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Human Rights in the Arab World: A Regional Perspective

Abdullahi A. An-Na'im*¹

I. INTRODUCTION

The premise of this regional review and assessment of the human rights movement in the Arab world is that the wide variety of strategies for the effective and sustainable protection of these rights should always be determined and implemented in specific local, regional and global context. The paradox of self-regulation by the state in the definition and implementation of human rights standards, as briefly explained below, would emphasize the role of civil society. However, because both state and civil society tend to influence each other, either in favor or against the protection of human rights, through internal processes as well as external influence, these relationships should also be understood in local, regional and global contexts.

The challenge facing the advocates of the protection of human rights in any part of the world is how to promote positive aspects of these processes, and combat or minimize negative dimensions of these dynamic relationships. At all levels of analysis and action, one should seek to *combine* the best possible *immediate response* to specific problems with *long term strategies* for addressing the root causes and structural factors in the persistence of human rights violations. Because this combination can only be implemented through some sort of division of labor, it is necessary to coordinate the activities of local, regional and international actors according to an agreed framework.

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1. I am profoundly grateful for the extensive research assistance of Essam El-Din Hassan, Research Director of the Hisham Mubarak Legal Center, Cairo, Egypt; and the helpful comments of Bahey Eldin Hassan, Emma Playfair, Clarisa Bencomo, and Ricky Goldstein. All the views and analysis presented here are my responsibility.

Throughout this regional review and assessment, I am particularly concerned with identifying and promoting ways of diminishing, and eventually breaking what I call "human rights dependency." By this I mean the widely prevalent perception that *the governments of developing countries are more responsive to international pressure for the protection of human rights in their countries, than to the activities of local NGOs and other actors within their own societies*. Accordingly, international human rights NGOs tend to monitor human rights violations in developing countries, *with the indispensable help of local NGOs*, but publicize their findings mainly in Europe and North America in order to influence Western governments to pressure the governments of developing countries to protect human rights in their respective countries.² Moreover, local NGOs in developing countries also tend to depend on funding from, and seek publicity for their activities in, developing countries, instead of from and within their own countries or regions. In contrast, human rights are protected in developed countries by local NGOs, with the active support of their own local constituencies, and through activities addressed to their own governments and public opinion.

The complex web of "realistic" considerations which make this pattern of human rights activism unavoidable in the present context of the vast majority of developing countries are too obvious to warrant elaboration in the present limited space.³ But it is equally clear, in my view, that this human rights dependency is extremely problematic for at least three main interrelated reasons.⁴ First, it tends to perpetuate the public perception, in developing as well as developed countries, that the protection of human rights is a "Western" agenda rather than an internal priority of the

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2. This and the following remarks are based on my personal experience as the Executive Director of Human Rights Watch/Africa from June 1993 to April 1995, and participation in the activities of several African and Arab human rights organizations. For example, I serve on the Board of Directors of the Institute for Human Rights and Development (based in Gambia), the Board of Trustees of the Cairo Institute for Human Rights Studies, the Advisory Council of the Arab Program for Human Rights Activists, and the Advisory Council of the Inter-African Network for Human Rights & Development (Afronet, based in Zambia). I was also a founding member of the Arab Working Group on Human Rights, from July 1997 until the Group terminated its activities in March 2001 due to operational difficulties.

For an overview and contact information of these and other NGOs in the Africa/Arab regions, see MARGUERITE GARLING, *Building Bridges for Human Rights: Inter-African Initiatives in the Field of Human Rights*, in INTERIGHTS (2001).

3. See generally TED C. LEWELLEN, *DEPENDENCY AND DEVELOPMENT: AN INTRODUCTION TO THE THIRD WORLD* (1995) (discussing the complexities of human rights activism in developing countries).
4. Although the following remarks draw on my own experience with human rights organizations in developing countries, *supra* note 2, other human rights scholars have come to similar conclusions. See, e.g., CLAUDE E. WELCH JR., *PROTECTING HUMAN RIGHTS IN AFRICA: STRATEGIES AND ROLES OF NON-GOVERNMENTAL ORGANIZATIONS* 301-14 (1995).

developing countries themselves. Second, NGOs in developing countries are not encouraged to seek the promotion of local political constituencies and funding sources within their own countries.

In addition to perpetuating perceptions of dependency, this reliance on Western political support and funding make NGOs in developing countries vulnerable to actual or potential governmental control of their "life-line," as illustrated by the case of Egypt discussed below. Third, both local and international NGOs are not accountable to the local societies of developing countries they claim to serve. While fully appreciating the profound need for international cooperation in diminishing the negative consequences of this complex and deeply entrenched web of multiple dependencies, I believe that effective and sustainable protection of human rights can only be achieved by each society for itself.

Accordingly, my emphasis in this essay is on national and regional NGOs as a means to diminishing human rights dependency. I am not calling for an end to, or even reduction of, international efforts to monitor and publicize violations in the region in order to "shame" Arab governments into greater compliance with human rights standards. On the contrary, I hope that such efforts will continue and increase in the future in view of the lack or weakness of local and regional human rights possibilities of protection and promotion of human rights within the Arab world, as explained below. But because international advocacy cannot be a substitute for work at the local and regional level, sufficient attention must be given to promoting local capacity. While strategies will necessarily vary according to context and over time, the constant objective of the international actors should always be greater cooperation in expanding the political and social "space" for local efforts and enhancing indigenous capacity for the protection of human rights.

Efforts to protect human rights are simply the present manifestation or expression of the constant struggle of persons and communities everywhere for realizing and maintaining human dignity and social justice in their respective contexts. This approach is now essential for the realization of the objectives of these ancient struggles in the present context of Arab societies because of the nature of the post-colonial state in this age of multi-faceted globalization. In my view, moral or philosophical justifications for the universality of human rights can be found in all major religious and cultural traditions of the world, which should be emphasized through an internal discourse within each tradition that also addresses those features of the religion or culture which are negative or hostile to human rights norms.⁵ The

5. See generally HUMAN RIGHTS IN AFRICA: CROSS-CULTURAL PERSPECTIVES (Abdullahi Ahmed An-Na'im & Francis M. Deng eds., 1990); HUMAN RIGHTS IN CROSS-CULTURAL PERSPECTIVES: QUEST FOR CONSENSUS (Abdullahi Ahmed An-Na'im ed., 1992).

most obvious foundation of these rights is that they are necessary for protection of human dignity and achievement of social justice in the present context of the nation-state and global inter-state system. The basic fact of national politics and international relations is that, regardless of particularities of history, culture, political and social institutions, type of government, and so forth, all societies now live under specific forms of political organization commonly known as the nation-state, with particular powers and responsibilities at both the domestic and international level. This is not to say that all states are the same, as the underlying process of state-formation and operation tend to vary with the recent history and current context of each country. However, the essential features of states heighten the need to limit and regulate their powers. Ruling elites should not be allowed to use the structures and powers of the state, as they do in all Arab countries today, without the corresponding obligations.

For our purposes here in particular, whereas state sovereignty is commonly taken to mean exclusive domestic jurisdiction and the prerogative power to conduct international relations, it also raises corresponding obligations to respect and protect human rights. The autonomy and powers of the state to act or refrain from action are now conditioned by a variety of internal and external actors and factors which tend to interact within a framework of growing globalization. These include the dynamics of the processes of state-formation and demographic composition of the particular state, the role of competing political constituencies and social movements, economic and institutional resources, and regional and global geo-political and security considerations.⁶ Consequently, human rights obligations should be discharged through a combination of internal efforts for legal and political accountability, on the one hand, and international cooperation and pressure, on the other. However, these external and internal spheres tend to interact and overlap, both in favor of as well as against the protection of human rights. It is important to understand this dynamic relationship precisely in order to more effectively pursue the possibilities of positive change, without taking a deterministic or naive view of the matter.

Mediation between competing concerns and perspectives within each polity has traditionally been regulated through constitutional norms and

6. Regarding human rights in the African context, which is similar to that of the Arab world in this regard, Welch observed:

It would be presumptuous to place blame for the human rights abuses that have occurred on one factor alone. Rather, a combination of factors accounts for the problems in many states. Among these are historically searing colonial experiences, failures in the leadership of centralized governments, a high level of military involvement in politics, severe economic deprivations, cultural fragmentation, and weak regional means to promote and protect human rights. Lack of knowledge compounds the problems.

PROTECTING HUMAN RIGHTS IN AFRICA, *supra* note 4.

institutions as a framework for national politics, social policy, and economic life.⁷ Moreover, principles of self-determination and national sovereignty under international law, as well as the realities of national politics and international relations, concede to the state exclusive control over their own territories and populations. Consequently, it is simply not possible to protect human rights in a practical and sustainable manner, without the consent and cooperation of the state in question. While "humanitarian intervention" can be justified in exceptional circumstances,⁸ practical experience shows that the international community is neither able nor willing to replace the state in maintaining the long term legal, administrative, and other means for the protection of human rights in any part of the world. In any case, it is unacceptable from a human rights point of view for other states, whether acting unilaterally or multilaterally, to take control of a country in the name of the "good of its own people." After all, this is how European colonialism was rationalized in the past.⁹ Therefore, one may wonder, what does the international dimension add to constitutional, legal, political and other means at the national level?

In my view, the *value added* of human rights is to provide an independent frame of reference, and practical mechanisms, for ensuring that governments do respect and protect the human rights of their citizens. Because horrific experiences have repeatedly shown that national governments cannot be trusted to maintain the necessary degree of protection for the rights of their own citizens, human rights were taken to be a matter of international concern under the Charter of the United Nations (UN), which provided for the protection of human rights as one of the purposes of the United Nations, under Article 1(3). Paradoxically, however, states continue to control the processes of defining and implementing human rights through international treaties and customary practice, as well as their domestic application within their own territories, as acknowledged by Article 2(7) of the UN Charter. Consequently, the question is how to achieve the international protection of human rights without violating national sovereignty, which is itself a collective human right under the first Article of the 1966 Covenants. It is not helpful to simply call for formal limitations on state sovereignty, because that is neither practically feasible nor necessarily good for the protection of human rights in the long term. As the practical

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7. A discussion of the domestic constitutional/legal protection of human rights under the constitutions of Arab states is beyond the scope of this essay. See, e.g., FATEH AZZAM, *ARAB CONSTITUTIONAL GUARANTEES OF CIVIL AND POLITICAL RIGHTS: A COMPARATIVE ANALYSIS* (1996).
 8. See, e.g., FERNANDO R. TESON, *HUMANITARIAN INTERVENTION: AN INQUIRY INTO LAW AND MORALITY* (2d ed. 1997).
 9. African peoples for example, were described as "not yet able to stand by themselves in the strenuous conditions of the modern world." JOHN ILIFFE, *AFRICANS: THE HISTORY OF A CONTINENT* 187 (1995). See also ROLAND E. OLIVER, *THE AFRICAN EXPERIENCE* 243 (2d ed. 1999).

expression of the fundamental human right to self-determination, strong sovereignty is both integral to the functioning of the present international order, and essential for the protection of national populations against exploitation and abuse by foreign powers and transnational corporations.

A more realistic and desirable approach, I suggest, is to seek to diminish the negative consequence of the paradox of self-regulation by the state through the infusion of the human rights ethos into the fabric of the state itself and the global context in which it operates. The protection of human rights should be the outcome of the free exercise of the right to self-determination, rather than an external imposition which violates that right. Accordingly, it is vitally important to understand *how the political will to uphold human rights is generated* within civil society, on the one hand, and *how to respond to civil society demands that are contrary to human rights norms*, on the other. At another level, it is also important to understand the nature of the state in its own context, the role of other internal and external actors, the economic dimensions, legitimate security concerns, and other *underlying causes* of human rights violations.

While neither comprehensive nor up to date in all respects, I hope that the following review and assessment of the Arab human rights movement will contribute to building consensus around a framework for cooperation among different segments of the international human rights movement through a clear contextual understanding of the possibilities and limitations of its regional components. The overview of developments in the next section should be seen in light of elements of both unity and diversity in the Arab world, as well as some political, economic, security and related factors in the recent history of the region as a whole, such as the Arab-Israeli conflict, Arab nationalism(s) and their legacies, and the political and social role of Islam. These contextual factors should also be taken into account in evaluating the main achievements, challenges and prospects of the Arab human rights movement.

II. AN OVERVIEW OF THE ARAB HUMAN RIGHTS MOVEMENT

In the following review of the main developments in the protection of human rights in the Arab world, I take this region to consist of all states members of the Arab League, because there is no alternative criterion of regional identification, despite the limitations of this one.¹⁰ The first Article

10. The present membership of the League, in alphabetical order, is: Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

of the Charter of the Arab League provides that it consists of the "independent Arab states" who have signed this Charter, and adds that every independent Arab state has the "right" to join the League by lodging an application with the Secretariat for consideration by the Council of the League.¹¹

Because the Charter does not define what is an "Arab state," the matter is apparently decided in the complete discretion of pre-existing members of the League. Considering the list of the current twenty-one members, one can only conclude that inclusion or exclusion is decided by the concurrence of the wish of a state to join and of acceptance of the existing members. This may explain the membership of Djibouti and Somalia, though their populations do not speak Arabic or share a common culture with other members such as Lebanon or Iraq. In relation to the state-centric nature of international law under which human rights are supposed to be implemented, it is interesting to note that the Arab world, as defined by the membership of the Arab League, includes Palestine, although it is not formally recognized as a state, and Somalia, which has been a state without a government since 1992.

The Arab world is a region of sharp contrasts and wide diversity, ranging from Bahrain and Qatar, each with less than a million people in population, to Egypt, which has a population of 62 million. Among the Arab League members are some of the poorest countries in the world (Mauritania, Somalia, and Sudan), as well as some of the richest (Kuwait, Qatar, and the United Arab Emirates). There is also significant ethnic and cultural diversity within each member state, as well as among all of them as a group. Sudan is a member, even though the issue of Arab versus African national identity is one of the underlying causes of decades of civil war in that country.¹² While Islam is often assumed to be a major factor in the presumed unity of "Arab culture," there are some strong differences in the way it is understood and practiced in various parts of the region, especially in terms of its relationship to the state and public life, from Tunisia to Saudi Arabia, and from Somalia to Syria and Iraq. Sunni Islam is dominant in all the member states, except Bahrain where the Shi'a are the majority. The Shi'a may also be a majority in Iraq, and there are important Shi'a minorities in Lebanon, Saudi Arabia, and Syria. It should also be noted that Christians constitute significant percentages of the populations of Egypt, Lebanon, Palestine and Sudan.¹³

11. For the text of the Charter of the Arab League, see SA'ID SALIM AL-JUALIY, *AL-MUNAZAMAT AL-DAWIYAH WA AL-IQUMIYAH* (International and Regional Organizations) 189-94 (1997). Arabic sources are cited in this essay by the Arabic title and facts of publication in Latin alphabet, together with an English translation of the title.

12. See generally FRANCES M. DENG, *WAR OF VISIONS: CONFLICT OF IDENTITIES IN THE SUDAN* (1995).

13. See DAVID B. BARRETT ET AL., EDS., *WORLD CHRISTIAN ENCYCLOPEDIA* (2d ed. 2001).

The region is characterized by a similar diversity of recent histories, current political regimes, social conditions, and so forth. For instance, while Jordan, Lebanon, and Syria were part of the Ottoman Empire until its collapse after the First World War, Algeria suffered under total French colonialism for 130 years until independence in 1962. Egypt colonized Sudan from the 1820s until 1885, and again in partnership with Britain from 1898 to 1956. For much of this second period of the colonization of Sudan, known as the Anglo-Egyptian Condominium, Egypt itself was occupied by Britain as a "protectorate." Coastal parts of the Arabian peninsula experienced Ottoman and British occupations for varying periods.¹⁴ These differences in recent history have had significant consequences not only for initial state-formation, but also for the forms of political institutions, administrative systems, state/civil society relations, and so forth, for each country to the present day.

The preceding remarks are not to suggest that problems of regional classification are peculiar to the Arab world, as similar points can be noted regarding any group of states who choose to identify as an alliance or unite for one purpose or another. It must also be emphasized that, despite the ambiguity of the criteria of membership in the Arab League, the Arab world is a clearly identifiable entity of a significant number of countries who choose to associate together and act collectively in some matters, for whatever reasons they may have. Rather, my purpose in highlighting these facts about the Arab world is to emphasize that the region should not be taken as a monolithic, uniform whole. A clear appreciation of the complexity of interests, as well as the diversity of factors and contexts, that condition the policy and practice of each Arab state, especially regarding the protection of human rights, is essential for any evaluation of performance and assessment of prospects. This is particularly true of such relevant considerations as the impact of the Arab-Israeli conflict, Arab nationalism(s), and political Islam on the current status and future prospects of the protection of human rights in this region. Generally speaking, since these factors have been cited as justification or explanation of human rights violations at various times in different Arab countries, they should be taken into account in any analysis of the current status, and assessment of future prospects.

Indications of serious and systematic concern with the protection of human rights in the Arab world, whether at the governmental, inter-governmental or civil society level, can be traced to the 1970s, probably due to the following factors.¹⁵ First, at that time, the UN began to intensify

14. See ALBERT HOURANI, *A HISTORY OF THE ARAB PEOPLES* (1991).

15. AL-AHRAHM CENTER FOR POLITICAL AND STRATEGIC STUDIES, *AL-TAQIR AL-ISTRATEGY AL-ARABI* 1995 327 (1996) [hereinafter *ARAB STRATEGIC REPORT* 1995].

its efforts to encourage governments to ratify the two International Human Rights Covenants of 1966. Second, the coming into force of those two Covenants in 1977 clearly indicated that human rights were a matter of important international concern, thereby prompting governments to commit to the protection of human rights in their national constitutions and through the ratification of international treaties. Third, and most importantly, the 1970s was a period of mounting appreciation *within Arab societies* of the high priority of democratization and human rights protection for their own internal best interest. The defeat of key Arab states by Israel in 1967 clearly demonstrated the total failure of claims or promises of giving national liberation, development, and social justice priority over genuine democratization and respect for the rule of law. In other words, it became increasingly clear to elite groups and the public at large that the benefits of liberation and development can only be achieved through democratization and protection of human rights.

Although my primary emphasis is on the work of NGOs, I will begin the following review of the main developments in the protection of human rights in the region with the activities of governments and the Arab League, because this is the framework within which civil society actors operate, and with which they interact. In presenting the following regional developments, I will also try to highlight their relationship to extra-regional aspects of the process, because all actors and factors in this field tend to influence, enable and/or constrain each other. While official action can either promote or retard civil society activism, the latter can also influence governments in certain ways.

A. Governmental Action

The beginnings of governmental concern about human rights were reflected in the ratification of the two Covenants by Syria and Tunisia in 1969, followed by Libya in 1970, and Iraq in 1971. Ratifications of these two Covenants continued to follow until they reached thirteen by the middle of 1999, when Algeria, Egypt, Jordan, Kuwait, Lebanon, Morocco, Somalia, Sudan, and Yemen ratified. Eleven Arab states have ratified the Convention for the Elimination of All Forms of Discrimination Against Women of 1979 (CEDAW): Algeria, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Tunisia, and Yemen. The Convention Against Torture of 1984 has also been ratified by eleven Arab states: Algeria, Bahrain, Egypt, Jordan, Kuwait, Libya, Morocco, Saudi Arabia, Somalia, Tunisia, and Yemen.¹⁶ Sudan has signed, but not yet ratified, this treaty.

16. For country reports under human rights treaties, see United Nations Human Rights Web site, Treaty Bodies Database, available at <<http://www.un.hchr.ch.>>.

On the other hand, however, at least one third of all Arab states have so far failed to ratify any of these basic human rights treaties. Moreover, even those who have a relatively good record of ratification continue to strongly resist compliance with the requirements of international supervision and accountability. For example, only three Arab states (Algeria, Libya, and Somalia) have ratified the Optional Protocol for the International Covenant on Civil and Political Rights, which enables victims to make individual complaints for violations of their human rights. Most of the states that have ratified CEDAW have entered reservations on some crucial provisions of this treaty that tend to undermine and, arguably, negate its basic purpose and content. Most of the Arab states which ratified the Torture Convention have not accepted the Convention's review mechanisms under Articles 20, 21, and 22, providing for the Committee's power to investigate charges of systematic torture, complaints from other states which have ratified this Convention, and individual complaints, respectively. Some Arab states also entered reservations on important provisions of the Convention. Saudi Arabia, for example, has entered reservations on Article 30, about arbitration and adjudication of differences between states parties to the Torture Convention, and Article 3, which precludes state parties from deporting, returning or delivery of any person to another state where he/she is likely to be subjected to torture.¹⁷ Related developments, or lack thereof, include the fact that fourteen out of the twenty-six states throughout the world have failed to endorse the 1998 UN Declaration on the Rights of Human Rights Defenders.

In any case, those Arab states that did ratify major human rights treaties have not made serious amendments to their national legislation to make them consistent with their international obligations. Arab states are also failing to submit their periodic reports under those treaties. For example, half the Arab states that ratified the Civil and Political Rights Covenant failed to submit their reports on time, despite repeated reminders. Syria, for instance, was reminded 35 times to submit its second periodic report due in 1984, and the third report due in 1988. Egypt was four years late in submitting its second periodic report.¹⁸ Generally speaking, and regardless of minor variations between them, it is clear that Arab states tend to be extremely reticent, often strongly suspicious, about any activity that even remotely pertains to the human rights field. The profound ambivalence of Arab states to the protection of human rights is clearly reflected in the aggressively hostile position of these governments towards human rights

17. See generally THE ARAB ORGANIZATION FOR HUMAN RIGHTS, *HUQUQ AL-INSAN FI AL-WATAN AL-ARABI* (1999) [hereinafter HUMAN RIGHTS IN THE ARAB WORLD].

18. ARAB STRATEGIC REPORT 1995, *supra* note 15, at 337–38.

NGOs, as elaborated below, through tactics ranging from total prohibition of their activities, harassment of activists, to cooption and undermining of these organizations from within.

Another type of development on the governmental side is the establishment of "governmental nongovernmental organizations," presumably to serve the government's political and public relations objectives, including response to international criticism of their human rights performance. Iraq took the lead in these efforts by establishing in 1970 its own "Iraqi Human Rights Organization" to promote the views of the Iraqi government on human rights in accordance with the revolutionary ideology of the Ba'ath Party. In Egypt, an "Egyptian Human Rights Organization" was established in 1975 by persons closely associated with the late President Sadat, a fact that has raised serious concerns about its independence and credibility. In Tunisia, as tensions mounted between the government and the Tunisian League for Human Rights (an independent NGO), the authorities encouraged the establishment of another organization in May of 1987, to be known as "The Tunisian Society for Human Rights and Public Freedoms." Similarly, Libya allowed the establishment of the "Libyan Committee for Human Rights" to respond to charges of human rights violations, in addition to elaborate annual ceremonies for the "Ghadhafi Human Rights Award." The government of Sudan banned the Sudan Human Rights Organization (an independent NGO), and sought to replace it with its own organization under the same name.¹⁹

Some Arab governments have designated a "human rights department" within existing ministries, appointed a "human rights minister," or otherwise established human rights organizations or councils. Morocco, for example, established the "Advisory Council for Human Rights" in April 1990 by Royal Decree, and appointed a minister for human rights. In Tunisia, an advisory committee for the president was set up in January 1991, accompanied by the appointment of a first advisor to the president, to follow state policy in human rights matters. In addition to these organs, each of the Tunisian Ministers of Foreign Affairs, Interior, Justice, and Social Affairs has its own special human rights department. In Algeria, besides a human rights office within the Ministry of Justice, a position of minister of human rights was established in June 1991, but abolished in July 1992, following the establishment of a specialized governmental agency called "The National Monitor of Human Rights." Institutionalized governmental attention to human rights in Egypt took the form of a human rights department at the Ministry of Foreign Affairs and an office at the Attorney-General Chambers to receive and investigate complaints of human rights violations in the

19. *Id.* at 328–29.

country. The government of Lebanon established two organizations, the Constitutional Council to Ensure Conformity of Legislation with Constitutional Principles and the Parliamentary Human Rights Committee.²⁰ Oman appointed a human rights advisor, and human rights committees have also been set up in the legislative or advisory councils of Bahrain, Kuwait, and Yemen.

B. The Arab League²¹

Established in 1945, the Arab League did not show any interest in human rights until 1968, and it took another twenty-five years to adopt the Arab Charter of Human Rights in September 1994. In response to Resolution 2081 of the General Assembly of the UN, December 20, 1965, calling on member states and regional organizations to commemorate 1968 as "the year of human rights," in celebration of the twentieth anniversary of the UDHR, the Council of the Arab League set up two committees on the matter, through Resolutions 2259 of 12 December 1966 and 2304 of 18 March 1967. In light of the work of those two committees, the Council of the League adopted Resolution 2443 of September 3, 1968, establishing its Permanent Arab Human Rights Commission. The Secretariat of the League also convened the first Arab human conference in Beirut on December 2–10, 1968. In addition to resolutions condemning Israel and declaring solidarity with the Palestinian People, that conference called for Arab cooperation in the protection of human rights at the regional and international level, urged the implementation of the UDHR, and recommended the establishment of national human rights committees to cooperate with the League's Permanent Arab Commission for Human Rights.

By its Resolution of September 11, 1969, the Council of the Arab League charged its Permanent Arab Commission with the following functions: (1) to support joint Arab action in the field of human rights; (2) to endeavor to protect individual rights, while emphasizing the human rights dimensions of Arab concerns; and (3) to promote awareness among the Arab People about human rights and the need for their protection. Accordingly, the Commission drew a program of action at the regional and international levels consisting of the convening of seminars, celebration of the Arab Human Rights Day, cooperation with national committees (organi-

20. Iman Hassan, "Harakat Huquq al-Insan fi al-Watan al-Arabi: Dirasat Halat" (Human Rights in the Arab World: Some Case Studies of Lebanon, Tunisia and Egypt), in *QADAYAH HUQUQ AL-INSAN* 75 (1999).

21. This review of the efforts of the Arab League is based on NU'MAN JALAL, *JAMI'AT AL-DUAL AL-ARABIYAH WA HUQUQ AL-INSAN* 4–40 (1994) [hereinafter *ARAB LEAGUE AND HUMAN RIGHTS*].

zations),²² receiving reports from and offering advice to member states of the League regarding their human rights activities. At the international level, the Commission's activities were to consist of documentation of human rights violations by Israel to be analyzed in light of international human rights norms, participation in international conferences, and preparation of scholarly studies in the field.

The Permanent Arab Commission also adopted, on May 13, 1970, a recommendation to begin preparation of an Arab Declaration of Human Rights by a committee of experts to be established for that purpose. This committee convened from April 24 to July 10, 1971 and prepared a draft of the "Declaration on the Rights of Citizens of Arab States and Countries," consisting of 31 Articles covering civil and political rights as well as economic, social, and cultural rights. However, the committee received only nine responses from Arab states to its draft, varying between support, reservation, and total opposition. Consequently, that draft was discarded, and the matter was not considered again by the Council of the Arab League until the early 1990s. The Council took no action on human rights from 1971 to 1981, other than to continue the Permanent Commission, which was itself inactive except with regard to the rights of the Palestinian people.

The next phase of development at the regional level can be traced back to the seminar of 19–21 May 1979, convened by the Secretariat of the Arab Union of Jurists in Baghdad, Iraq. That seminar called for the rejuvenation of the Permanent Arab Commission, and produced a draft Arab treaty on human rights. For its part, the Arab League asked for preparation of a draft Arab Charter for Human Rights. A draft was examined by the Permanent Legal Commission and Permanent Human Rights Commission, and considered by the Council of the League, which decided on March 31, 1983 to refer the draft to the member states for their views. However, the whole matter was postponed again, pending the adoption of an Islamic Declaration on Human Rights and Duties by the Organization of Islamic Conference. This latter Declaration was finally adopted by the Islamic Ministerial Conference of August 1990, in Cairo, Egypt, as "The Cairo Declaration of Human Rights in Islam."

Another regional development to be noted here is the draft declaration, "Human and Peoples Rights in the Arab World," prepared in 1986 at a seminar convened in Syracuse, Italy, by experts from nine Arab countries, on the invitation of the International Institute of Higher Studies in Criminal Sciences. That draft was fully consistent with, and even expanded on,

22. Unfortunately, since the Arab Commission refused to grant observer status to any NGO without the approval of the state where the organization is based, those organizations which enjoy that status with the Commission tend to lack the independence and credibility of genuine human rights NGOs.

established international human rights standards. For example, the Syracuse draft made torture a criminal offense for which prosecutions cannot be barred by any statute of limitation, imposed limitations on the right of governments to declare a state of emergency, and included the right to a clean and healthy environment, in addition to rights to health care, social security, food, shelter, and education. The draft also provided in detail for strong mechanisms for the protection of human rights through the establishment of an Arab Human Rights Commission and Court. Unfortunately, though not surprisingly, that draft was never seriously considered by the Arab League or any national government.

The idea of the Arab Human Rights Charter was revived in the early 1990s. In 1992, the Legal and Human Rights Permanent Commissions of the Arab League examined and amended the draft in light of the responses of Arab governments. The two Commissions approved the draft by February 1993, and called on the Council of the League to adopt the Declaration before the convening of the International Human Rights Conference in Vienna that year. However, the Council postponed adoption to await further responses from member states. The Charter was finally considered and presumably adopted by the Council of the Arab League by Resolution 5437 of 15 September 1994.²³ That development was particularly surprising, not only because none of the seven states that had objected to the draft had changed its view,²⁴ but also because the Charter contained rights, such as the right to strike, prohibited in almost all Arab states.

The Arab Charter has not been ratified by a single Arab state since its adoption by the League. Even if widely ratified, it is unlikely to improve the protection of human rights in the region because of the serious weakness of its provisions, in comparison, for example, to those of the two International Covenants. For instance, the Charter's provisions for fair trial standards fall short of those set by the Civil and Political Rights Covenant, such as the right to appeal to a higher tribunal, including cases where the death penalty is imposed. The Charter also fails to provide for the right to political organization and participation, which is the core issue facing all efforts to promote democracy and protect human rights in the Arab world. Although Article 3 prohibits the denial of any of the fundamental human rights that are legally binding on member states by virtue of international treaties or custom, the Charter negates the value of this safeguard in Article 4, by providing that limitations or restrictions on all rights under the Charter can be imposed by law, if deemed necessary for the protection of national security and economy, public order, health, morals, and the rights of others.

23. For text of this Declaration, see 56 INT'L COMM'N JURISTS REV. 57 (1996).

24. The states which objected to the draft in 1992 were: Bahrain, Kuwait, Oman, Saudi Arabia, Sudan, United Arab Emirates, and Yemen.

This broad and vague exception opens the door for legislation and other measures that can undermine the totality of the rights provided for by the Arab Charter. Finally, the Charter is also weak on mechanisms for the implementation of the rights it recognizes, since the powers and competence of the committee of human rights experts it provides for are confined to examining reports submitted to it by states parties to the Charter, and reporting on them to the Permanent Commission of Human Rights of the Arab League.²⁵

From the official point of view, a realistic assessment of the Arab Charter of Human Rights and its prospects was made by the Egyptian delegation during the Council deliberations over the draft. In calling for adoption of the draft, the spokesperson of the Egyptian delegation underplayed the significance of the Declaration, and described it as a regional shield against international pressures on Arab states in the field of human rights.²⁶ In a more positive sense, even that cynical attitude indicates official sensitivity to the power of the international human rights movement to force the Arab governments and their League to at least pretend compliance with internationally-recognized human rights standards. What will make this positive sense more realistic, in my view, is the role of NGOs.

C. Nongovernmental Organizations²⁷

An initial question raised by an analysis of the role of NGOs in the Arab world is the proper characterization of some organizations. The question of characterization is partly a matter of the definition of a human rights NGOs, in the sense of whether the organization is confining its mandate and activities to "exclusively" human rights issues, as opposed to wider political or social policy questions. Another aspect of this ambiguity is whether the organization chooses to openly or deliberately identify itself as a "human rights" organization. Moreover, there can be disagreement about the characterization of professional organizations and trade unions whose mandate is related to human rights work, like lawyers and labor syndicates, civil rights committees of political parties, and human rights studies centers in some Arab universities. There can also be controversy about the

25. HUMAN RIGHTS IN THE ARAB WORLD, *supra* note 17, at 11–15.

26. ARAB LEAGUE AND HUMAN RIGHTS, *supra* note 21, at 27–33.

27. The following review is drawn from: Issa Shivji & Hilmy Sha'rawi, HUQUQ AL-INSAN FI AFRIQIYA WA AL-WATAN AL-ARABI (HUMAN RIGHTS IN AFRICA AND THE ARAB HOMELAND) (1994); Iman Hassan, THE HUMAN RIGHTS MOVEMENT IN THE ARAB WORLD, CASE-STUDIES OF EGYPT, LEBANON AND TUNISIA 75–110; Ahmed Thabit, *The Human Rights Movement in the Arab World: Case-studies of Jordan, Palestine and Yemen*, in 4 QADAIYAH HUQUQ AL-INSAN 111–34 (1999); THE ARAB STRATEGIC REPORT, *supra* note 15, at 331–34.

characterization of some groups and organizations operating in exile, usually as proxy for political parties and opposition parties that are unable to work within their own country. The primary concern here is that these types of actors may be more driven by the objectives and programs of the political organizations they represent than by human rights norms and principles as such. These ambiguities apply to the role of many national and regional organizations, such as national lawyers associations and the regional Arab Lawyers Union (ALU) or national journalist associations and the regional Union of Arab Journalists.

The beginning of human rights NGOs in the strict sense of the term, as truly independent organizations exclusively specializing in this field as defined by international standards, can be traced to the early 1970s. It should be noted here that my concern in this essay with an "exclusive human rights focus" in the mandate of NGOs does not mean that such "exclusivity" is either easy to achieve or desirable. On the contrary, it is extremely important that trade unions, professional associations, and all sorts of civil society organizations contribute to the protection and promotion of human rights within their respective mandates. In doing that, however, all NGOs should continuously reflect on whether their efforts are fully consistent with human rights principles. Since trade unions, professional associations, and so forth, cannot avoid being seen as substitutes for human rights NGOs as such, strategies for enhancing the protection of human rights in the region should seek to promote "specialized" capacity for the advocacy of human rights within each country and in the region in general.

As one would expect, the first specialized human rights NGOs began in those Arab countries that enjoyed a relative degree of political pluralism, or were at least receptive to civil society activism. Accordingly, the Moroccan Human Rights Organization was established in 1972, and the Tunisian League of Human Rights in 1977. In Egypt, branches of the Society of Supporters of Human Rights in both Cairo and Alexandria, were established in 1977 and granted official recognition. The Moroccan Association of Human Rights was established in 1979, but did not achieve official recognition until nine years later.

The next phase in this development came in the 1980s and was associated with the establishment of Arab Organization for Human Rights (AOHR) and the adoption of varying degrees of democratic and political reform by Arab governments for a variety of political reasons. The original initiative for the establishment of AOHR emerged in 1971, on the suggestion of the Iraqi Human Rights Organization. The idea was adopted and developed by the ALU, which set up a preparatory committee in 1973 to draft a charter and bylaws for a regional organization with national chapters. However, the founding conference, scheduled to convene in Beirut in

February 1974 did not materialize due to differences about the structure of the proposed organization. The idea was revived on the initiative of a group of Arab intellectuals who convened in Tunisia in April 1983 to discuss the crisis of democratization in the Arab world and concluded that the solution has to be through the protection of human rights. However, the founding conference of AOHR had to convene in Limassol, Cyprus, because it was not possible to hold it in any Arab country at the time. Moreover, although AOHR has located its General Secretariat in Cairo from the beginning, the Egyptian government has yet to officially recognize AOHR. The Egyptian government also refused to allow the AOHR to hold its first general meeting in 1986, but did permit the third meeting of 1993 to convene in Cairo.²⁸

The Charter of AOHR charges the organization to endeavor to protect the human rights of all persons in accordance with the international standards, to seek to raise the awareness of the Arab peoples of their rights, and to cooperate with organizations and associations working in this field. To discharge this mandate, in 1987, AOHR began to publish its annual report on the status of human rights in the Arab world, a series of bulletins, and a biannual research journal. Moreover, AOHR collaborated with the ALU and the Tunisian League of Human Rights in establishing the Arab Institute of Human Rights in 1989, based in Tunis, Tunisia, charged with implementing various educational and public awareness programs in human rights, in addition to establishing a human rights documentation and resources center. In my view, however, the AOHR, as the umbrella organization, has failed to develop a comprehensive strategy for the movement as a whole, thereby forcing NGOs to seek independent coordination among themselves. The most recent illustration of this failure is the convening of the First International Conference of the Arab Human Rights Movement in Casablanca, Morocco, in April 1999, on the initiative of the Cairo Institute for Human Rights Studies, instead of under the auspices of the AOHR.

The mid 1980s also witnessed the emergence of several significant human rights NGOs and groups in various Arab countries as well as among Arab activists living outside the region, mainly in Western Europe. National organizations within the region include the Egyptian Organization for Human Rights, established in 1985 but still denied official registration by the Egyptian government,²⁹ and the Sudanese Human Rights Organization,

28. To emphasize the great personal risks Arab human rights activists have to endure, it should be noted here that Mansour Al-Kikhya, the Libyan opposition figure and member of the Board of Trustees of AOHR, "disappeared" after that meeting in Cairo, and his whereabouts have never been accounted for by either the Egyptian or Libyan authorities.

29. The Egyptian Organization was granted "tentative" approval for registration in 1999, under a new statute regulating non-governmental organizations (Law No. 153 of 1999). But formal registration will depend on the regulations to be issued under this statute.

also established in 1985 but operating from outside Sudan since the military coup of 1989. A third national human rights organization facing difficulties in official registration is the Kuwaiti Human Rights Organization. On the other hand, national organizations have been able to achieve official registration and operate within their respective countries since the late 1980s in Lebanon, Tunisia, Algeria, Morocco, Jordan, and Yemen.³⁰ Special consideration should be given to work of Palestinian human rights NGOs, pioneered by Al-Haq in the mid 1970s, which face particular difficulties as they are caught between the Israeli occupation and the Palestinian Authority.

Moreover, a remarkable proliferation of somewhat "specialized" human rights NGOs can be observed in Egypt where there are now more than ten organizations, in addition to those already noted. These organizations, in chronological order of their establishment, include: The Legal Research and Resource Center for Human Rights (1989), the Cairo Institute for Human Rights Studies (1993), Center of Issues Facing Egyptian Women (1994), Center for Legal Aid (1994), the Egyptian Center for Women's Rights (1996), the Land Center of Human Rights (1996—focusing on rights of farmers and farm-workers, and environmental issues), the Association for Democratic Development (1996), the Arab Center for the Independence of Judges and Lawyers (1997), Center for the Human Rights of Prisoners (1997), and the Regional Program for the Protection of Human Rights Activists (1997). Another type of organization is the Arab Working Group on Human Rights, which is a network of human rights activists and scholars first established in 1997 to work on the situation in Algeria, but is gradually expanding its mandate to other issues in the region at large, until it terminated itself in 2001 because of operational difficulties.

The case of Egypt raises a few general points to be noted here for discussion in the next section. First, most of the Egyptian organizations (some of which take a regional view of their mandate) had to establish themselves as civil companies/firms to avoid the pressures and limitations imposed by the previous Egyptian statute regulating civil society associations.

Second, the clear rise in the number of new organizations since 1993 is due to the fact that Egyptian human rights activists have abandoned their opposition to accepting foreign funding at that point in time. Unfortunately, these two opportunities have now been deliberately closed by the 1999 Egyptian law 153 on civic organizations. While creating excessive and inhibiting requirements for official registration under its own terms, this statute closed all other possibilities of legal operation under other forms of

30. This is the status of these organizations, as best as I can verify, at the time of writing. It should be noted that the legal status of any of them can change at any time, due to the political instability of their countries.

organization and granted the Minister of Social Affairs the authority to prevent any civic association from receiving foreign funding without having to give reasons for his decision.³¹

It is clear from the preceding review that the growth and development of human rights NGOs in the Arab world is largely restricted to the North African region, where the possibility of official registration is relatively better. But the effectiveness of human rights NGOs in this region tends to vary over time, due to various political, security and operational factors, as discussed in the next section of this essay. On the Asian side of the Arab world, except Jordan, Lebanon and Yemen, both secular and traditional Islamic governments have severely restricted the growth and development of human rights NGOs. The government of Syria, for example, has detained and sentenced to long terms of imprisonment the human rights activists who attempted to establish "committees for the defense of democracy and human rights" in the early 1990s. The government of Saudi Arabia detained the leaders of the Committee for the Defense of Legal Rights when it was announced in 1993, forcing it to operate from the United Kingdom.³² Finally, in this sub-section, it is important to emphasize that the highly unstable politics of the region also encourage the manipulation of human rights organizations. As noted earlier, there are numerous entities among political opposition groups, usually operating outside their own countries, that claim a narrowly defined human rights mandate to serve their political objectives, while failing to observe human rights principles in other aspects of their activities. On the other hand, some governments are keen to "host" an exiled human rights organization whose agenda and activities are useful for undermining the government of their country of origin, and thereby promote the political interests of the host government. For example, Syria "hosts" an Iraqi committee for human rights, and Iraq does the same for a Syrian organization. Nevertheless, one cannot dismiss exiled human rights NGOs as necessarily illegitimate or ineffective. For instance, Bahraini organization (mainly in Denmark) and a Syrian one (mainly from Paris) are generally accepted by observers in the region as effective and legitimate human rights NGOs.

In conclusion of this review of the development of the Arab human rights movement, one can see the cup as "half full" or "half empty," but the question should be how to make it "more full" for the protection of human rights. A realistic and verifiable evaluation of the situation is difficult

31. HUMAN RIGHTS IN THE ARAB WORLD, *supra* note 17, at 13–16.

32. However, the commitment of this organization to the protection of rights as provided for by Islamic Law (Shari'a), without addressing conflicts between Shari'a and human rights norms, as explained in the next section, illustrate the difficulty of identifying a civil society organization as a human rights NGO.

because of lack of agreement on criteria for evaluating the effectiveness of the Arab human rights movement and how to apply it in practice for a specific time frame. For example, one can see the actual level of human rights violations as either rising or falling, depending on such factors as the availability of verifiable information or time frame of comparison. More reliable information is available on the North African part of the region because it is relatively more accessible to monitoring by internal and external observers than the West Asian part. But one would suspect that far more violations are occurring in the "closed" countries of the Arabian Peninsula where neither internal nor external monitoring is allowed. To the extent that there is an improvement in the human rights situation in one country or another at any given time, it does not necessarily follow that it is sustainable or can be attributed to one particular cause or another. In view of these difficulties, the tentative assessment offered in the next section is intended as a contribution to the development of conditions that are more conducive to the protection of human rights throughout the region, rather than an accurate and conclusive evaluation of the record of the Arab human rights movement as such.

III. AN ASSESSMENT

The following assessment of the main achievements, difficulties, and future prospects of the protection of human rights in the region is based on the view that the protection of human rights anywhere in the world is a process, not an "objective" that can be achieved once and for all. These remarks also assume that, while states have the international obligation and domestic jurisdiction to protect human rights on the ground, governments will not act accordingly without pressure from internal and external actors. Consequently, progress in the process of human rights protection is dependent on the ability of its advocates to constantly prompt governments into taking the necessary action, and hold them accountable for failure to do so. This, in turn, will depend on the ability of human rights advocates to generate and sustain sufficient political support, and to mobilize human and material resources, for their activities. In the final analysis, however, human rights cannot be protected in an effective and sustainable manner without developing an *internal* popular human rights culture and *local* human and material infrastructures necessary for consolidating achievements, responding to challenges, and realizing the prospects of greater success in the future. The following remarks are intended to contribute to the realization of these prerequisites for the protection of human rights in the Arab world.

The achievements of the Arab human rights movement can be seen to include: (1) exposing human rights violations at the national, regional, and

international levels; (2) challenging the claims of Arab governments before the UN human rights treaty bodies and special rapporteurs, by providing information and publishing "shadow reports" for comparison with reports from governments; (3) establishing and sustaining a growing level of unbiased, non-partisan professionalism by defending the right of all persons and groups, regardless of the political affiliation or ideological orientation of victims of violation; (4) pressuring many governments into ratification of international human rights treaties, and establishing governmental organs and official positions devoted to human rights concerns; and (5) generally setting clear human rights standards of achievement for the performance of governments and opposition groups alike, as indicated by the high credibility accorded by both of these sides to reports of national and regional human rights NGOs. Some of the difficulties facing these organizations, discussed below, can also be seen as reflecting a level of credibility and success in their mission. For example, while the denial of official registration to Egyptian human rights NGOs, for up to ten years in some cases, is a human rights violation in itself, the ability of these organizations to operate openly in the country all this time clearly indicates a level of acceptance and credibility at the practical level.

Of particular significance to the objective of diminishing human rights dependency is the "graduation" and maturity of a second younger generation of activists who enjoy a higher level of technical competence and professional credibility than that of the founding first generation. One of the difficulties facing the movement was the common confusion between partisan political objectives and principled and professional human rights advocacy.³³ That weakness used to render human rights NGOs particularly vulnerable to being easily discredited, coopted, or infiltrated by the government and opposition groups alike for their own narrow political ends. As the reality or perception of partisan bias diminishes through the professional competence and credibility of the emerging generation of activists, the movement as a whole is becoming more secure against those earlier risks.

On the negative side, the Arab human rights movement suffers from a variety of internal and external problems, as well as broader difficulties which can be summarized as follows. On the internal side, there are problems associated with random establishment and structural weakness in the growth and development of some elements of the movement in different parts of the region, as reflected in the institutional inadequacy and lack of cooperation and coordination of activities among competing organizations. In Algeria and

33. Mohamed El Sayed Sai'd, *Al-Mashakil al-Dakhiliyah lil Haraka al-Arabiyyah (Internal Problems of the Arab Human Rights Movement)*, 3 ROWAQ ARABI 18–27 (July 1996).

Tunisia, for example, the remarkable strength of the 1980s is now replaced by weakness and confusion in the context of profound national political crisis. The efforts of some ideological factions to take exclusive control of the Egyptian Organization of Human Rights in 1994 by inflating membership for the meeting of its General Assembly in order to dominate the Board of Trustees, which was to be elected at that meeting, resulted in a prolonged crisis that paralyzed the organization for several years. The negative consequences of 1999 Law of Association for Egyptian NGOs are compounded and facilitated by the lack of unity and coordination among these organizations themselves. At the time of writing, some Egyptian organizations are rushing to register under the new statute, sometimes in violation of their internal institutional procedure, while others continue to resist the new regime altogether and campaign for the repeal of the statute. The effectiveness of the Sudan Human Rights Organization, operating in exile, is seriously hampered by competition over the leadership of the organization among various factions of the political opposition to the Islamic military regime of Sudan and internal problems among different elements of the movement.

External problems of the Arab human rights movement in its relationship to its general societal and intellectual environment are reflected in its inability to broaden its influence among civil society at large, thereby keeping itself relatively isolated among small groups of liberal intellectuals and activists. To diminish its political isolation, the movement must be able to develop a discourse that takes due account of the cultural and contextual specificity of the region without undermining the universality of human rights. A distinctively regional human rights discourse should, for example, address the problematic relationship between international standards of human rights and prevalent understandings of Islam in the region. A popular discourse should also seek to reconcile concerns about major regional issues, such as the Arab-Israeli conflict and the 1990–1991 Gulf War and its aftermath, on the one hand, and the protection of human rights of individual persons and groups in the context of those major regional crises. The movement must also find ways of coping with the extraordinary circumstances and crises experienced by countries like Algeria, Iraq, Sudan, and Yemen, where the very existence of society itself is threatened by civil war and/or external intervention.

While other internal and external problems can be cited, a more positive appreciation of the achievements of the Arab human rights movement, and understanding of the underlying causes of its failures, would follow from a realistic assessment of broader difficulties facing the movement throughout the region. These more general obstacles can be summarized as the following factors and processes, which should be seen as interactive and interdependent, rather than isolated or independent phenomena:

1. Arab human rights NGOs are consistently denied official registration and face systematic harassment by the majority of the governments of the region. This is true of traditionalist purportedly Islamic governments like those of the Gulf states and Saudi Arabia or so-called secular governments like those of Iraq, Syria and Libya. It remains to be seen whether the Egyptian government will honor its declared intention to permit full registration and legal operation for at least some human rights NGOs, but past experience in that country would lead one to be skeptical about the prospects of the government permitting genuinely professional and truly independent human rights activism in the country. It is also ironic that the Palestinian Authority has turned against the same human rights NGOs it found so useful during its struggle for recognition by Israel, and now deem them an unnecessary nuisance after the partial implementation of the Oslo Accord.³⁴

Moreover, as illustrated by the crisis of the Tunisian League of Human Rights, formal legality can be only a cover for more fundamental frustration of the role of NGOs. In 1992, the Tunisian government amended the law to require human rights NGOs to open their membership to whoever wishes to apply, thereby forcing them to accept thousands of the political supporters of the government. When the League resisted this pressure in order to ensure genuine commitment to the principles of human rights advocacy among its members, the government "dissolved" the organization on 14 June 1992. After a year of international pressure, the government allowed the League to operate again, but with an artificially inflated membership which succeeded in replacing the leadership of the League during the General Assembly meeting of February 1994. Through that legalistic manipulation and "democratic" cooption, the Tunisian government managed to undermine the public credibility of the League.³⁵

2. The consequences of unresolved conceptual difficulties of regional and international advocacy of human rights in general are particularly serious for the Arab human rights movement because of the colonial history and current profound crisis suffered by the region as a whole. For instance, the paradox is that, unlike conventional political action, the human rights

34. For example, in December 1998, the Palestinian Authority blocked the enactment of a law regulating the registration and operation of NGOs, which was passed by the Palestinian Legislative Council, and continues to harass local NGOs. See Khader Shkirat, *Al-Tahadiyat al-Jadidah li-Harakat Huquq al-Insan al-Philistiniyah (The New Challenges Facing the Palestinian Human Rights Movement)*, in CHALLENGES 207–18 (Bahey El-Din Hassan, ed.) See also, *Indama Yasru al-Dahiyat Jaladan (Palestine: When the Victim Becomes the Executioner)*, SAWASYAH BULLETIN 14–17 (Dec. 1996).

35. Munsif al-Marzouq, *Al-Muhima al-Sa'ba li Harakat Huquq al-Insan fi Tunis (Mission Impossible for the Human Rights Movement in Tunisia)*, in TAHADIYAT AL-HARAKA AL-ARABIYAH LI HUQUQ AL-INSAN (CHALLENGES FACING THE ARAB HUMAN RIGHTS MOVEMENT) 147–66 (Bahey El-Din Hassan ed., 1997).

movement relies on the moral force of its demands on governments and appeal for popular support. That is to say, the movement has to call for protection of human rights by the same authorities which violate those rights in the first place, and seek public support without being able to deliver on its claims. In more developed and stable regions of the world, the moral appeal of human rights is supported by a strong and active civil society which is aware of its own rights and able to effectively organize for their protection through political and legal action. In contrast, the nature and dynamics of the post-colonial state and weakness of civil society in the Arab world enable its governments to simply disregard moral appeals to human rights standards without any risk of political or legal accountability by their civil societies. No human rights movement anywhere in the world can achieve genuine and sustainable success unless the political and legal institutions of the country or region is capable of upholding the moral demands made by NGOs and civil society on the state. Paradoxically, the actual protection of human rights is needed for the long term process of creating and sustaining the ability of political and legal institutions to play this role. However, since social forces tend to seek immediate and concrete response to their demands, they will be attracted to strategies of more direct political action, instead of long term "investment" in the rule of law and protection of human rights.³⁶

Another type of conceptual difficulty that is particularly troubling to the Arab human rights movement is how to deal with Islamist and other militant ideological groups which seek to manipulate the processes of democratization and protection of human rights in order to seize political power without genuine commitment to these values. On the one hand, a principled approach would insist on the protection of the human rights of these groups and their members, regardless of their "presumed intention" to repudiate democratic and human rights principles once they come to power. On the other hand, such an approach is not only dismissed as "unrealistic and naive" by security forces confronting violent Islamic groups, but is also resisted by some liberal intellectuals who are the actual or potential supporters of the human rights movement in the region. The latter group, who are ideologically opposed to the agenda of Islamic activists, tend to see the "excesses" of the security forces and other oppressive measures by the governments of the region as "the lesser of two evils," in comparison to what they expect at the hands of Islamists when they come to power.

These skeptical views can be supported in the Arab world by citing the example of Sudan, where the National Islamic Front (NIF) played the role of a "democratic" political party, and was even a partner in a coalition government until a few months before it was able to seize power by a

36. Sai'd, *supra* note 33, at 12–26.

military coup in June 1989. Immediately upon seizing the apparatus of the state, the NIF abolished the constitution, dissolved parliament and all other political parties, trade unions, professional associations, and banned every type or form of political opposition. In that light, it is not surprising that liberal intellectuals and human rights activists in Algeria expect a similar fate should Islamic groups come to power in that country. In this way, the Arab human rights movement is caught in a complex dilemma: uphold the human rights of all persons and groups as a matter of principle and regardless of the consequences, or qualify that commitment by some "realistic" considerations and thereby risk undermining the credibility of the moral imperative of human rights norms.

3. The deep sense of insecurity and profound distrust of the international community among Arab societies is a major obstacle facing popular acceptance of a human rights culture in the region. The roots of these "psychological" and material dimensions of the regional context of the Arab human rights movement go back to centuries of Ottoman and European domination, and decades of post-colonial Western hegemony, as more recently emphasized by the nature and development of the Arab-Israeli conflict and its devastating human costs for the Palestinian People since 1948, the year of the adoption of the UDHR. It is against this background that present Arab societies tend to "interpret" recent episodes in international relations, like the imposition of sanctions against Libya (1989 to 1999) and Iraq (1992 to present), ethnic cleansing in Bosnia, and the attack by the United States against Sudan in 1998. Both elite and popular public opinion compare the weak and ambivalent response of the international community to the Israeli invasion of Lebanon in 1982 and occupation of its territories in the south for eighteen years, to the massive response to the 1991 invasion of Kuwait by Iraq and sustained imposition of severe sanctions against Iraq since then. The Arab public wondered about Western support of Iraq during eight years of war with Iran, despite Iraq's gross and systematic violations of human rights and humanitarian law throughout that period, in contrast to Western determination to uphold international law at the cost of starving the people of Iraq and destroying a whole generation of their children so many years after Iraq was expelled from Kuwait.³⁷

In this context, Arab elites from various shades of political, ideological, and intellectual perspectives are drawn to an agenda of strong self-identity

37. Bahey El-Din Hassan, "Mas'uliyat al-Gharb 'an Ta'athur al-Dahaul al-Dimograty" (The Responsibility of the West for Hampering Democratic Transition) *Sawasyiah Bulletin*, issue no. 13 (Cairo Institute for Human Rights Studies, December 1996), at 3, 4; Neil Hicks, "Khitab Huquq al-Insan fi al-Alam al-Arabi" (Human Rights Discourse in the Arab World), 6 *ROWAQ ARABI* (Apr. 1997), at 6-35; Bahey El-Din Hassan, *Challenges Facing the Arab Human Rights Movement*, op. cit., at 237-57.

and extreme hostility to “the West.” From this perspective, they tend to see “settling the score” with the external enemy as a more compelling priority over democratization and protection of human rights at home. The inability of these elites to see that democratization and protection of human rights at home are in fact the best means for addressing the underlying causes of their difficulties with Western hegemony and double standards is itself part of the problem. Failure to appreciate that Arab governments and societies are also guilty of hegemony and double standards against religious and ethnic minorities within the region is also part of the problem. Unfortunately, pointing out these inconsistencies in the position of Arab societies regarding the “West” and the international community at large is not enough to change the dominant view among Arab elites and governments which tend to equate advocacy of human rights with service to the hegemonic agenda of Western powers. Accordingly, Arab human rights advocates are often represented in popular discourse as “traitors” for promoting an external imposition of Western values and institutions. As “the West” is taken in the region to be guilty of absolute and unconditional support of Israel and total and deliberate destruction of the people of Iraq, the identification of human rights with Western governments and societies is a major source of profound distrust of the advocacy of these rights in the region. This distrust is compounded by the reliance of Arab human rights NGOs on funding by Western governmental and private foundations.

4. Broader problems associated with the recent political and social history of the region also tend to undermine the cultural legitimacy of international human right standards and the modern international law from which they emerged. In this regard, the human rights movement can be seen as the latest phase of a long struggle with various issues of “modernization” since the early nineteenth century. Moreover, the combination of the lack of an internal philosophical or cultural justification for human rights principles, on the one hand, and the above-mentioned deep sense of insecurity and distrust of the international community, on the other, seems to focus the attention of the elites of the region upon a posture of confrontation with the “Western Other.” This attitude tends to emphasize the priority of internal mobilization in confronting the neo-colonial hegemony of the West over issues of internal social and political transformation within the Arab world or its individual countries. This complex cultural difficulty is compounded by the general lack, or weakness, of traditions of civic activism in relation to the modern nation state, as distinguished from traditional forms of organization.³⁸

5. Another aspect of the human rights dependency syndrome is the

38. Mohamed El Sayed Sai'd, “Da’wat Huquq al-Insan fe Siyaq al-Hala al-Thaqafiyah al-Rahinah” (The Cause of Human Rights in the Present Cultural Context), 6 ROWAQ ARABI (Apr. 1997), at 48–59.

relationship between the Arab human rights movement and international human rights NGOs. On the one hand, as part of the international movement, the Arab movement reflects the current weakness of the former because of the shift in global power relations after the end of the Cold War. As briefly explained earlier, human rights have so far been protected primarily through economic and political pressure by Western governments on the governments of Arab and other developing countries, rather than through the internal activities of the civil societies of developing countries, as is the case in developed countries. In that scenario, the international movement was dependent on the dynamics of the Cold War competition in encouraging Western governments to pressure the governments of developing countries to protect human rights (read civil and political rights) of the populations of developing countries. However, because the current ambiguity of global power relations has diminished the ability of international NGOs to influence the foreign policy of Western governments in that regard, these governments are now less enthusiastic in upholding human rights demands as part of their political, security, and trade relations with developing countries.

Moreover, the influence of international NGOs has also been diminished by changes in the sources and pattern of human rights violations in developing countries. The notion that only states (and certain inter-governmental organizations like the UN) are subjects of international law means that non-state actors, such as violently militant Islamic groups and world and transnational corporations operating in the region cannot be held accountable for activities which would qualify as human rights violations if they were perpetrated by government officials. Yet, the activities of militant groups are cited by governments as justification for the need to "suspend" the protection of human rights in order to safeguard national and regional security. The legally binding force of international human rights law is perceived to be meaningless in the context of "collapsed states" like Somalia, or those undergoing civil war and severe civil strife like Algeria and Sudan. These and related factors have led to serious differences of opinion between the international and Arab human rights movements, and within the ranks of each side, regarding such issues as the legitimacy of "humanitarian intervention," imposition of economic sanctions or the use of "political conditionality" in economic aid and military assistance programs in the name of promoting the protection of human rights in developing countries.

Furthermore, the relationship between Western-based international human rights NGOs and the Arab human rights movement is also complicated by charges of a lack of coordination and cooperation, as well as perceptions of conflicting priorities.³⁹ While dependent on the cooperation

39. On this relationship and its implications, see Bahey El-Din Hassan, "Nahwa Isti'adat Zumam al-Mubadara" (Toward Retrieving the Initiative) 6 ROWAQ ARABI (Apr. 1997), at

of local and regional NGOs for access to credible information about human rights violations in Arab countries, international NGOs tend to focus their advocacy efforts almost exclusively on developed countries because that is "more effective" at pressuring the governments of developing countries in the short term, without regard to the long term need to enhance the capacity of local and regional NGOs and to expand and protect the "space" for local advocacy of human rights. While understandable from a narrow view of current conditions in Arab countries, this attitude tends to marginalize the Arab human rights movement and doom it to a position of permanent dependency on the initiatives and priorities of international NGOs.

This aspect of the human rights dependency syndrome is a clear reflection of economic, political, and technological dependencies of Arab countries on developed countries, due to historical and current violations of collective rights to self-determination and human development.⁴⁰ In some cases, the dependency relationship is complicated by strategic or security concerns. For example, while Saudi Arabia and the Gulf states are dependent on American technical and security support, Western dependence on the oil of those countries makes them less vulnerable to pressure by Western governments about their human rights performance. Egypt is heavily dependent on Western aid and technical assistance, but is also a key player in the Middle East peace process. Whatever the exact terms of the dependency may be, international human rights advocacy is compromised by foreign policy calculations of the governments of developed countries. In other words, the combination of selective use of human rights rhetoric and inconsistent practice of Western governments tends to undermine the moral authority of human rights activists in a region like the Arab world.

6. While human rights activists everywhere in the world are necessarily implicated in political controversy, because their objectives require changes in the policies and practice of governments, the Arab human rights movement suffers from excessive politicization due to several factors. First, the dominance of certain ideological groups at the initial stages of the AOHR alienated those of other political and philosophical orientations and undermined the credibility of this umbrella organization. As a consequence of this ideological bias and contestation, external political competition and rivalries tended to be reflected in the leadership and activities of AOHR, as well as several national member NGOs, like the Tunisian League and the Egyptian Organization for Human Rights. These ideological differences are

60–68; Fateh Azzam, "Tahwlat fi al-Alaqah bayn al-Munazamat al-Mahaliyah wa al-Dawliyah" (Transformations in the Relationship between Local and International Organizations), 3 ROWAQ ARABI (July 1996), at 90–95.

40. See generally, WILFRED L. DAVID, *THE CONVERSATION OF ECONOMIC DEVELOPMENT: HISTORICAL VOICES, INTERPRETATIONS REALITY* (1997); YUSUF A. SAYIGH, *ELUSIVE DEVELOPMENT TO SELF-RELIANCE IN THE ARAB REGION* (1991).

often reflected in profound disagreements within individual organizations, and among the leadership of the Arab human rights movement as a whole, about how to address major crises like the Iraqi invasion of Kuwait.

Another source of problematic politicization of the Arab human rights movement is the strong emergence of Islamic activism during the last two decades. Besides the dilemma raised by doubts about the genuine commitment of Islamic groups to democratic principles and human rights protection, the personal background of the secular Arab intellectuals who became leaders of human rights organization is not conducive to open dialogue with the leaders of the Islamic groups. Yet these leaders of human rights organizations find it difficult to openly challenge calls by Islamic groups for the application of Islamic Law (Shari'a) for fear of being branded as "anti-Islamic" despite the obvious fundamental contradictions between Shari'a principles and international human rights norms on such issues as the rights of women, non-Muslims, and freedom of belief among Muslims.⁴¹

7. The institutional weakness of Arab human rights organizations is closely associated with all the above-mentioned factors, especially the lack of official recognition and general harassment of activists by official organs of the state, and by non-official ideological and religious groups. Additional causes of institutional weakness are the inadequacy of organizational and administrative skills among human rights activists and the tendency to use populist methods in the absence of sustainable professionalism. While these problems are more evident in some organizations than others, they do affect the internal cohesion of the Arab human rights movement as a whole, and its ability to constitute a united front in the face of so many internal and external challenges and difficulties.⁴² Another operational difficulty is the inability of the Arab movement to develop strategies of negotiation with governments, as supported by grass-roots mobilization of local constituencies,⁴³ thereby allowing external advocates to come and play that role. This is one aspect of human rights dependency that can only be addressed from within the ranks of the Arab human rights movement.

These difficulties and problems are being addressed by some segments of the Arab human rights movement.⁴⁴ As noted earlier, the failure of the

41. On these and other conflicts between Shari'a and international human rights standards, see generally, ABDULAH AHMED AN-NA'IM, *TOWARD AN ISLAMIC REFORMATION: CIVIL LIBERTIES, HUMAN RIGHTS AND INTERNATIONAL LAW* (1990).

42. Sai'd, *supra* note 33, at 12-27.

43. Hanny Megally, "Azmat Hawyah: Hal Balaghat al-Haraka al-Arabiyyah Sinn al-Rush" (A Crisis of Identity: Did the Arab Human Rights Movement Achieve Maturity?), 3 *ROWAQ ARABI* 74-79 (July 1996).

44. Bahey El-Din Hassan, "*Nahwa Istrategiya Munsajimah li Harakat Huquq al-Insan*" (Toward a Coherent Strategy for the Arab Human Rights Movement), *ROWAQ ARABI* (July 1996), at 46-63; and the working papers by Hanny Megally and Bahey El-Din Hassan, presented at the First International Conference of the Arab Human Rights Movement, Casablanca, Morocco, 22-25 Apr. 1999.

AOHR to provide regional leadership in this regard is being redressed by others. The Cairo Institute for Human Rights Studies convened the First International Conference of the Arab Human Rights Movement in Casablanca in April 1999, and the Second Conference, which convened in Cairo in October 2000. The Casablanca Declaration, adopted by that First Conference, reviewed the internal and external context of the Arab human rights movement, and set its responsibilities in relation to most of the issues raised in the assessment presented in this essay.⁴⁵ The second conference focused on issues of human rights education and public awareness.

IV. CONCLUDING REMARKS

The preceding review and analysis of the emergence and development of the protection of human rights in the Arab world clearly indicates remarkable growth since the mid 1980s. This review also highlights the limitations and problems of these efforts. Consequently, the current status of the protection of human rights in the region is somewhat mixed, and can go either way in the future, depending on which strategies are followed or not at this stage. On the one hand, there are more than 50 human rights NGOs in the region, working in the fields of monitoring and advocacy, consciousness raising, education, training, research and scholarship, legal aid and adjudication, and rehabilitation of victims of violations. On the other hand, the 1990s has been marked by serious decline in the level of democratization and protection of human rights in countries that had earlier shown good promise in this regard, namely, Algeria, Egypt, Jordan, Sudan, Tunisia, and Yemen. In these and most of the other countries of the region, gross and systemic human rights violations have continued to mount, while the ratification of human rights treaties have not been honored by the necessary degree of conformity with international norms or compliance with the requirements of implementation mechanisms.

Recent measures taken by some governments to restrict freedoms of expression and association, like the Jordan statute on publications of July 1998 and the Egyptian law 153 of 1999 on civic associations, are of particular concern because of their implications for the role of local NGOs in the protection of human rights. In my view, these seriously regressive recent developments do not negate the significant achievements of the Arab human rights, especially when viewed in light of the difficult conditions under which they have been achieved. However, as suggested earlier, since

45. The full text in English of the Casablanca Declaration of the Arab Human Rights Movement is published by the Cairo Institute for Human Rights Studies, and reprinted in 17 *NETH. Q. HUM. RTS.* 363–69 (Sept. 1999).

the situation in general can be seen as a cup “half full” or “half empty,” the question should be how to make it “more full” for the protection of human rights.

The brief elaboration in the preceding section of this essay of the obstacles and problems of the Arab human rights movement already indicates what needs to be done in both the short and long term. For example, in relation to point 1, one can call for the simplification of registration procedure for human rights NGOs, ending of harassment of activists, and so forth. From an analysis of the relationship between local and international NGOs (point 5), one can “imagine” ways of increasing cooperation and mutual respect between the two sets of organizations. Similar suggestions can be made to address excessive politicization (point 6) and institutional weakness (point 7). Other types of obstacles would clearly require longer term, broader, and more extensive and complex strategies of action, like issues of regional insecurity and distrust of the international community (point 3), or questions of cultural legitimacy of human rights standards (point 4). However, this sort of approach to “recommendation” is not very helpful, because these sets of difficulties are so interactive and interdependent that none can be addressed in isolation from the others. This sort of proposed strategies can also be seen as simplistic and naive.

As briefly explained in the Introduction of this essay, the protection of human rights in the Arab world requires the progressive diminishing of dependency, while continuing to enhance and promote international cooperation. Local and global civil society has a crucial role to play in the protection of human rights everywhere, but the goal of civil society and other actors should always be to diminish dependency by enhancing indigenous protection of human rights. Accordingly, international cooperation must be based on a principled commitment to *parity and mutual respect*, despite clear differentials in power relations and realities of Western hegemony.

To be clear, I am not in the least opposed to international protection of human rights as such, whether through the efforts of other governments, inter-governmental organizations, or international NGOs. On the contrary, I see all appropriate forms of international cooperation as imperative for the protection of human rights in any part of the world. Because the actual protection of human rights can only be realized through the agency of the state in question, international concern and action will always remain necessary simply because the state, which is the primary violator of these rights, cannot be trusted to protect them effectively. Moreover, the citizens of an oppressive state are necessarily less able to protect their own rights than those of states which are more respectful of these norms. But I am calling for combination of short term response to violations, through immediate action by the international community, with strategies to gradually

diminish dependency on these external efforts in the long term. In other words, international protection efforts should include strategies for strengthening local capacity in this regard because the external imposition of measures is neither feasible, sustainable, nor acceptable as the primary means of protection of human rights on the ground. Fortunately, there is already awareness of the need for this combination of immediate response and longer term efforts to promote local capacity within the region, and some tentative efforts in this regard.

Ultimately, the challenge is how to be “visionary yet realistic,” because there are no “magic solutions” that can materialize immediately for any of the obstacles and problems facing the protection of human rights in the Arab world. Because one has to take the world as it is, not as one would like it to be, strategies for promoting the protection of human rights must take into account the deep-rooted nature of the problems in devising *incremental* solutions that address immediate short term needs, while seeking to achieve long term ends. The primary objective of *diminishing* (not immediate termination of) human rights dependency cannot be achieved without strengthening civil society in general, and the Arab human rights movement in particular. This approach clearly indicates priority to *internal* initiatives. Yet the present weakness of Arab civil society and the human rights movement is due to deep-rooted and entrenched structural and cultural factors that cannot be changed in the immediate future. Nevertheless, in addressing the immediate consequences of these obstacles, ways must also be found to “invest” in long term and more sustainable solutions.