of remediation, which can include conflict mediation, victim compensation, or prosecutor referral. This work often puts NHRIs in conflict with state institutions that are responsible for correcting violations and implementing reform, such as the judiciary, prison system, and security forces.

### **Lack of Enforcement Powers**

Although MENA NHRIs may have quasi-judicial mandates, they often lack enforcement powers and thus require the cooperation of state actors to pursue remediation. However, particularly in authoritarian contexts, powerful state actors may just ignore such demands with impunity. If the NHRI persists, the contestation may escalate in such a way as to elicit government pushback, which can involve threatening to replace commissioners or cut budgets. Ironically, such threats indicate that the NHRI is effective. Walking on a tightrope in a hostile political environment, NHRIs need to challenge state actors to protect human rights, but they cannot push too hard, as this will put their institutional survival at risk.<sup>92</sup>

The quasi-judicial role of NHRIs can be a very powerful tool to protect human rights. It helps to enhance NHRIs' legitimacy as credible human rights actors and allows them to find allies in civil society. With the exception of Algeria, all MENA NHRIs have explicit mandates to receive and address complaints through mediation, reconciliation, or referral to relevant state agencies. None of the MENA NHRIs have the power to make binding decisions, and only Jordan has the power to refer cases to a prosecutor. Even their ability to conduct investigations and site visits, especially to prisons, is often limited.<sup>93</sup>

While MENA NHRI annual reports often include data on how many complaints they have received and what actions they have taken, NHRIs often change the way they report year to year, making it difficult to compare across time and assess their work. Some of these changes are likely due to institutional growth and bureaucratic changes, while some are likely to avoid accountability.

The annual report of Qatar's NHRC is one of the better ones, and yet, the variation in its categorization and aggregation of complaints confuses more than clarifies. For example, the 2010 report shows that it received 791 complaints, among which 17 were rejected and 13 were resolved. The majority (663) were referred to "competent authorities," and, among these, 398 received no replies from the referred agency. There is no information about 98 of them.<sup>94</sup> The NHRC stopped providing information about how it handled cases after 2010. Rather, it started to disaggregate the data based on the type of rights violation and the nationality of the complainant. However, it does not provide disaggregated data about the number of cases that reached an amicable settlement, were submitted to the authorities, or were solved or pending. All of these discrepancies make it difficult to assess the NHRC's effectiveness at addressing the complaints it receives.

### **Siding with the State: Anti-Terrorism Laws, Political Protests, and Forced Disappearances**

MENA governments face major security and political challenges. Particularly during periods of social unrest or terrorism, governments use a heavy hand—often wielded by police, intelligence or the army—to crack down on security challenges, often classing regime critics and opposition together with terrorists. Major human rights violations are often committed in such circumstances. However, MENA NHRIs tend to act more like instruments of the state, rather than as independent arbiters standing up for human rights.

For instance, NHRIs often remain silent about human rights abuses committed by state actors in the guise of counterterrorism measures. For example, in Morocco, a series of terror attacks in Casablanca in May 2003 by Salafia Jihadia, an al-Qaida affiliate, further intensified the anti-terror security environment, which

was already heightened following the 9/11 attacks. Subsequently, the government charged more than 700 Islamists with terrorism across the country. They received harsh sentences following what many human rights organizations called unfair trials. After the attacks, several reports of secret detentions and systematic torture appeared, but the CNDH remained silent.<sup>95</sup> When questioned, the president of the CNDH downplayed the human rights abuses, proclaiming “we can say that at present there are no more serious and systematic human rights violations in Morocco.”<sup>96</sup>

To address the enforced disappearances of the 1990s, Algeria’s NHRC established an ad hoc mechanism in the early 2000s and conducted interviews with public officials and families of the missing persons. It submitted a report to the president of Algeria, but did not release it publicly. The NHRC ignored thousands of testimonies and available documents, concluding that “it is impossible to judge the state agents who engineered the disappearances because they are difficult to identify.”<sup>97</sup>

MENA NHRIs also performed poorly in the aftermath of the Arab Spring protests. From Bahrain to Oman, the NHRIs either remained silent, or worse, sided with governments in their decisions to crack down on protests and downplayed the use of excessive force by security.<sup>98</sup>

Palestine’s ICHR provides an interesting contrast to many other MENA NHRIs. It has shown willingness to confront the Palestinian Authority (PA) on issues such as its crackdown on Hamas members in the West Bank.<sup>99</sup> The ICHR’s power lies with its relative autonomy (most of its funding comes externally, from Scandinavian governments and CSOs); the vulnerability of the PA to its own external donors; and Hanan Ashrawi’s leadership in the ICHR’s founding and early success.<sup>100</sup>

A case from Morocco’s CNDH illustrates the limits of NHRIs’ ability to confront police abuse. Police arrested and beat protesters in the Rif region, later torturing them in jail. The king praised security forces for how they handled the situation. When the court refused to allow a forensic medical examination of the defendants’ injuries, the CNDH intervened and commissioned an examination, which showed the defendants’ injuries were due to police abuse. The CNDH, however, did not make the report public. When the report was leaked to the media, the CNDH backtracked, saying that it was not finalized and thus not official.<sup>101</sup>

In short, even when NHRIs in the MENA region claim to operate through human rights protection roles and mandates, they do not adequately fulfill these roles in practice. In an environment where the security sector can commit major

human rights violations and pro-government militias can suppress all forms of dissent, many members of MENA NHRIs are concerned not only with institutional, but also with individual, survival when it comes to holding powerful state actors accountable.

## **SOCIALIZATION: ACTING TO PREVENT FUTURE HUMAN RIGHTS VIOLATIONS**

A significant part of NHRIs' work is not just addressing past violations, but also preventing future violations. They do this by fostering a human rights culture through awareness campaigns; by conducting training programs for state officials to promote the implementation of human rights norms; and by playing a consultative role in the legislative process to ensure the passage of rights-based laws.

### **Advising on Legislation Related to Human Rights**

The Paris Principles require NHRIs to “examine the legislation...to ensure that these provisions conform to the fundamental principles of human rights” and “if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures...”<sup>102</sup> For example, in Egypt, Article 214 of the 2014 Constitution asks the NCHR to be consulted for “bills and regulations” related to human rights.<sup>103</sup>

Many MENA NHRIs use the advising mandate to advance human rights. In Jordan, the NCHR has power to “[propose] legislation related to the Centre’s objectives” and recommend and submit “proposals necessary for safeguarding human rights in the Kingdom.”<sup>104</sup> Using this mandate, in 2018, the NCHR prepared a draft law on the right to receive information and further reviewed 28 pieces of legislation related to human rights.<sup>105</sup>

In 2019, Iraq’s HCHR issued an extensive report on the human rights of internally displaced persons (IDPs) and particularly those impacted by the Islamic State (IS) group’s occupation of northern Iraq. The report commented on IDP related legislation, provided recommendations to the Ministry of Displacement and Migration, and asked the Office of the Prime Minister to allocate 50 billion Iraqi dinars to support IDPs in southern Mosul.<sup>106</sup>

Although MENA NHRIs are empowered to engage in the legislative process, in practice, this power is often ignored or applied selectively. For example, Bahrain’s NIHR has provided recommendations on the Law of Trade Unions Freedom and the Right to Organize Trade Unions in Bahrain, as well as sub-

mitting a proposal to amend the Citizenship Law to allow Bahraini women to pass on their citizenship to their children.<sup>107</sup> However, the NIHR avoids publicly commenting on politically sensitive legislative issues, such as laws on anti-terrorism or insulting the king, even though such laws include articles incompatible with human rights norms.<sup>108</sup>

### **Advocating for International Compliance**

As previously mentioned, the Paris Principles mandate NHRIs to “promote and ensure the harmonization of national legislation, regulations and practices with...international human rights instruments,” as well as to encourage the ratification of these instruments.<sup>109</sup> For example, Qatar’s NHRC was active in advocating for the country’s ratification of the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR).<sup>110</sup> Bahrain’s NIHR has criticized the government for breaching its obligations under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UNCAT) by delaying its report to the Committee Against Torture (CAT). Furthermore, it called on the government to ratify the Optional Protocol to the Convention Against Torture (OPCAT), which requires the state to establish an independent body (or expand the mandate of NHRIs) to inspect detention centers and provide recommendations to the authorities.<sup>111</sup> But some other NHRIs, such as Egypt’s NCHR, avoid any discussion about the governments’ lack of compliance with international human rights treaties, such as not submitting reports under UNCAT and ICCPR.<sup>112</sup>

### **Human Rights Training and Education**

NHRIs act as human rights educators. Their activities may include implementing public awareness campaigns, providing training for officials, and integrating human rights curricula into the school system. For example, Jordan’s NCHR has a mandate to engage in broad set of promotional activities, such as issuing public statements on human rights issues, organizing training courses for public officials, and engaging with the media.<sup>113</sup> Meanwhile, Qatar’s NHRC has been particularly active on labor rights: it organizes trainings for the labor ministry; runs media campaigns on labor rights; and works with the communications ministry to inform workers about their rights using social media and brochures in several languages.<sup>114</sup> As described in its 2019 Annual Report, Oman’s OHRC has organized several human rights trainings for workers; conducted workshops about the rights of people with disabilities; updated its website; and started a Twitter account to raise human rights awareness and increase public access to the NHRI.<sup>115</sup>

## CONCLUSION

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The 18 NHRIs operating in the MENA region underperform when it comes to protecting and promoting human rights, in part due to the fact that many governments established them to appease international critics and to co-opt human rights discourse. Although scholars like Dongwook Kim have argued that, once created, NHRIs can assume a life of their own and “serve as a focal point for human rights advocacy,” MENA NHRIs do not yet appear to have reached this stage.<sup>116</sup>

In particular, NHRIs in the region find it difficult to constrain state violations of human rights. Structural factors—the overall lack of democratic accountability for governments, the absence of a robust civil society and human rights community, and continued domestic and regional security pressures—have prevented MENA NHRIs from realizing their full potential as human rights protectors.

Instead, NHRIs remain weak and controlled by their respective governments, upon whose goodwill they rely to do their work. They cooperate with governments to a fault, rather than confronting them, even when gross human rights violations take place. NHRIs also lack necessary powers to protect human rights, such as the legal power to launch official investigations into violations. Consequently, they cannot hold powerful state actors, such as the police or army, to account.

However, the situation is not without hope. After all, MENA NHRIs have achieved moderate gains. They have helped to legitimize and increase awareness about human rights in a region where human rights skepticism and cynicism run deep. They monitor and document human rights abuses through publications such as annual reports—even if these reports often fail to elevate victims’ voices and align with government accounts. They are also active in promoting human rights through education and outreach activities. Importantly, MENA NHRIs have demonstrated great resilience. Many have carved out an important place within the state bureaucracy, and further steps can be taken to strengthen their role in the region.

First, the domestic and international human rights community should continue to lobby MENA governments to allow greater independence for NHRIs, in part by pushing for greater compliance with the Paris Principles. Only six MENA NHRIs are currently in full compliance with the Paris Principles, and they perform better than other NHRIs in the region. Second, efforts should be made to strengthen the institutionally weak ANNHRI; regional forums are an effective way to promote human rights, as well as NHRI independence and effectiveness. Currently, NHRIs in the MENA region are split between the Asia Pacific Forum of National Human Rights Institutions (APF) and the Network of African National Human Rights Institutions (NANHRI). If strengthened, the ANNHRI has the potential to better support and facilitate mutual learning among NHRIs across the MENA region. Third, the domestic and international human rights communities should work to strengthen NHRIs' connections with CSOs, as collaboration between these two entities is critical for NHRI effectiveness. This will involve continuing to support the development of civil society in the MENA region and asking governments to ease political restrictions on CSOs and the human rights community.

NHRIs cannot be expected to completely transform the human rights situation in the MENA region when they face such overwhelming structural barriers. However, while NHRIs may not be able to fully protect human rights, they can play various roles—such as increasing the legitimacy of human rights norms, providing human rights education, and documenting human rights abuses—to advance human rights in the region. By promoting the independence of MENA NHRIs, strengthening the ANNHRI, and supporting collaboration with CSOs, the domestic and international human rights communities can boost the effectiveness of MENA NHRIs and help them to realize their full transformative potential.

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