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**Challenges at the nexus of security and the promotion  
and protection of human rights**

Workshop I Discussion Paper

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*The views expressed in this discussion paper are those of the author and do not necessarily reflect the views of the Global Center or its advisory council.*

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## Table of Contents

Introduction.....	3
1. Broadening perspectives at the nexus of security and human rights .....	4
2. Balancing national security interests with human rights imperatives.....	8
Conclusion .....	13
References.....	14

## **Introduction**

As concerns over the heightened threat of terrorism and political violence across the Arab region have pushed governments to explore new ways of addressing traditional security challenges, there is a growing recognition that effective solutions require non-traditional responses to these threats. At the heart of this debate lies the perceived incompatibility of national security interests on the one hand and human security imperatives on the other. Yet security and human rights are not mutually exclusive concepts, but are in fact both complimentary and reinforcing.

Acknowledging the unique circumstances of each country, this paper offers a series of perspectives on key challenges and dilemmas at the nexus of security and the promotion and protection of human rights. Human rights and security related issues are sensitive topics of discussion for many states around the world, and nothing presented in this paper is intended to trivialize, dismiss or presume to pass judgment on these complex and deeply contextual matters. The paper is not intended to offer a comprehensive accounting of security and human rights issues in the Arab region or particular Arab countries, nor provide a comprehensive stocktaking of international, regional and local human rights law applicable in diverse Arab country-contexts. It will highlight examples of practical measures undertaken by governments, with the support of inter-governmental and non-governmental organizations, as well as local communities, to address these challenges and provide a foundation for discussions among workshop participants.

The paper begins with a critical discussion of the inter-linking and mutually reinforcing nature of security, human rights and human security. On the basis of this discussion, the paper moves on to explore a selection of perspectives on security and human rights challenges and considers a range of practical and policy-oriented measures to address them. It explores some of the dilemmas that security and justice sector actors may face in the promotion and protection of human rights. It also suggests ways the protection and reification of human rights can help address underlying conditions conducive to human insecurity and political instability. These discussions are meant to highlight the pivotal role security and justice services can play in people's lives and how, in partnership with other actors in society, they can more effectively promote and protect human rights. Summaries of key points and questions for further exploration are posed at different points of the paper for the reader's consideration.

## 1. Broadening perspectives at the nexus of security and human rights

Before any discussion of this nature, it will be helpful to briefly consider two fundamental questions. The first question relates to the referent object of security, or, “Whose security are we referring to?” The second question relates to the scope and extent of human rights, or, “Which rights are human rights when we refer to the promotion and protection of human rights?” While vast bodies of legal, policy and scholarly work are dedicated to exploring these topics, this section offers some potentially useful perspectives to consider for the purposes of a discussion on practical relationships between security and human rights.

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### *Questions for discussion*

- **What relationships exist between security and the promotion and protection of human rights?**
- **In what ways are national security, community security and human security related?**
- **What conflicts may arise in the promotion and protection of human rights in pursuit of different security objectives?**

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### *Whose security?*

Security in international policy discussions has long been dominated by a national security perspective. **National security** may be understood generally as the security of the state and its institutions from internal and external threats, the sovereign authority of its government within its internationally recognized borders, and the maintenance of control over key sources of revenue generation and other assets of perceived vital interest which can vary significantly from country to country.

While the national security paradigm is certainly preeminent in many international policy circles, broader understandings of security have gained increasing prominence as well. Foremost among these is the concept of human security. **Human security** may be understood as the security of the lives, livelihoods and general wellbeing of individuals and communities. While not an entirely new concept in and of itself, the United Nations Development Programme’s (UNDP) 1994 Human Development Report strongly advocated for its primacy in international security policy and both refined and elaborated upon the concept. According to UNDP, human security is comprised of seven dimensions: economic security, food security, health security, environmental security, personal security, community security and political security (UNDP, 1994).

National security and human security are not mutually exclusive concepts and many national security threats, such as interstate conflict, civil war, or foreign occupation, are human security threats in equal measure. The same cannot always be said regarding the impact of human security threats, such as environmental degradation, extreme poverty, or human rights abuses, on national security. Indeed, secure states do not necessarily equate to secure people and certain **groups** of people are often subject to more or less insecurity than other groups. Youth, women, and ethnic minorities are examples of groups vulnerable to various dimensions of human insecurity in many societies. The

inter-relationships among national, community and human security depend on the normative, legal, and actual relationship, mutual interests, and mutual accountability that exist among governments and local populations.

**Table 1** below outlines several ways of understanding security across different levels of analysis. It offers examples of different security perspectives, security concerns and measures available to enhance security. Note the affirmative interdependence as well as potential conflicts that arise across national, community and human security aspirations.

Paradigm	Primary referent	Examples of security threats		Examples of general measures	
		External:	Internal:	External:	Internal:
National security	states, governments	inter-state conflict; transnational terrorism; foreign occupation	civil war; insurgency	military; diplomacy; trade	internal security; intelligence; community outreach; reform
Community security	groups	ethno-linguistic or cultural autonomy; preservation of identity; structural discrimination		political pluralism; self-determination; non-statutory justice and security services	
Human security	all persons, individually and collectively	access to food, shelter employment, healthcare, personal safety, justice, and political agency		citizenship; civil, political, social and economic rights	

**Table 1. Comparative perspective of security**

### *Key points*

- There are multiple ways of understanding security and the objectives of security
- Different actors are concerned with, and subject to different forms of insecurity
- While states, groups and individuals may share common security concerns, for example violent conflict or financial recession, they are by no means equally vulnerable
- Group and individual security can be both positively and negatively impacted by the nature and disposition of governments
- In turn, national security can be positively and negatively impacted by human security

### *Which rights?*

From a human security perspective, the promotion and protection of human rights is both the precondition and the ultimate objective of security – and respect for such rights support conditions favorable to human security and national security, as well as human development. In order to consider practical solutions to these challenges, the question of rights requires closer examination. This section will offer a brief overview of the main sources of international and regional human rights law and norms, examples of different types of rights, the dilemmas that may arise in relation to different perspectives on the promotion and protection of those rights, and how these perspectives relate to our broader discussion.

**Human rights** refer to the collection of rights incorporated in international agreements and treaties that guarantee all people, irrespective of their nationality, ethnicity, language, sex, religion, ideology and abilities, the fundamental rights entitled to them by virtue of being human (UNDP, 2005). At the **international level**, the Universal Declaration of Human Rights [UDHR, 1948], though not a legally binding treaty, was the progenitor of a vast regime of global and regional norms, standards and a number of binding international treaties. While all international human rights treaties are crucial components of the larger international human rights regime, most are derived from, strengthen and expand upon the principles and articles of the UDHR, the International Covenant on Civil and Political Rights [CCPR, 1976]<sup>1</sup>, and International Covenant on Economic, Social and Cultural Rights [CESCR, 1976] – collectively known as the International Bill of Human Rights.<sup>2</sup>

**Table 2** below offers a non-exhaustive list of civil and political rights, and economic, social and cultural rights.

Civil and political rights (CCPR)	Economic, social and cultural rights (CESCR)
<p>Civil and political rights are primarily concerned with the civil and political security of all persons, their equality before the law, equal treatment before the law, freedom of expression and religion and the right to play an active role in public affairs. Examples of civil and political rights in the CCPR include:</p> <ul style="list-style-type: none"> <li>• inherent right to life</li> <li>• protection from torture or cruel, inhuman or degrading treatment or punishment</li> <li>• prohibition of slavery</li> <li>• right to a fair trial</li> <li>• right to freedom of thought, conscience and religion</li> </ul>	<p>Economic, social, and cultural rights are primarily concerned with the economic and social security of all persons, their right to earn a living wage through labors of their choosing, enjoyment of physical and mental health, and access to education. Examples of economic, social and cultural rights include:</p> <ul style="list-style-type: none"> <li>• right to work</li> <li>• right to fair wages and equal remuneration</li> <li>• right to adequate standard of living</li> <li>• provision of compulsory and available education free for all</li> <li>• right to take part in cultural life</li> </ul>

**Table 2. Snapshots of the CCPR and CESCR**

At the **regional level**, the Cairo Declaration of Human Rights in Islam [CDHRI, 1990] serves as an important source of regional human rights norms aligning with Islamic jurisprudence while sharing in common spirit as the UDHR. Similar to the UDHR, the CDHRI is a non-binding document. The primary regional human rights treaty mechanism in the Arab League system is the Arab Charter on Human Rights [ACHR, 2008]. While many of the provisions outlined in the ACHR are aligned with those of the CCPR, there are some inconsistencies (UN News Centre, 2008). Debating these provisions is not the purpose of this section, but rather to demonstrate that there are diverse perspectives, understandings and reservations to the promotion and protection of certain rights and to whom they should or should not be afforded.

In the promotion and protection of human rights, states and governments are the *duty bearers* and guarantors of rights. People are *rights holders*, and those rights are among the primary sources of their

<sup>1</sup> For treaty documents, the year indicates entry into force – for all other, the year indicates adoption.

<sup>2</sup> Although the UDHR, CCPR and CESCR were drafted during a time where developing countries had relatively little voice at the UN, Arab authors played significant roles in the drafting all three (UNDP, 2004). As of the time of the writing, 17 Members of the League of Arab States have ratified the CCPR and CESCR, the most recent of which being the State of Palestine in April 2014 (Azzam, 2013; UNTS).

security. While ideally guaranteed by law, legislation alone is not enough to ensure the promotion and protection of rights. Rather, rights are best guaranteed, realized and protected when the state itself is subject to the **rule of law**. Rule of law–based governance aspires to conditions such as transparent and accountable political processes, the promotion of public engagement and participation in governance, a respect for human rights and protection from arbitrary abuses of authority, a stronger and more capable civil administration, and a system of government accountable to the public through a system of internal and external checks and balances. When the state and its security and justice agencies are not subject to the law, then there is no basis for protecting any right, or for promoting the security which rights are meant to afford (UNDP, 2009).

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### *Key points*

- The promotion and protection of human rights support conditions favorable to human security
- There are a numerous human rights covered by international, regional, and national laws which generally fall under civil, political, social, economic, and cultural rights
- International, regional, and national human rights jurisprudence align in many areas but there are also significant discrepancies
- Legislation plays an important role in promoting human rights, but legislation alone does not protect human rights
- Human rights can only be protected by governments that are themselves accountable to the law

## **2. Balancing national security interests with human rights imperatives**

Although by no means the full extent of security, the criminal justice system and its constituent agencies are meant to serve as the primary providers of public safety, protection and redress from abuse, and are charged with upholding rights and prohibiting wrongdoers from violating those rights. Competent, professional, accessible, and people-oriented justice and security services are best equipped to protect human rights. In many countries, police or gendarmes are often the most visible representatives of government authority encountered on a daily basis and their relationship with local communities has direct bearing on their perception of governments and their legitimacy. Public confidence in state institutions can have a strong correlation with the perceived legitimacy of the courts, and their perception of fair, impartial and independent dispensation of justice. This section presents some perspectives on the structural and operational challenges for protecting human rights with a particular focus on the security and justice sector.

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### ***Questions for discussion***

- **What laws, institutions, capacities and other conditions are necessary for the promotion and protection of human rights by the security and justice sector?**
- **What are some of the main challenges and lessons learned from countries working to reform their justice and security systems?**
- **What roles can different parts of society play in the promotion and protection of human rights? Local councils? National human rights organizations? Non-governmental organizations? The media? The general public? Others?**

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### ***Structural challenges***

Structural challenges in the justice and security sectors are the most challenging to address in the short term, but are fundamental prerequisites for ensuring the promotion and protection of human rights in security practices. Weaknesses in internal and external accountability as well as deficiencies across a range of reinforcing professional rules, norms and institutions create opportunities for authorities to engage in unlawful conduct with impunity. Under these circumstances, internal security organizations mandated to protect human rights may instead be vulnerable to corruption and political influence.

Legislation and commitments to human rights in principle are not enough to protect those rights. For example, although law might guarantee the right to a legal defense, public and private attorneys and other sources of legal aid may not be widely available and may be too costly for a majority of the public. National judiciaries, which might otherwise serve as a legitimate source of accountability for addressing violations of human rights, may be incapable of asserting their authority over a more powerful and politically influential state security apparatus. Absent adequate oversight and an efficient criminal adjudication process, remand may frequently extend beyond the limits mandated by law. Paradoxically, government justice and security actors may be viewed as a direct source of injustice and insecurity by large segments of the population.



Nevertheless, there are a number of practical measures states can take at the structural level to ensure that security and justice services are equipped to protect human rights more effectively. **Table 3** lists a selection of structural problems faced by security and justice systems that may present challenges for the promotion and protection of human rights, as well as practical measures states have taken to attempt to overcome them.

Structural challenge	Connection human rights protection	Specific measures to address challenge
<p><b>Security sector governance</b></p>	<p>A crucial foundation for human rights respecting security services is the governance of the security sector and the management of security agencies. A <b>multi-layered system</b> of effective governance over the security sector includes checks and balances to prevent abuses of power and enhances operational efficiency.</p> <p>Agencies should be <b>managed by a competent and professional leadership</b> committed to integrity, discipline, and respect for the rights and dignity of all members of the public as well as their subordinates.</p>	<p><b>Ministerial roles:</b> setting agency-wide policies and procedures; internal reporting mechanisms; personnel vetting processes</p> <p><b>Legislative roles:</b> conducting hearings; enacting laws; conducting investigations into misconduct; review and approval of security agency budgets</p> <p><b>Judicial roles:</b> adjudicating public complaints against security agencies; reviewing agency compliance with the law; providing effective remedy for violations</p> <p><b>Internal agency and external non-governmental roles:</b> [see ‘accountability’ entry below]</p>
<p><b>Security and justice sector accountability</b></p>	<p>The <b>independence</b> of oversight mechanisms is critical for ensuring a <b>transparent</b> security sector that functions without any external influence. These mechanisms must be sufficiently <b>empowered</b> to ensure that agents suspected of misconduct are brought to justice.</p>	<p><b>Internal oversight measures:</b> internal affairs units; ombudspersons; inspectors general; independent agency leadership; leadership, and/or whistle-blower protections; codes of conduct; monitoring and supervision</p> <p><b>External oversight measures:</b> parliamentary committees; government anticorruption agencies; civil society organizations; human rights commissions; media</p>
<p><b>People-centered justice and security services</b></p>	<p>To promote and protect human rights, security and justice services must be committed to public safety and the fair dispensation of justice impartially and without discrimination in accordance with the law. When these services are <b>people-centered</b> they can more effectively identify different sources of insecurity and ensure the protection of human rights of all.</p>	<p><b>People-centered security measures:</b> community policing; public safety committees; public information and consultation officers; diversity in force composition; civilian complaint review boards; legal aide clinics; separation of powers among statutory and non-statutory security and justice providers</p>

**Table 3. Structural measures for the promotion and protection of human rights in the security sector**

*Operational challenges*

The extent to which security objectives can be achieved while fully promoting, respecting and protecting human rights depends greatly on day-to-day conduct of security agencies and performance of agency personnel. Security services that operate in accordance with the law and respect the rights of local populations are those that ensure their security, earn their trust, and in turn, their cooperation. Conversely, if the rights of the population or certain segments of society are subject to abuse with impunity by security services, public confidence in the security and justice system may swiftly erode, and public perceptions of government legitimacy may suffer. Such conditions can be conducive to diverse manifestations of public dissatisfaction and anger.

The capacity of security agencies protect human rights throughout the criminal process are based almost wholly upon the underlying institutional structure and governance of the security sector, as discussed in the previous section and illustrated through the examples presented in **Table 3**. This section will discuss a selection of thematic challenges in the promotion and protection of human rights from an operational perspective.

■ *Countering terrorism and serious crime*

Striking a balance between strengthening measures to address exceptional security threats while promoting and protecting human rights has long posed a significant challenge to states targeted by terrorism. While there is, at least in principle, an international consensus on the use of human rights-compliant criminal justice measures to counter terrorism, this has proven particularly challenging in practice (ICJ, 2009). **Table 4** highlights examples of key challenges frequently faced by governments in the promotion and protection of human rights in countering terrorism.

<p><b>Misapplication of counterterrorism laws</b></p>	<p>Through the use of vague definitions of terrorism and overly broad spectrum of accompanying offenses, anti-terrorism legislation has at times served as a vehicle for violating human rights for political or national security purposes. For example, anti-terrorism laws have targeted the rights to free expression, free association and peaceful assembly, nationality, self-determination, and non-discrimination (HRW, 2012).</p>
<p><b>Deviations from lawful criminal procedure in terrorism-related cases</b></p>	<p>The perceived exceptional nature of the threat posed by terrorism has led to exceptional responses which have violated human rights. Examples of such responses range from the practice of arbitrary arrest; prolonged, indefinite and incommunicado detention and rendition of suspects; the use of torture or other cruel, degrading and inhumane treatment; the denial of due process and the right to a fair trial in a civilian court (UN, 2009).</p>

**Table 4. Challenges in the promotion and protection of human rights while countering terrorism**

*Questions for discussion*

- **What practical challenges have states faced in bringing terrorists to justice through the criminal justice system?**

- What practical measures can governments take to more effectively promote and protect human rights while countering terrorism?
- What structural or institutional conditions, such as the examples presented in Table 3 or otherwise, may be necessary to better ensure the implementation of these measures?

■ *Promoting and protecting the rights of vulnerable groups*

No society in the world can claim that every member enjoys equal access to security and justice. Due to a variety of historical, cultural, social and economic factors, certain groups may be particularly vulnerable to human insecurity and human rights violations. While states struggle to address these challenges over the long term, there are a number of justice and security measures that can be taken to address the rights of vulnerable and marginalized segments of society. **Table 5** highlights examples across three groups: youth, women, and ethnic minorities.

Group	Human rights vulnerabilities	Rights-based security measures
<b>Youth</b>	Young people make up an increasingly significant portion of the population in developing countries. Youth are disproportionately affected by human insecurity and have been cited as disproportionately impacted by instability, socio-economic deprivation, and violence—both as victims and perpetrators (Urdal, 2012; IFI, 2011). While the age group understood as ‘youth’ may be defined by law, these definitions are often contextual and related to an age range marking the period of transition from childhood to an independent adult.	To more effectively address the human rights vulnerabilities faced by youth, security agencies can take measures to be more sensitive to their needs. For example, <b>youth outreach programs</b> that allow police officers to educate young people about their rights and encourage civic engagement can enhance trust between youth and local security services. <b>Special youth crime units</b> trained to handle youth suspects, witnesses and victims, and <b>corrections facilities for youth offenders</b> can be better equipped to protect young peoples’ rights and reduce recidivism.
<b>Women and girls</b>	Women and girls face a range of human security challenges in many societies around the world and are often disproportionately victimized by violent conflict, displacement and socio-economic deprivation. At the same time, they often face significant obstacles in accessing security and justice services as easily as male members of the public—services often overwhelmingly comprised of male personnel.	To more effectively address the human rights vulnerabilities faced by women and girls, a number of measures can be taken by the security sector. For example, UN Security Council Resolution 1325 [2000] urged Member States to <b>involve women at all levels of conflict and violence prevention and resolution</b> . Female suspects, victims and witnesses may be more comfortable working with female security and justice officers (Saferworld, 2013).
<b>Ethnic minorities</b>	Ethnic minorities are another group which may face multiple dimensions of human	To more effectively address the human rights vulnerabilities faced by ethnic minorities, a

	<p>insecurity in many societies. Ethno-linguistic or cultural minority groups may live on the periphery of society with limited access to state-provided security and justice services. Linguistic differences and discrepancies in customary legal traditions can pose additional human rights challenges.</p>	<p>number of measures can be taken by the security sector. Ensuring that <b>all communities are equally represented in security and justice agencies</b> can help to build trust and impart minority rights-sensitivity into the security and justice sector. Community security partnerships between minority groups and security and justice officers can help to enhance accessibility and awareness of rights in minority communities.</p>
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**Table 5. Promoting and protecting the rights of vulnerable groups**

*Questions for discussion*

- **What types of challenges can national governments face in their efforts to improve access to security and justice among vulnerable groups?**
- **What are some good practices and specific measures that government security agencies can share from their experience working with vulnerable groups?**
- **What structural or institutional conditions, such as the examples presented in Table 3 or otherwise, may be necessary to better ensure the implementation of these measures?**

*Key points*

- Effective and consistent implementation of human rights compliant security practices depends significantly on the governance, accountability and public-orientation of the security and justice sectors
- Complex security challenges can pose serious human rights dilemmas for security and justice actors which must find ways to balance their security measures with their obligations to uphold human rights
- Not all groups in society can easily access security and justice services and there are a number of measures governments can take to more effectively protect the rights of vulnerable groups

## **Conclusion**

Lingering tensions from newly erupted and long-standing conflict and occupation, compounded by inter-communal violence and socioeconomic pressures, poverty, high unemployment rates—particularly among youth and women, and multiple dimensions of political marginalization and injustice are significant sources of human insecurity. These conditions can and do pose serious obstacles to the promotion and protection of human rights.

Absent avenues to effectively and peacefully address these challenges, resulting public grievances can contribute to diverse expressions of dissatisfaction and dissent, and potentially to political instability and conflict. Although the impact and legacy of the popular uprisings that swept across parts of the Arab region in 2011 will continue to unfold for years to come, they have undoubtedly magnified existing tensions between governments and societies within and between countries across the region. These events strongly suggest the need to seek solutions beyond the traditional national security paradigm and more toward those that safeguard the rights and fundamental freedoms of people and communities.

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### ***Questions for discussion***

- **In what ways might the promotion and protection of human rights play a role in enhancing national security? What are the challenges in promoting a more people-oriented and rights-based approach to national security?**
- **What good practices and lessons learned can be shared from national experience on addressing conditions conducive to human insecurity? What role should security and justice sector actors play in this regard?**

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