

Human rights in the Arab World

By The Arab Organisation for Human Rights (1)

The report of the Board of Trustees to the General Assembly of the Arab Organisation for Human Rights -which was adopted by the General Assembly of the AOHR in Khartoum, Sudan, on 31 January 1987 - is in two parts.

The first part, "The Arab Organisation for Human Rights over the past three years", details the stages of the establishment of the Organisation, describes its activities and includes an evaluation of its efforts as well as an examination of future prospects.

The second part, "The Situation of Human Rights in the Arab States", analyses the legislation and regulations pertaining to human rights and their practical implementation. It also contains case-by-case analysis of the situation with regard to human rights in each Arab country.

The Report consists of much detailed information needed for the First General Assembly of the Organisation. This brief summary does not constitute an alternative to reading the full report but aims, rather, to draw attention to a number of central issues.

I. The Arab Organisation for Human Rights over the past three years

The Organisation was founded as a response to the deepening crisis that has engulfed the Arab world in recent years. A group of Arab intellectuals has come to the conclusion that the crisis is primarily due to the marginalisation of the Arab citizen, the generalised absence of human rights and basic freedoms and the widespread oppression in the Arab world, all of which coincide with the set-backs and defeats suffered by the Arab nation in its struggles against foreign domination and aggression. A further conclusion is that the promotion and protection of human rights and fundamental freedoms are the sine qua non for the independent political, economic and social development of the Arab nation.

The way out of this impasse is for the Arab citizen to regain his basic rights and fundamental freedoms in order to be able to fully participate in the building of the nation and in its defence. This is the basic preoccupation of the founders of the Organization who envisaged their contribution as the foundation of a Pan-Arab organisation capable of assuming some of these responsibilities. Such an objective is fraught with difficulties in an area of the world where government attitudes range from a total rejection of the whole concept of human rights to a refusal to recognise any organised expression of the need for human rights and a ruthless pursuit of all who attempt to do so.

Furthermore, the League of Arab States, the regional organisation of the Member States, has been unable, despite 16 years of intensive efforts, to adopt the "Arab Charter of Human Rights".

The fact that the Organisation was obliged to hold its first

constituent meeting in 1983 on Cyprus was an indication of the nature of the difficulties confronting it. Nonetheless, a considerable distance has been travelled since then and it is significant that the first General Assembly of the Organisation could be held in a major Arab capital. Many questions, however, remain unanswered. For example, to what extent is the Organisation's structure suited to the tasks it has to perform? To what extent has the Organisation succeeded in disseminating its message?

The Report contains considerable detail on the build-up of the Organisation, its branches and structure and its regional and international growth. It also lists the Organisation's activities and attempts to answer some of these outstanding questions.

If confidence in the Organisation and its activities can be measured by the growth in the number of branches, then the findings of the report, showing a seven-fold increase in the number of members, are encouraging. Moreover, there has been a growing geographical diffusion of branches and affiliated groups both in Arab countries and in areas in Europe and the Americas with high proportions of Arabs. The Report considers these developments to be "satisfactory" by expresses certain reservations insofar as the Organisation is still not represented in all Arab countries and remains essentially elitist in character with insufficient interaction with the grassroots.

The Report lists the branches (Egypt, Sudan, Austria, the United Kingdom, France) and the affiliated groups (Geneva) already established. It expresses grave concern over the fact that in the Arab countries themselves only two branches exist so far (Egypt, Sudan) and a third is underway (Morocco).

The increasing number of complaints and requests for assistance received from Arab citizens and associations indicates an important degree of confidence in the Organisation. During the period preceding the Report, 155 notifications from a total of 19 Arab countries have reached the Organisation. The Organisation has dealt with these complaints by a variety of methods including direct contacts with Governments and relevant Arab and international organisations, sending lawyers to attend trials and missions to inspect prisons and by publicising the issues.

The Report also lists the number and types of activities undertaken by the Organisation. These include the dissemination of information through a variety of publications, research programmes or seminars, and efforts to ensure regional and international collaboration between 25 Arab and 60 international organisations. In addition, field activities comprise prison visits, fact-finding missions and the provision of legal assistance.

As far as the relevant Arab governments are concerned, only seven have responded to the Organisation's contacts and the others have totally ignored its activities. This attitude is due to the fact that these governments are adamantly opposed to the Organisation and its principles and totally disregard Arab public opinion. These same governments have, however, responded to *non-Arab* international organisations.

The attitude of the seven governments which responded to the Organisation's contacts have, however, been varied in nature. Some have denied the existence of the cases in question or have objected to the interpretation of facts by the Organisation. Others, however have taken practical steps. Thus the Egyptian government responded positively to the Organisation's request to send its representatives to visit prisons. The transitional government in Sudan received a delegation from the Organisation to discuss emergency legislation. The Jordanian government freed a detainee in one instance and the Libyan government allowed a representative of the organisation to visit one of the detainees.

II. The Human Rights situation in Arab countries

The modern concept of human rights is a new issue as far as Arab

political thinking is concerned.

The majority of the Arab States have consistently refused to recognise the issue and only nine have ratified international conventions on human rights. From 1970, efforts by the Arab League to adopt an Arab Charter on human rights have proved unsuccessful. Most Arab States remain resolutely opposed to the creation of human rights associations and view any activity in this field with considerable suspicion.

The Report examines the human rights situation in the Arab world from a broad perspective, including the analysis of different constitutions and laws pertaining to freedom, electoral laws, trades union laws and the application of the laws in practice.

A number of difficulties have been encountered in assembling information, not because data is scarce but, rather, because of the nature of the sources and the quality of the available evidence. In most cases, the sources of information are themselves parties to the ongoing political struggle in the Arab world. Their evidence required careful scrutiny and in some instances potentially important information had to be excluded.

Constitutional instruments and legislation

The report examines the human rights situation in each of the 22 member states of the Arab League including Occupied Palestine and draws the following conclusions concerning the relevant constitutional instruments and legislation:

1. Many Arab constitutions refer to laws regulating freedoms and to guarantees of human rights but fail to provide for adequate safeguards. In some cases governments are able to adopt special powers which effectively nullify such safeguards as are built into the Constitution.

2. In Arab countries where Constitutions exist they are sometimes totally or partially suspended (Bahrain and Kuwait). In other countries (Egypt, Jordan, Iraq, Syria), they are nullified by emergency laws.

3. Emergency and martial laws give the authorities wide powers which are in clear violation of human rights and fundamental freedoms. Emergency legislation in Egypt provides the authorities with arbitrary powers to arrest and detain suspects or other persons deemed to pose a danger to public order and security and to undertake searches of persons and places. This is in contravention of the provisions contained in the Law of Criminal Procedures. Similar powers are available under the Syrian emergency Laws and under martial law in Jordan.

4. Emergency laws empower the Head of State or persons acting for him to deem which crimes or acts of omission may be punishable, by hard labour in Egypt or by three years imprisonment in Syria. The martial law administration in Jordan provides for the punishment of persons who contravene instructions under the 1935 Defense Law. Such practices are contrary to the principle of the separation of powers between the executive and the judiciary.

5. Current Arab legislation is characterised by "exceptional" laws. In recent years, this phenomenon has become increasingly dangerous as "exceptional" laws have gradually come to replace ordinary legislation. In general, "exceptional" laws deviate from the human rights standards prescribed in international and regional conventions and, in some instances, actually contradict the provisions of the Constitutions of the states themselves. Examples of such cases include the "exceptional" laws in Egypt (in particular Law N° 95 of 1980 known as the Law on the Protection of Moral Values, Law n° 110° of 1980 pertaining to the

inclusion of additional criteria for suspicion and Law n° 105 of 1980 on the setting up of State Security Courts) and the September 1983 Laws in Sudan.

6. Common to nearly all the Arab States are the so-called "Preventive Measures" or the "Laws of Suspicion". Such laws exist in Egypt, Sudan, Iraq, Kuwait and Libya and provide for actions to be taken against persons on the grounds of crime prevention. These regulations contradict many of the established principles of law.

7. Arab countries have, to varying degrees, imposed restrictions and limitations on freedom of opinion and expression. The mass media are invariably owned and/or controlled by the State. Criticism of the regime or of the Head of State is taboo. There are also severe restrictions of the freedom to exchange information and news. Books, newspapers and other publications are censored or banned. In some Arab countries there is continual interference with correspondence and telephone communications and severe limitations are imposed on the freedom of assembly.

8. The freedom to form trade unions and other occupational or professional associations is denied in a number of Arab countries. Where such associations do exist their activities are severely curtailed and subject to interference by the authorities. In general, a profound examination of Arab legislative systems is needed in order to identify all the injustices concerning human rights. It is a sad irony that much of the post-independence legislation is actually more restrictive of human rights in the Arab world than that imposed by the colonialist powers confronting the Arab independence struggles. In one Arab country, slavery was not abolished until the early 1980's.

9. In many instances, the judicial system allows the accused to be tried not before civil courts but, rather, before military tribunals. In most Arab countries (Jordan, Sudan, Egypt, Iraq, Lebanon, Syria, Algeria and Lybia) military law is applied to the police force and to civilians accused of common crimes related to the armed forces. Military jurisdiction should, rather, be strictly confined to military crimes.

Civil and political rights

An examination of the issue of civil and political rights in the Arab world indicates the existence of an alarming number and a variety of violations.

The most widespread violations are as follows:

1. In the Gulf States, the most common violations include the banning of political and cultural associations and trade unions as well as the low status of women and the arbitrary measures taken against Arab workers. The intensity of the violations varies from country to country, reaching a peak in Saudi Arabia while the situation in Kuwait is relatively relaxed.

2. Similar human rights violations occur in both Syria and Iraq where severe measures are in force against political opponents including detention without trial, torture and the application of death sentences by special courts. Specific to Iraq is the phenomenon of deportation as well as the special problems of ethnic minorities.

3. In other Eastern Arab countries an important issue is the absence of rights to political association. In Jordan, the main aspect of human rights violation is the absence of academic freedom. The special circumstances prevailing in Lebanon affect the whole spectrum of human rights issues although murder by identify card and kidnapping of both foreigners and nationals

remain the most serious problems.

4. In the Democratic Republic of Yemen, the main human rights violations were manifest in the outcome of the bloody power struggle following the January 1986 revolt and there have been a number of political executions, indiscriminate arrests and large numbers of refugees have sought asylum in neighbouring countries. In the Arab Republic of Yemen, as in the Gulf States, the most important issues concern the status of women and deteriorating conditions in the prisons.

5. The Nile Valley States share similar problems and the situation is characterised by a considerable number of "exceptional" laws which endanger all achievements in the field of human rights. In Egypt, the law of Political and Electoral Rights has had a particularly negative impact on human rights. In Sudan, the continued application of the arbitrary "September Laws" and the on-going struggle (aggravated by the famine) between the Southern secessionists and the government have had serious implications for human rights.

6. In the Western Arab countries (Maghreb), the main feature of human rights violations is manifest in the issue of trade union freedoms. In Algeria and Libya there are similar bans on political associations. A special situation exists in Libya where there are major problems concerning freedom of expression, cultural freedom, the assassination of opponents and mass deportation of labour (2).

Types of violation

Political murders and executions: The Report refers to a large number of such executions in Iraq, Syria, Libya and the Democratic Republic of Yemen as well as to the prevailing conditions in Lebanon where responsibility for such human rights violations is attributed not only to a variety of militias which take the law into their own hands but also to the Lebanese authorities and to other forces operating inside the country.

Indiscriminate arrest and detention without trial: This is a widespread phenomenon common to all Arab countries without exception although its intensity varies. In some countries such as Iraq, Syria, Democratic Republic of Yemen, such violations are thought to involve thousands of political prisoners. In other countries, such as Saudi Arabia, there is no information available about the extent of the problem as a result of total suppression of information on judicial matters and judicial and human rights.

Political imprisonment and detention: This is a matter of grave concern and is the subject of frequent complaints from many sources about the conditions inside the prisons, ill-treatment of detainees and torture, sometimes resulting in death. Among the most notorious Arab prisons are the Tadmur Prison in Syria, the Abu Ghareeb prison in Iraq, Al Zarka prison in Jordan, Al Kalaa prison in Egypt, the mountain cave prisons in Morocco and the so-called "disappearance" prisons in Saudi Arabia.

Kidnapping: Although this phenomenon is particularly prevalent in Lebanon, similar events occur in countries such as Morocco, Libya and Iraq.

Extradition of refugees and political opponents: The Report observes that this is a common phenomenon in both Morocco and Libya and in some cases has resulted in the execution of political opponents. The Report also notes a number of agreements between Arab countries, such as the Gulf Security Agreement "legalising" this practice.

Mass expulsion of workers: This is another very serious

violation commonly observed. The practice culminated with the expulsion by Libya of some 100,000 Egyptian, Tunisian and Sudanese workers and the non-payment of a total of 60 million Dinar due to them.

Deportation: This phenomenon is particularly prevalent in Iraq which has carried out mass deportation of Iraqi citizens of Iranian origin or who had Iranian nationality at the time of the Ottoman Rule. Serious social problems involving the displacement of families, dispersion of children and economic hardship have been the result.

Repressive measures and the dispersal of demonstrations by force: This is a measure widely used in many Arab countries in order to deny the right to demonstrate, strike or protest in any other way. Brutal force was used during the so-called "bread riots" in both Morocco and Tunisia and has been used in Egypt, Jordan and Bahrain. An unprecedented degree of force was used to quell all opposition in the Syrian cities of Homs, Aleppo and Hama during the 1980s resulting in thousands of victims.

Conclusions

In general, the human rights situation in the Arab world has remained unfavourable since the establishment of the Arab Organisation for Human Rights, and has, in fact deteriorated in some Arab countries. The only noticeable improvement has been the development of political rights in Egypt, Kuwait and Sudan. Although the restoration of the parliamentary process in Kuwait in February 1985 did receive hopes both in Kuwait and in other Gulf States, these were dashed with the dissolution of Parliament early in 1986, the suspension of some provisions of the constitution and with the imposition of press censorship.

With regard to *economic, social and cultural rights*, it should be noted that despite noticeable progress achieved in this area in most Arab countries, large sections of the populace continue to be deprived of economic rights in many countries. These include, in particular, the right of every person to have the opportunity to earn living through freely chosen or accepted work and the right to favourable working conditions ensuring fair wages, a decent standard of living, safety at the workplace, equal promotion opportunities and the right to form trades unions free from interference by the authorities. Mention should also be made of the fact that the Arab citizen in a number of Arab countries cannot obtain employment in the public or private sectors without first obtaining a certificate of good conduct from the security service.

Another important issue is the extent to which *women* in many Arab countries are deprived of their basic human rights, especially in the field such as the right to freely leave the country, to participate in public affairs and to seek election or to vote in general elections.

With regard to *cultural rights*, it should be noted that in some countries not all individuals fully enjoy rights to education and that compulsory schooling equally for males and females is not applied. The result is a continuing high rate of illiteracy in the Arab world. Large sections of the populace are still denied the right to take part in cultural life, to benefit from scientific progress and to enjoy the degree of freedom indispensable to the pursuit of scientific research and creative activity especially in the field of higher and university education.

Such rights and fundamental freedoms are denied to the Arab citizen under a variety of pretexts such as the confrontation with Israel, the maintenance of national security, identification of priorities, theories of sovereignty, preservation of progress,

"raison d'Etat", and the immaturity of the people. All these excuses are used to permit what should not be permissible. Last, but by no means least, is the one-sided and self-serving interpretation of the Islamic doctrine (Shariaa).

Although such pretexts could easily be refuted, what really matters is that the ultimate outcome of human rights violations is the complete lack of participation by the citizen in public affairs and the ensuing feeling of insecurity and isolation. The result is that the sole preoccupation of the individual is the earning and maintaining of a living in a society which, as a result of deliberate policies, has grown to be dominated by consumerism. The strong and rich usurp the rights of the poor and weak; the over-riding desire is to make quick profits by any means and material values govern human relations at all levels. As a result of the denial of human rights in the Arab world, an unprecedented degree of social division and lack of patriotism has emerged. This has rendered the Arab nation vulnerable in the face of external aggression and domination over resources and policies which the ruled have been unable to resist.

It is clear that the promotion of human rights in the Arab world is an issue that goes beyond mere recommendations by expert groups or specialised bodies and that the problem will be resolved, rather by the outcome of the daily struggles of the people. However, there are contributions which are worth of careful consideration. The "Cairo Declaration" to which the Arab Organisation for Human Rights and a number of Arab bodies have contributed is of special importance. The Declaration includes a set of possible guidelines in this field. It appeals to Arab governments, Arab public opinion and to the mass organisations and associations concerned with human rights, as follows:

1. Arab governments

Arab governments should be aware that national security can be realised only when the security of individual citizens is assured and that their legitimacy cannot be achieved in the absence of popular consent and respect for human rights and fundamental freedoms. Therefore, Arab governments should :

- a) fulfill their international obligations under the "Universal Declaration on Human Rights" of 10 December 1948, the "International Covenant on Civil and Political Rights" and its "Optional protocol and the "International Covenant on Economic, Social and Cultural Rights" of 1966. Arab governments which have not yet ratified these instruments are called upon to do so and to take all necessary steps in order to formulate legislation to guarantee the prescribed rights for all Arab citizens;
- (b) abolish all exceptional laws, courts, councils and emergency measures and release all detainees or bring them before ordinary courts in order to give them access to a defence counsel of their choice;
- (c) cease all forms of physical and psychological torture, enact legislation making torture a punishable offense and ensure the implementation of such laws.

2. Arab public opinion

Arab public opinion should realise that the defeats suffered by the Arab nation over the past years are neither an inevitable destiny, nor an indication of lack of capability on the part of the Arab peoples, but rather a result of the incapacity of and failures by the different regimes.

Arab public opinion should also be aware that the peoples of the Arab nations have, in the past, demonstrated their ability to make sacrifices and have achieved remarkable successes and changes. A major, if not the most important, cause of the present crisis lies in

the arbitrary denial of the right of the Arab peoples to participate in the determination of their future and the defence of their homeland. This marginalisation of the people is manifest, *inter alia*, by the denial of fundamental rights and freedoms and flagrant violations of human rights.

Bearing this in mind, the Arab peoples are called upon to:

- (a) reject and discredit all attempts to trade-off human rights and basic freedoms for other allegedly popular demands and goals. The achievement of social justice, economic development, Arab unity or the struggle against an external enemy should not be accepted as pretexts to deny freedoms and undermine the dignity of the Arab peoples. The demands and objectives of the Arab peoples are integral and indivisible;
- (b) realise that Arab governments, no matter how well-intentioned, will not take the initiative in observing let alone protecting human rights, nor will they allow the people to exercise its fundamental freedoms. Arab public opinion should, therefore, urgently endeavour to regain such rights by all legitimate means. It should provide material and moral support to popular Arab organisations and associations defending human rights. Arab citizens are called upon to join such organisations in both national and pan-Arab spaces.

Mass organisations and associations

Mass organisations and associations, particularly trade unions and professional associations should realise that it is incumbent upon them as organised entities to be in the forefront of the struggle to restore and protect human rights and fundamental freedoms, especially in times of national crisis. They are, therefore, called upon to:

- (a) give the highest priority to the issue of human rights and fundamental freedoms and, to this end, to establish specialised committees within their organisations and to give prominence to the issue in their publications;
- (b) provide material and moral support to organisations, associations and committees active in the defense of human rights and fundamental freedoms at the national and pan-Arab levels;
- (c) actively participate in campaigns to heighten the awareness of Arab public opinion with regard to the importance of defending human rights and fundamental freedoms and exerting pressure on Arab governments to respect such rights and freedoms and to refrain from all violations thereof.

The Arab Organisation for Human rights believes that, in order to break this disastrous deadlock, it is absolutely essential that basic civil, political, economic, social and cultural rights of the Arab individual should be guaranteed. The starting point is to inform the citizen of his rights through publications, information and education and to urge him to use all peaceful means to exert pressure on Arab regimes to observe and protect such rights. This can be achieved only through independent legislative and judicial institutions in which all citizens are equally entitled to participate. Such institutions should have a guaranteed and unrestricted right to question the executive about any action which contravenes the rule of law.

(1) *The AOHR publishes a semi-periodical newsletter, available in Arabic and English.*

(2) *The latest "Urgent Bulletin" of the AOHR consists of an Appeal to halt violations of human rights in Tunisia (N° 5/1987).*

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