

# **ARAB ORGANIZATION FOR HUMAN RIGHTS**



## ***Human Rights Situation In The Arab World***

### ***Introduction to AOHR report for 1990***

**Cairo**  
**May 1991**

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THE HUMAN RIGHTS SITUATION  
IN THE ARAB WORLD IN 1990

INTRODUCTION

Whenever the AOHR team of researchers begins the preparation of its annual report, it is faced with the persistent question: in what direction are human rights headed in the Arab World? That question has become even more persistent this year due to the magnitude of the developments that have taken place in the field of human rights in the region, the extent of the probable threats in this regard and also the fact that this year's report is the fifth in the series of AOHR annual reports that first appeared in 1987, which could provide an opportunity for a comparative study of indicators of the region's progress in this field.

As far as collective human rights in the Arab World are concerned, 1990 was a year of tribulation. While Israel, with the support of the United States of America, continued to defy the international consensus by denying the Palestinian people their right to self-determination, the Kuwaiti people lost their national independence and their right to self-determination. The Iraqi invasion created a situation of widespread unrest in many countries and sectors and the region experienced the largest wave of migration and expulsion in its modern history. Hundreds of thousands of Arab and foreign workers and residents lost their rights and the economic embargo imposed on Iraq and Kuwait posed a real threat of famine in those two countries. Natural disasters and the exertion of political pressures also created a state of famine in the Sudan. The civil wars and ethnic disturbances that have disrupted stability in Somalia, the Sudan, Mauritania and Lebanon remained a source of intense regional concern for most of the year. Although the legitimate Lebanese Government succeeded in liquidating the secessionist movement led by General Michel Aoun and was able to implement the plan for a unified Beirut, the situation continued to deteriorate in the Sudan, Somalia and Mauritania. Of the structural reforms that were widely discussed throughout 1989, some turned out to be minor, as expected, in Iraq, Somalia and Syria and others were postponed, as in the case of Jordan, due to the momentous developments in the region. In some countries, such as Egypt and Tunisia, the manner in which these reforms were introduced failed to expand the base of political participation, which continued to be monopolized by the ruling party, with independent candidates and other parties playing only a symbolic role. Indicators of progress in this field, which appeared for the first time in some of the Gulf States, gave rise to varying interpretations and, although the fact that they

constituted a response to the challenge posed by the Gulf crisis should not detract from their value, it is feared that they might remain solely a public relations exercise to influence public opinion in the USA, which played the leading role in tackling the Gulf crisis.

#### I. THE CONSTITUTIONAL AND LEGAL FRAMEWORK

During the year, Somalia ratified the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights, the Optional Protocol thereto, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The announcement by unified Yemen of its commitment to the international obligations of its two component countries led to the unified State's accession to the two International Covenants, which had previously been ratified by the People's Democratic Republic of Yemen. As a result, the number of Arab countries which have ratified the International Covenants now amounts to 12. The eight countries which are still reluctant to accede thereto are the group of countries forming the Gulf Cooperation Council, Djibouti and Mauritania. Only three Arab countries have ratified the Optional Protocol to the International Covenant on Civil and Political Rights<sup>(1)</sup> and only five Arab countries have ratified the Convention against Torture. <sup>(2)</sup>.

The Arab contribution has been modest in regard to accession to the Convention on the Rights of the Child. Although this convention has been signed by 10 Arab countries, by the end of the year it had been ratified by only three of them, namely Egypt, the Sudan and Djibouti.

Considerable changes took place in the constitutional and legal framework of many countries of the region in 1990. Unified Yemen proclaimed a unified Constitution and, only two days before its invasion of Kuwait, Iraq announced its new draft Constitution, which had been widely discussed since November 1988. Lebanon made substantial amendments to its Constitution in order to incorporate the principles agreed upon in the Taif Agreement. The repercussions of the Gulf war precluded the promulgation of the Jordanian National Charter in spite of the eager start that had been made by its drafters, and the surprise of the year was the announcement of amendments to the basic laws of some Gulf States.

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(1) Algeria, Libya and Somalia.

(2) Algeria, Egypt, Libya, Somalia and Tunisia

In the field of legislation governing freedoms and human rights, the Egyptian Government amended some provisions of the Act regulating the exercise of political rights, as well as some provisions of the People's Assembly Act, and promulgated legislation modifying some electoral constituencies. Yemen promulgated a legislative act regulating the press and another regulating political parties and Algeria amended its Electoral Law and promulgated an Information Act. The Jordanian Council of Ministers approved a new Defence Act and Syria introduced a limited legal amendment concerning the application of the Emergency Act which has been in force since 1963.

The first, and possibly the most important, of these constitutional developments in regard to human rights was the proclamation of the Constitution of the unified State of Yemen. This Constitution, comprising 136 articles, contains a long list of guarantees concerning, in particular, personal rights and freedoms and protection of detainees from arbitrary acts on the part of authorities. It also restricts the power of the Presidium to proclaim a state of emergency and makes provision for a number of safeguards to ensure the independence of the judiciary. It guarantees freedom of thought, as well as freedom to express opinions, and recognizes the right to form political, professional, trade-union, scientific, cultural and social organizations and national federations. It guarantees the right of citizens to vote, and stand as candidates, in elections to legislative and other bodies, confines electoral qualifications to the nationality and age of the voter, and adds two further requirements for candidates, namely literacy, integrity and good conduct. It vests the National Assembly with the right to withdraw confidence from the Government.

However, like all Arab constitutions, the new Yemeni Constitution leaves the regulation of most of these rights to legislative instruments. The two instruments that have been promulgated reimposed many restrictions on these rights. The first instrument, entitled the "Press Act" and which one AOHR observer in Yemen described as the "Prohibitions Act", was followed by the "Political Parties Act", the draft of which was published in the Al-Mithaq newspaper (edition 419 on 12 November 1990) and is expected to be promulgated without any substantial modification. This bill of law aroused many apprehensions, since it vests the Committee on Political Parties with the right to license and not merely to register. Its provisions also allow ample scope to derogate from the independence of political thought and it accords extensive powers to the Committee on Political Parties. Some observers even regard the Press Act and the draft Political Parties Act as "the most serious obstacles to a free and active civil society".

The draft Iraqi Constitution proved to be a disappointment, as had been expected in the light of published accounts of the debates concerning guarantees of human rights and fundamental freedoms which were held by the national leadership of the Baath Party in 1989. In its 179 articles, its drafters take back with one hand all the guarantees that they grant with the other. For example, although art. 48 guarantees the confidentiality and inviolability of postal, telegraphic and telephone communications, the following paragraph of the same article expresses the reservation "unless otherwise required in the interests of justice and security". Furthermore, while recognizing freedom of opinion, expression, the press and publication, the document permits the imposition of censorship on the press and literary works "in accordance with the law". Although it makes full provision for safeguards for rights and freedoms, the Constitution leaves the question of their regulation to legislative acts.

With regard to political pluralism and the right to form and join political parties, which is recognized in the draft, these matters are not merely left to regulatory legislation; in fact, the organization and activities of parties are restricted in so far as the draft prohibits the establishment of political parties, associations and clubs "which are based on the involvement of religion in politics, atheism, sectarianism, regionalism or the glorification of non-Arab identity and whose ideology, practices or conduct are undemocratic". These expressions, which have a specific connotation in Iraqi political terminology, exclude entire political groupings. The political qualifications required of prospective candidates for election to the National Assembly and governmental posts include belief in "the principles and goals of the National Revolution of 17-30 July", an effective and distinctive contribution, in keeping with the candidate's capabilities and potential, to "Saddam's glorious Qadisiya campaign", belief that the campaign crowned Iraq and the Arab nation with further glory and that it was "the only way to protect Iraq's territorial integrity, waterways, air space, security and holy places", belief in socialism, manifestation of socialist conduct, and the requirement that the candidate must not have been convicted of "the crime of conspiring against the National Revolution of 17-30 July or its system of government, attempting to overthrow the regime or entering into contact with a foreign body". A distinction is also made in regard to the right of political forces to engage in political activity; although all political parties are forbidden to engage in political or party activity in the armed forces and the internal security forces, this does not apply to the Baath Party which is authorized to undertake such activity.

The Lebanese constitutional amendments were introduced pursuant to the national reconciliation agreement, which necessitated modification of the preamble to the Constitution, as well as 29 of its articles. These amendments declared the abolition of political confessionalism to be a basic national goal, which should be achieved in accordance with a phased plan. They emphasized the unity of Lebanon and the inadmissibility of differentiating among its people on the basis of any affiliation whatsoever. The amendments also stipulated that, following the election of the first National Assembly on a non-confessional national basis, a Senate would be established in which the leading families of all the spiritual communities would be represented but the powers of which would be confined to matters affecting the national destiny. Until such time as the National Assembly passed a non-confessional electoral law, parliamentary seats would be distributed in the following manner:

- (i) Equal representation of Christians and Muslims;
- (ii) Proportional representation of the sects of the two communities;
- (iii) Proportional representation of the regions.

The amendments stipulated that the National Assembly, elected on the basis of equal representation of Muslims and Christians, must take the measures needed for the abolition of political confessionalism in accordance with a phased plan. It must also establish a national commission presided over by the President of the Republic and including among its members eminent political, intellectual and social personalities, in addition to the Speaker of the National Assembly and the Prime Minister, with the task of studying and recommending to the National Assembly and the Council of Ministers ways and means to abolish confessionalism, and monitoring the implementation of the phased plan. In the interim period, the communities would be represented equally in the Government, the principle of confessional representation would be abolished and posts in the civil service, the judiciary, the military and security establishments and the public and semi-public institutions would be allocated on the basis of competence and ability, in accordance with the requirements of national concord, with the exception of grade I and equivalent posts which would be attributed equally to Christians and Muslims, without allocating a particular post to a specific community, in accordance with the criteria of competence and ability.

In Jordan, a committee consisting of 60 members representing the various political forces was formed to draft the National Charter. A lively debate took place concerning the procedure for the approval of the Charter, which the five sub-committees established by the main committee regarded as unclear. A legal committee which was formed to assess the status of the Charter under Jordanian law and determine the constitutionality of a public referendum thereon reached the conclusion

that such a referendum would be unconstitutional and that, if it was unavoidable, the Constitution would have to be amended and a Referendum Act would have to be promulgated. By the end of the year, opinion was in favour of submitting the draft Charter to a people's congress for adoption. AOHR has also learnt that the Jordanian Parliament approved a new Defence Act on 30 December 1990 after repealing the former Defence Act, which had been in force since 1935, together with all the legislation promulgated thereunder.

The new Defence Act vests the authorities with extensive powers to detain persons on mere suspicion, to confiscate and suspend the publication of newspapers, to dissolve political parties and trade unions, to restrict individual freedoms, to search and seize vehicles, to evacuate or isolate areas and to impose curfews. However, before the new Act was approved, amendments were introduced making the use of those powers subject to parliamentary and judicial supervision and granting injured parties the right to lodge an appeal with the Supreme Court against measures taken under the terms of the Act and also to claim compensation for any damage suffered.

In Syria, a limited legal amendment reduced the scope of the Emergency Act, which has been in force since 1963, to matters relating to State security and public order. In March, the Syrian President promulgated a legislative decree calling upon the Deputy Martial Law Administrator to refer commodity supply and pricing offences to the ordinary courts and remove them from the jurisdiction of the military courts. AOHR is of the opinion that this development does not imply a notable legal reorientation in the field of human rights, since it reaffirms the applicability of the Emergency Act to matters more closely related to those rights, which are the main target of the Act.

The changes made in Egypt's legal framework are attributable to the ruling of the Supreme Constitutional Court, handed down on 19 May 1990, under which article 5 bis of the People's Assembly Act No. 38 of 1972 was declared unconstitutional. This ruling, which invalidated the composition of the People's Assembly, necessitated the dissolution of the Assembly and the holding of new elections. Although the amendments were essentially a response to a popular demand for the abolition of the system of electoral lists and a return to the system of separate constituencies, they gave rise to heated debate in Egyptian political circles. Many of the political forces protested against them and even declared that they would boycott the elections held in accordance therewith. There were three main reasons for this attitude: (i) the manner in which those legislative provisions were promulgated, since they were drafted solely by the ruling National Democratic Party, without representatives of other political forces being permitted to participate in their discussion in the governmental committee that was formed to review the existing legislation; (ii) the unconstitutionality of some of their provisions, particularly article 24 of the new



Electoral Act, as amended, in so far as it violated article 88 of the Constitution, which requires full judicial supervision of the voting procedure, by designating as chairman of the Sub-Committee a civil servant who was not a member of the judiciary; in fact, an appeal against this provision was lodged with the Supreme Administrative Court, which upheld the appeal and ruled that a complaint in this regard could be submitted to the Supreme Constitutional Court; (iii) the failure of the new legislation to take into account the set of principles which had been formulated by political parties, trade unions, the Bar Association and others to ensure the proper conduct and fairness of the elections.

In March 1990, the Algerian Parliament passed an amendment to the Electoral Act permitting application of the system of proportional list representation instead of the system of absolute majority. Under this amendment, the party which obtains an absolute majority of votes is granted a number of seats proportionate to the votes that it obtains, instead of all the seats as was the case under the former system. If no party wins an absolute majority, the party obtaining the largest number of votes is granted half the seats, the others being distributed proportionally among the parties that obtained at least 7 per cent of the total number of votes cast.

The Information Act promulgated in April 1990 put an end to the State's monopoly of the information media by granting political parties, associations and individuals the unrestricted right to publish newspapers and operate their own broadcasting and television stations. The Act affirmed the right of citizens to exercise their fundamental, constitutionally recognized freedom of thought, opinion and expression.

In the Gulf States, discussion of the development of some of their legal systems was the surprise of the year. The first signs of change were observed in the position of the Kuwaiti Government in exile. At the Jiddah Conference, which the Government convened in October 1990 and which was attended by representatives of all sections of the Kuwaiti people, the Government promised that, after the country's liberation, it would resume the application of the suspended articles of the 1962 Constitution and expand popular participation in government, even though this had been violently opposed and had given rise to clashes throughout the first half of the year. In Saudi Arabia, the authorities announced their intention to apply new administrative regulations. According to declarations by the Saudi monarch, these regulations would "further the public interests of the State and help it to discharge its tasks in a manner consistent with the continuous progress that the Kingdom was making in all fields and conducive to the requisite degree of shared responsibility". These regulations related, inter alia, to the basic law, the Consultative Council and the country's system of administrative sub-divisions. However, nothing tangible had been done in this regard up to the time of preparation of this report.

Sultan Qaboos announced a similar development in the Sultanate of Oman, consisting primarily in the establishment of an elected Advisory Council. Although the details of this plan had not been made public by the end of the year, subsequent declarations by the Omani ruler revealed that the Council would comprise 59 elected members representing the Sultanate's administrative sub-divisions and its chairman would be appointed by the Government. The elections would be conducted in two stages; in the first stage, the notables of each district would select three candidates and, in the second stage, one of these would be elected by the population of the district. According to those declarations, the Council's role would be to present the people's points of view, propose courses of action and act as a bridge between the Government and its citizens. However, no date had been set for the holding of these elections up to the time of preparation of this report.

## CIVIL AND POLITICAL RIGHTS

### 1. THE RIGHT TO LIFE

In 1990, the region remained the scene of widespread acts of violence to which large numbers of Arab nationals and a few foreigners fell victim in some Arab countries. Scores of Palestinians died as a result of Israeli repression in the occupied Palestinian territories and hundreds of Palestinians and Lebanese were killed in Israeli attacks on Lebanon. Civil wars and disturbances of an ethnic nature continued in four countries of the region in which thousands of persons died in armed conflicts in southern Sudan, northern Somalia and Lebanon in the first half of the year or as a result of the severe famines that afflicted northern Somalia and southern, western and central Sudan, or the ethnic disturbances in western Sudan and Mauritania.

The Iraqi invasion of Kuwait entailed a large number of deaths during the invasion itself and as a result of Iraqi measures to suppress the resistance and impose order. Many persons also died of hunger and thirst after losing their way in the desert in a desperate attempt to flee the country.

In addition to the victims of external aggression and armed political conflicts, widespread violations of the right to life continued to be committed in many Arab countries as a result of acts of repression and police harassment of political opponents of the regimes, the imposition of death sentences in political trials, and the practice of torture in prisons and illegal places of detention.

Within the context of acts of repression and police harassment, the Iraqi authorities were responsible for the largest number of victims in the series of campaigns of repression that they launched against their opponents in northern and southern Iraq since the beginning of the year. These are illustrated by the January campaign against a group of Kurdish citizens, who had allegedly taken part in an anti-Government demonstration in the town of Shahrzur, in which 23 persons were killed, and another campaign against army deserters which was undertaken from 10 to 23 January in 30 towns and villages in the southern region in which opposition sources estimated that thousands of Iraqi citizens were killed. This phenomenon assumed even more alarming proportions during the Iraqi occupation of Kuwait (to which reference will be made in a separate section) and affected Kuwaiti as well as Iraqi citizens.

Dozens of persons were also killed in Egypt and the report refers to 45 such cases. Most of the victims belonged to Islamic groups and died during the campaigns of harassment and arrest which were launched by the authorities. The report also notes that eight persons were killed and 45 others injured in the Kordofan province of the Sudan when the police broke up violent demonstrations of protest against the detention of some railway workers' leaders after a strike which had been brought about by the dismissal of several thousands of their fellow workers. The report also notes dozens of deaths attributable to the repressive measures taken by the Moroccan security authorities in the wake of the disturbances which occurred at Fès in the middle of December. Whereas the Moroccan authorities acknowledged that five persons had died and 127 had been injured, the Moroccan trade unions and human rights organizations affirmed that the number of victims amounted to more than 33 killed and 200 injured and other sources estimated that the death toll could amount to 65. In the middle of the year, the security forces in Somalia launched two vicious attacks against civilians in which the Presidential Guard opened fire on spectators who had shouted slogans against the Somali President in the Mogadishu Sports Stadium at the beginning of a regional football championship. AOHR sources estimated that about 65 persons were killed and 200 injured during this incident, although the Somali authorities put the figure at only seven dead and 18 injured. A further undetermined number of persons were killed or injured when the security forces opened fire on demonstrators who had gathered around the State Security Court during the trial of some politicians accused of issuing a statement against the Government. This occurred before the battles spread to the capital Mogadishu at the end of the year, causing thousands of deaths.

Death sentences in political trials were another source of violations of the right to life in some countries of the region. The largest number of these sentences were imposed in Iraq and the Sudan. In the case of Iraq, it was impossible to verify the details of these death sentences, since reports referred to persons convicted of evading military service, political opponents and military personnel accused of planning a coup d'état or opposing the invasion of Kuwait. Death sentences were also passed on military personnel and civilians accused of acts of theft and pillage in Kuwait. In the Sudan, 31 citizens were executed during the year after being convicted of political offences at summary field trials which failed to meet even the lowest standards of justice.

Torture also remained a source of violations of the right to life and the report refers to incidents in which it is suspected that death resulted from torture and ill-treatment at police stations and security centres in a number of countries of the region, including Egypt, the Sudan, Libya, Tunisia, Morocco, Mauritania, Iraq and Syria. This phenomenon also spread to Kuwait during the Iraqi occupation.

## 2. THE RIGHT TO LIBERTY AND SECURITY OF PERSON

The right to liberty and security of person continued to be violated on a large scale in many countries of the region. In the case of the Arab countries of Africa, arbitrary detentions continued, as illustrated by the large number of administrative detentions ordered under the Emergency Act. Most of the detainees belonged to Islamic groups and their detention was accompanied by serious violations, including physical and mental torture, detention of the families of wanted persons, repeated detention and failure to release some detainees in spite of court orders to that effect. The scope of these measures was extended towards the end of the year following the assassination of the Speaker of the Egyptian People's Assembly and the outbreak of the Gulf crisis. In the Sudan, the authorities held an average number of about 300 persons in detention, without charge or trial, for most of the year. There was a turnover of scores of detainees within this average number and the actual figure virtually doubled in the final months of the year. Most of the detainees belonged to political, trade-union and professional associations and their detention was accompanied by serious violations consisting in ill-treatment, incarceration in places other than the legally designated prisons, and torture. In Tunisia, members of the Islamic "al-Nahdha" party were subjected to two campaigns of mass arrests; about 400 persons were detained in the first and 200 in the second. Reports from Libya indicated that the authorities were still holding about 100 political detainees who had been incarcerated since 1989 after demonstrations and clashes with the security forces and revolutionary committees. In June, AOHR received reports concerning the detention of

several hundred citizens who, after fleeing from their homeland, had returned there in the light of a pledge by the leader of the Libyan revolution to guarantee the public freedoms of all citizens, regardless of their political opinions, provided that they had not been charged with specified offences or referred to the courts for trial. Those reports contained the names of 16 such prisoners. In Mauritania, ethnically motivated detentions and acts of harassment continued throughout the year and about 1,000 persons were detained in the wake of the attempted coup d'état towards the end of the year. In Morocco, the authorities detained most of the members of the Al-Adl wa al-Ihsan (Justice and Charity) group, including seven members of its advisory bureau, most of whom were university professors and students. Two campaigns of random arrests were also launched at the beginning and the end of the year. More than 1,000 persons were arrested in the first campaign, which was launched in January 1990 within the context of endeavours by the provincial authorities at Casablanca to expel Moroccans who had migrated there from desert areas. In the second campaign, which was launched in December, more than 1,400 persons were arrested in the searches that were conducted on Government orders in many towns before, during and after the general strike called for by the Democratic Labour Confederation (CDT) and the General Federation of Moroccan Workers (UGTM). At the time of preparation of this report, human rights organizations estimated the number of political detainees who were still being held at about 650. In Somalia, the authorities launched a number of campaigns in which hundreds of persons were arrested before the civil war spread to the capital itself at the end of the year.

The eastern Arab countries also witnessed further spates of detention. Large numbers of Iraqi citizens were detained after responding to the amnesty decrees promulgated by the Iraqi authorities and the reports received indicated further harassment of opponents because of their opinions or their peaceful activities. The deplorable practices of the Iraqi authorities reached a new peak in their treatment of Kuwaitis during the period of occupation and also extended to members of the Iraqi opposition living in Kuwait and Iraqis living in Iraq itself who were opposed to the invasion. The phenomenon of long-term detention without charge or trial continued in Syria and AOHR heard of a number of new cases of detention, including the detention of persons charged with membership of banned communist organizations, members of the Nasserite movement and university students. About 4,000 Palestinians were still detained at the end of the year. AOHR also received reports indicating that 33 persons who were arrested in Jordan during the funeral of Mu'tazz Subhi Hamdan had been charged with riotous assembly and violations of public security. They were subsequently rearrested on the same charges even though the magistrates' court at Ramtha had agreed to their release on bail. A number of political prisoners also remained incarcerated after serving their sentences.

The phenomenon of long-term detention without trial continued in the Gulf States. In Saudi Arabia, dozens of persons have been detained since 1988 and 1989 on suspicion of being members or supporters of banned political organizations and several students, theologians and journalists were detained in 1990. Scores of women were detained on 6 November until the morning of the following day after taking part in a peaceful demonstration in which they demanded the right to drive private vehicles. In Bahrain, about 50 citizens were detained in the middle of the year for holding views opposed to the policies of the ruling regime. Reports received by AOHR indicated that the authorities had refused to send them for examination or trial. Moreover, 22 members of the families of the political detainees held in connection with the case of the Islamic Organization who had attempted to return to the country in August 1990 were detained and deported. The deportees included six wives of political detainees who had been incarcerated since 1981, as well as their 16 children whose ages ranged from 9 to 14 years.

Violations of the right to liberty and security of person were not confined solely to the phenomenon of detention. In fact, this right also continued to be violated through the phenomenon of disappearance and, in 1990, the controversy in this regard focused on the disappearance of Moroccan nationals in general, and persons from the Western Sahara in particular. The same phenomenon also became more widespread in Mauritania and there were further reports of disappearances in Iraq, especially among the Kurds who returned from refugee camps in Turkey after the Iraqi authorities promulgated the amnesty decrees.

In Morocco, the phenomenon of disappearance gave rise to widespread international concern when four members of the family of General Oufkir who had disappeared since 1972 managed to escape for several days, during which they contacted their lawyer and the French information media. It is well known that about 200 Moroccans, including political opponents and about 100 military personnel, have disappeared during the last 30 years after being taken into police custody. About 800 civilians from southern Morocco and the Western Sahara have disappeared since the mid-1970s and they are widely believed to be still alive but held in secret places of detention. This belief has been strengthened by the fact that some of them have escaped or been released and others have succeeded in smuggling out letters.

United Nations experts raised the question of disappearances in Morocco, and particularly the information that had been received concerning the family of General Oufkir, with the representatives of the Moroccan Government during the consideration of Morocco's report to the Commission on Human Rights in November 1990. However, the Moroccan representatives failed to provide convincing explanations and regarded the fate of the Oufkir family as "an internal Moroccan affair which H.M. the King of Morocco would settle in an appropriate manner and which should not be used for political or other biased purposes".

In Mauritania, where this phenomenon became more widespread during the year, the operations which the Government undertook against members of the Fulani ethnic group led to the detention of hundreds of villagers, the fate of many of whom remains unknown since their relatives were unable to find out what happened to them and there was no authority with which they could lodge a complaint without running the risk of being detained themselves. Most of the detainees were from the Alaj and Sailbani areas in which dozens of such cases have been reported.

In Iraq, this phenomenon continued to constitute a basic feature of violations of human rights and reports focused on the disappearance of hundreds of Iraqi Kurds and some Iraqi Assyrians, Arabs and Turkmen who tried to benefit from the official amnesty decrees promulgated by the authorities. Of the 10,000 refugees who returned to Iraq on the strength of the five amnesty decrees promulgated since September 1988, many have disappeared and some have been tortured and executed. Many of them were taken to the Bahraka camp and other so-called "residential complexes" situated near the cities of Sulaimaniya and Arbil in northern Iraq. Several human rights organizations expressed deep concern that these returnees would meet the same fate as the previous occupants of those camps who had disappeared after being resettled there, as happened in the case of about 8,000 male members of the Barzani clan who had been forcibly taken from the Bahraka, Qush Tepa, Harir and Diyana residential complexes to unknown destinations in August 1983 and whose fate is still unknown since the Iraqi authorities deny all knowledge of their whereabouts.

### 3. TREATMENT OF PRISONERS AND DETAINEES

Complaints of ill-treatment of prisoners and detainees continued in all the countries of the region. In Egypt, there were ongoing complaints of torture and ill-treatment of detainees in general and the report refers to a number of specific cases in which the victims filed complaints with the Department of Public Prosecutions. However, the authorities failed to take measures to curb this phenomenon. The report also refers to numerous manifestations of ill-treatment at Tura prison, especially in regard to prisoners held in connection with the Jihad case, some of whom were not allowed to receive visitors and others were denied the minimum standard of medical care, particularly since their families were not permitted to bring them medicines or medical specialists to treat some of the serious diseases with which prisoners were afflicted as a result of the inhuman living conditions in their cells, not to mention the imposition of punishments involving flogging and long periods of solitary confinement. The Egyptian Human Rights Organization has petitioned the Attorney General to take legal measures to investigate these complaints and to bring criminal proceedings

against the officials accused therein. In the Sudan, there were ongoing complaints concerning the detention and abominable torture of citizens in premises under the control of the security forces, i.e. outside the legally designated prisons. AOHR has received complaints concerning 60 cases of torture, including one which led to the death of a medical practitioner and two in which the victims are believed to have died as a result of torture. There were also ongoing complaints concerning the deteriorating situation at Shala desert prison which, in spite of the extremely harsh climatic conditions and the lack of water and health care, was overcrowded to the extent of more than double its absorption capacity. The same applied to Port Sudan prison. In Tunisia, there were renewed complaints of torture after a lull following the assumption of power by President Zine El Abidine Ben Ali and this report refers to 23 complaints of torture, in three of which death is alleged to have resulted from torture at security centres. In Algeria, official recognition was given to the "Algerian Committee against Torture" and, in October, permission was granted for a commission of inquiry to visit one of the prisons for the first time. However, numerous sources reported cases of torture, particularly after the demonstrations at Ténès (in western Algeria) where 22 persons were detained, severely beaten, abused and urinated upon by security officers at the Ténès police station before being taken to prison. The commission of inquiry formed by the Algerian League for Human Rights was unable to interview the detainees, since the Attorney General had prohibited such inquiries on the ground that no complaint had been submitted by the victims. According to the Algerian Committee against Torture, about 60 detainees who escaped from Blida prison in September were subsequently caught and tortured. A report issued by the Committee and the Algerian League for Human Rights stated that the guards flogged the detainees with rubber truncheons, electric cables and whips. The commission of inquiry added that the detainees, most of whom were youths, had to sleep on the floor and were given only one piece of bread every day. In Morocco, there were also ongoing complaints concerning torture and conditions of detention. The principal complaints related to Tazmamart prison in southern Morocco, in which persons are allegedly held in solitary confinement for several years. Some of its inmates, who were sentenced to 5 or 10 years' imprisonment in 1972, have apparently not returned to their families after serving their sentences and it is common knowledge that some of them died and were buried in the prison. Further complaints were received concerning overcrowding in Moroccan prisons and it was reported that 20 of those prisons which were designed to hold 7,000 persons were currently accommodating 37,000 in vastly overcrowded conditions which were giving rise to major social and health problems and endangering the lives of the prisoners and detainees. AOHR has received complaints to the effect that the deteriorating living conditions and the lack of proper medical care and hygiene at Essafi prison in Morocco have led to the spread of diseases. It is well known that most of the inmates of Essafi civilian prison are



members of Islamic groups who have submitted numerous complaints to the authorities concerning their situation and have even felt obliged to stage a number of hunger strikes in an unsuccessful attempt to draw the administration's attention to their problems.

In Jordan, AOHR continued to receive complaints from Zarqa, Sawaqa, El-Jafr and Qafqafa prisons and many political prisoners who had served their sentences but were still detained in Jordanian prisons intensified their demands for release. The most emphatic expression of these demands was observed shortly before the Id al-Adha (Feast of Sacrifice) at Zarqa military prison where the detainees set fire to their bedding and engaged in fist-fights with the prison guards, as a result of which many persons on both sides suffered various injuries and the prison cell blocks were gutted by the fire. It is well known that the prison in question accommodates 40 detainees belonging to various Palestinian groups, as well as a number of detained members of the Jordanian army and public security forces. Some of these detainees were incarcerated after the events at the camps.

AOHR also received complaints from Syria concerning the deteriorating conditions and "deliberate" neglect of the health of political detainees at Izra prison. According to these complaints, some of the detainees were suffering from chronic diseases for which they were not receiving proper medical care and it was alleged that one political detainee had died as a result of torture.

Further complaints referred to the ill-treatment and deteriorating health of Palestinian detainees in Syria, particularly those held in the "military security", "fedayeen police", "PLO" and "Palestine" sections of the secret police detention centres at Damascus, at Tadmur prison and at the Sidnaya and Izra detention centres. These complaints expressed concern at the dangers threatening the lives of some of those detainees, one of whom had allegedly died as a result of torture.

In Somalia, complaints continued to be received concerning deplorable conditions of detention, particularly at Jalshir prison and reports reaching AOHR referred to numerous cases of physical and psychological torture, ill-treatment, malnutrition, inadequate ventilation and clothing, prohibition of visits, solitary confinement and overcrowding in various Somali prisons. Jalshir prison, on which AOHR received a detailed report, was accommodating more than 1,600 detainees, although it was designed to hold only 600. One of its four cell blocks accommodated persons sentenced to death by the National Security Court and each of its cells, covering an area of only six square metres, held 15 detainees. Political prisoners were not segregated from common criminals, nor were sick detainees segregated from their healthy fellow prisoners until they were on the point of death, when they were moved to a cell which the prisoners called the "transit room", where they were left to die.

In Bahrain, AOHR received numerous complaints to the effect that detainees and prisoners were subjected to acts of violence, torture and ill-treatment during interrogation with a view to extracting confessions and forcing them to incriminate themselves or testify against other persons. The Committee for the Defence of Political Detainees in Bahrain listed five aspects of violations of the rights of detainees and prisoners: denial of their right to meet their lawyers or families freely without being surrounded by security restrictions; detention for long periods without trial or appearance before an examining magistrate; detention for periods in excess of the sentence; the exercise of exceptional powers by the security forces and intelligence services; and the commission of serious offences and violations during detention or imprisonment. Complaints also referred to harassment of the relatives of citizens engaged in political activities or holding opinions opposed to the economic and social order, as well as the abduction of citizens in the streets and their incarceration in prisons without notifying their friends and relatives.

#### 4. THE RIGHT TO A FAIR HEARING

This right, in turn, was subjected to distressing violations in some countries of the region. The most widespread violations possibly occurred in Iraq although, as already indicated, it was not possible to verify many of the reports in this regard due to the circumstances of the Gulf crisis. The most evident violations of this right were observed in the Sudan where, on 24 April after the announcement of the discovery of an attempted coup d'état, 28 detainees were sentenced to death at summary field trials lasting no longer than two hours, in which they were refused legal representation and were not permitted to appeal to a higher court. According to reports received by AOHR, at least three of the accused were arrested three days before the announcement of the attempted coup d'état. Other reports received by AOHR indicated that a number of other officers appeared before military courts later in the month; four of them were sentenced to terms of imprisonment ranging from 3 to 15 years, four were cashiered and six were acquitted.

Twenty-four military officers who had been arrested in March 1990 and charged with conspiring to overthrow the Government were tried on 21 May by secret military courts and were likewise refused legal representation and the right to appeal to a higher court. One of them was acquitted, another was cashiered and the rest were sentenced to two years' imprisonment or life imprisonment, with the exception of two senior officers who were sentenced to death (although the President of the Command Council of the National Salvation Revolution subsequently commuted this penalty to life imprisonment).

In July 1990, AOHR received further complaints to the effect that eight military personnel had been denied legal safeguards at trials in which two of them were sentenced to death and the others to terms of imprisonment ranging from 3 to 12 years.

A notable phenomenon was observed in both Egypt and Morocco, namely the retrial of accused persons who had already been tried more than 10 years earlier (Egypt) or more than 5 years earlier (Morocco). In Egypt, the persons charged in connection with the disturbances on 18 and 19 January 1977 were retried by the Higher State Security (Emergency) Court after the President of the Republic (in his capacity as Administrator of Martial Law under the terms of the Emergency Act) referred the case once again to the judiciary and ordered the annulment of the judgements and the retrial of all the accused by another division of the Court. This decision was taken after the case had been referred from one court to another for a long time since 1977 and after the Higher State Security (Emergency) Court, in a judgement handed down on 19 April 1980, had acquitted all the accused of the charge of instigating the uprising of 18 and 19 January 1977 and establishing organizations for the purpose of overthrowing the basic economic and social orders in the State through the use of force. In the same judgement, it had found 20 of the accused guilty of possessing and distributing inflammatory pamphlets containing reports, statements and propaganda likely to disrupt public security. Eleven of the accused were sentenced to three years' imprisonment and the other nine to one year's imprisonment with hard labour. The 176 persons charged in this case were political activists and leaders of trade unions and professional and student organizations. Eleven of them died during the trial and the others suffered from a deterioration in their occupational and social status.

In this connection, AOHR is anxiously monitoring the decisions of the Administrator of Martial Law in Egypt, in which he has refused to ratify a number of legal judgements and, by virtue of his powers under the Emergency Act, has referred several cases back to the judiciary, including the case of the striking railway workers in which the court acquitted the accused on the ground that their legitimate right to strike was recognized in the international conventions to which Egypt had acceded, and also the case of the disturbances involving the Central Security Forces.

Reports reaching AOHR from Morocco criticized several aspects of the trials of the Al-Adl wa al-Ihsan group at Taroudannt, Kénitra, Mohammedia, Casablanca and Salé. According to those reports, the trials were vitiated by infringements of the regulations concerning the arrest of suspects, as well as violations of the Code of Procedure, particularly in regard to the period of time spent in preventive detention and falsification of the date of arrest in police records.

In many respects, the trial proceedings were not in conformity with the minimum requirements for a fair hearing, as set forth in article 14 of the International Covenant on Civil and Political Rights to which Morocco is a party. Moreover, some of the persons convicted in those trials were prisoners of conscience who had neither advocated nor resorted to the use of violence. Similar criticisms were also expressed concerning the trials of the persons accused in connection with the disturbances that took place in the middle of December. According to some of the reports received by AOHR, the trials were conducted, from the outset, as though the accused had already been found guilty; their requests to call witnesses were rejected and, in one of the trials, 52 persons who had been arrested during the riots were sentenced to imprisonment for terms of up to seven years after the court had spent less than 30 seconds questioning each of them.

Reports received from Tunisia criticized trials held at the beginning of the year. Seventeen persons who were arrested on 29 December 1989 during a demonstration around the Tawba Mosque were charged with riotous assembly in a public thoroughfare and acts of aggression against the security forces. They were tried, in summary fashion, in the late evening of 4 January 1990 in the absence of their lawyers, who had apparently been informed that the hearing was to be postponed. Twelve of them were sentenced to eight months' imprisonment and four others to four months' imprisonment. Some of them complained that they had been tortured during the period of "detention". During the hearing of the appeal on 16 March, their defence counsels challenged the legality of the trial, protested against the acts of torture and objected to the charges brought against their clients, as a result of which the penalties were mitigated.

There was no improvement in regard to this right in Syria in 1990. Jurisdiction in this respect continued to be exercised, in accordance with the Emergency Act, by the political courts which are not subject to any of the ordinary legal procedures. The decree reducing the scope of application of the Emergency Act merely restored the jurisdiction of the ordinary courts in cases involving commodity supply and pricing offences. The Syrian security authorities continued to organize sham trials of some political detainees, as illustrated by the establishment of a military court consisting of military security officers to try members of the Communist Action Organization who had been detained for three to four years. Accused persons appearing before such courts do not enjoy any right of defence and are not entitled to appoint lawyers or challenge the charges brought against them; the trial is virtually confined to a reading of the investigation reports, after which the court passes sentences that are not subject to any form of appeal.

## 5. FREEDOM OF OPINION AND EXPRESSION

Although ongoing improvements were observed in regard to the exercise of freedom of opinion and expression in Jordan, Algeria and Yemen, within the context of the process of democratization in those countries in 1990, complaints continued to be received concerning the restriction of this right in many other countries of the region. In Iraq, Syria and the Gulf States, the exercise of this right remained severely restricted and, after the Iraqi invasion, Kuwait lost its limited degree of freedom of opinion and expression. The authorities who came to power in the Sudan after the June 1989 revolution maintained the restrictions that they had imposed on all aspects of freedom of opinion and expression and continued to prohibit the publication of newspapers, with the exception of three which virtually constitute bulletins expressing the views of the army and the Government.

This report refers to many violations of this right in Arab countries. In Egypt, for example, a journalist working for the Al-Haqiqa newspaper was detained for one and a half months and subjected to severe torture and two of his colleagues working for the Al-Yasar magazine were questioned after the publication of an article that they had written. There was an increasing number of cases in which journalists were either detained after returning from abroad or prohibited from leaving the country and national newspapers were forbidden to publish some articles on the elections. One author and journalist was sent for trial by a military court for publishing a book on the intelligence service in the time of its former head Salah Nasr. In the Sudan, about 70 journalists were detained during the year. In Tunisia, Professor Moncef Ben Salem was sentenced to three years' imprisonment in May 1990 for disseminating "false and defamatory" information on the regime after an Algerian magazine published an interview with him in which he criticized the "secular character" of the Tunisian Government and referred to alleged acts of torture. In June 1990, the editor-in-chief of the weekly Islamic magazine Al-Fajr was indicted under section 44 of the Press Act, which prescribes a penalty of up to three years' imprisonment for any person who incites others to break the law. The article in question, which was critical of the Government, was written by Rashid al-Ghannoushi, the leader of the al-Nahdha movement. On 2 October, the newspaper Al-Badeel was ordered to suspend publication for three months after being accused of publishing thinly veiled defamatory articles and false reports and the Court of Appeal upheld that judgement. Two of the newspaper's reporters were also tried on the same charge and received suspended prison sentences. The editor-in-chief of the Haqa'iq magazine was tried on the charge of spreading false rumours after publishing an article entitled "a question of espionage" in which he suggested that the former Secretary of State for Security Affairs had links with Mossad

and the intelligence services of an Arab country and in which he raised questions concerning the assassination of the Palestinian leader Abu Jihad. The Criminal Court ordered him to pay a fine of 500 dinars. A leading member of the al-Nahdha movement was imprisoned after distributing a video tape concerning the circumstances of the death of Al-Tayyib al-Khammasi, who was shot near the university compound. The commentary on the tape suggested that the young man had not been killed during a demonstration.

In Morocco, the newspaper Al-Ittihad al-Ishtiraki was prosecuted in December for publishing a report on the judiciary in the prefecture of Greater Casablanca in 1989. The Ministry of Justice brought proceedings against the newspaper on the ground that the report contained defamatory statements detrimental to the judicial authority. On 22 December, the President of the Moroccan Press Association and editor-in-chief of the newspaper Al-Alam was summoned to appear before a court of first instance at Rabat on the charge of publishing "erroneous and biased" reports on the distressing events that had taken place in Morocco. In Somalia, a poet, a playwright and a singer were detained after the latter had sung poetical verses criticizing some aspects of governmental corruption.

#### 6. FREEDOM OF ASSOCIATION AND THE RIGHT TO TAKE PART IN THE CONDUCT OF PUBLIC AFFAIRS

In our review of the constitutional and legal framework, we referred to the constitutional and legislative developments concerning these two fundamental civil and political rights. Those developments basically consisted in recognition of the principle of political pluralism, in one way or another, and the right of participation. These concepts were put to the test in many countries of the region and, in most cases, the results were disappointing. With the exception of Algeria and Jordan, which made distinctive progress in this regard, the outcome of these experiments raised important questions concerning the reasons for their failure to make any headway.

In Syria, elections to the People's Council (Parliament) were held on 23 and 24 May in accordance with the system of individual and party-sponsored candidates and against a background of official affirmations concerning "genuine pluralism" and opportunities for the participation of independent candidates. The election results, which were announced only after a certain delay due to the need to repeat the polling process in nine constituencies after the supervisory committees discovered irregularities in the voting procedure, indicated that the independents had won 84 seats (about 33 per cent of the parliamentary seats) and that the parties forming the ruling National Progressive Front had won the remaining 166 seats. However, this does not imply enjoyment of the right of participation, since the increased number of

independents was offset by an increase in the number of parliamentary seats from 195 to 250. Moreover, political participation remained restricted by the role of the security authorities in the vetting of candidates and also by the electoral majority principle, which guaranteed that the Baath party would have an absolute majority by allocating 128 seats to it, in addition to the 31 seats that were allocated to the other parties in the National Progressive Front. It is noteworthy that the elections were held under circumstances in which the population continued to be denied the right to freedom of association and freedom of opinion and expression, which was incompatible with the right of participation. Consequently, the increased number of independents basically constituted a quantitative change. It should also be noted that the Syrian authorities remained adamant in their refusal to hold party-based elections and, in an address delivered on the eve of the elections, the Syrian President affirmed that "Syria's present circumstances are not conducive to a party-based electoral system and Syria is therefore following a special procedure in which an important role is assigned to non-party candidates, since we wish to enjoy real freedom by applying formulas derived from our land and the will of our masses".

In Tunisia, elections to the 245 municipal and village councils in the 23 provinces were held for the first time since President Zine El Abidine Ben Ali came to power in that country. The opposition parties boycotted the elections after accusing the ruling RCD (Constitutional Democratic Rally) party of dominating political life, failing to provide safeguards to ensure fair elections, and suppressing democracy. The ruling party won an overwhelming majority and gained control of 244 of the 245 councils. The independents gained control of only one municipal council and withdrew their lists of candidates in six constituencies after accusing the ruling party of electoral fraud in those constituencies.

In Kuwait, where a 50-member provisional National Council was elected before the invasion, the function of the Council during its four-year provisional term was to examine the negative aspects of the country's previous parliamentary venture and to formulate new principles for the restoration of parliamentary life. The Kuwaiti opposition boycotted those elections on the ground of their unconstitutionality and, after the elections, the "Constitutional Movement" issued a statement signed by 30 members of the dissolved National Assembly in which it accused the authorities of "directly threatening citizens who had decided to boycott the elections". It also accused the Government of preventing any expression of dissident opinion and of refusing to issue visas to a number of foreign news agency and press correspondents wishing to enter Kuwait to cover the elections. The Kuwaiti Ministry of Information was accused of preventing people from expressing their opinions and the Ministry of

the Interior was accused of playing a parallel role in suppressing dissident opinion by disregarding the inviolability of private homes and arresting innocent citizens with a view to creating a climate of intimidation and terror in order to induce people to participate in the elections to the National Council. The statement cast doubt on the official statistics concerning the number of voters in the light of the official figures that were announced only one hour before the closure of the polling booths and also referred to a number of irregularities in the electoral procedure. The "Constitutional Movement" stressed the need for a commitment to fixed principles, namely protection of the Constitution and the reopening of the National Assembly, and called for elections to the National Assembly, the lifting of press censorship, and respect for the will of the people.

In Egypt, the Government complied with a court ruling, to the effect that the composition of the People's Assembly was unconstitutional, and therefore dissolved the third Parliament to be formed within a single decade. New elections to the People's Assembly were held in December 1990 in accordance with the system of separate constituencies.

Three opposition parties (the Wafd, the Socialist Labour Party and the Liberal Socialist Party) and the Muslim Brotherhood announced that they would boycott the elections due to the Government's unilateral modification and promulgation of the electoral law without allowing an opportunity for its discussion. They also affirmed that it lacked the safeguards which had been unanimously agreed upon by the opposition and the trade-union organizations and that the electoral constituencies had been redivided in a manner more favourable to the ruling party's candidates, in total disregard of geographical principles, administrative boundaries and the population figures on which such division should be based. In a joint statement, their representatives affirmed that those considerations clearly indicated that the authorities had no intention of holding free and impartial elections, particularly since they were being organized during a state of emergency and therefore gave further cause to challenge the constitutionality of the next People's Assembly.

The election results showed that the ruling National Democratic Party had won 385 of the 444 parliamentary seats (i.e. 79.6 per cent) after being joined by 11 independent candidates following the announcement of their election as such. The independents won 83 seats (19 per cent) and the National Progressive Unionist Party won 6 seats (1.4 per cent). Although it was decided to repeat the polling process in four constituencies for various reasons, most observers agreed that the elections had been conducted in an impartial manner without interference by the Administration in most cases.



In Mauritania, country-wide municipal elections were held on 7 December. These elections were first held four years ago at the regional level, subsequently at the urban district level and, in the following year, at the rural level. As usual, the Mauritanian President announced that these municipal councils constituted the first step in the democratization process that he had been promising since his assumption of power six years ago.

The Social and Economic Council which, according to a statement by the Mauritanian President, might have been established by the end of the year failed to materialize. This Council was to be an advisory body comprising 69 members of whom 12 would be nominated by the President and the remainder by the trade unions, national institutions, the municipal councils and the secretariat of the ruling military junta. Its role would be confined to advising the Head of State.

In Algeria and Jordan, on the other hand, notable progress was made in regard to exercise of the right of popular participation. On 12 June, Algeria held its first municipal and provincial elections since recognizing the principle of political pluralism. Twelve opposition parties, the ruling FLN party and independent candidates participated in the elections, which were boycotted by 12 other parties, including the Socialist Forces' Front (FFS) led by Hocine Ait Ahmed and the Movement for Democracy in Algeria (MDA) led by Ben Bella, on the ground that the conditions in which the elections were prepared were undemocratic and did not allow them sufficient time to compete with the ruling party and the Islamic Salvation Front (FIS). The opposition's electoral victory was unprecedented in the history of Arab elections; the FIS (opposition) won 55.42 per cent of the votes, as compared with 31.64 per cent won by the ruling FLN. The FIS also won the elections in 32 of the 48 provinces, with the FLN coming second in 24 provinces. Sheikh Abbasi Madani, the leader of the FIS, commended the attitude of the army, which had maintained neutrality, and welcomed the position adopted by the Ministry of the Interior which, for the first time since Algeria achieved its independence in 1962, had accepted the requirements for a lawful and effective election.

In Jordan, the right of participation, which had begun to make headway during the previous year, was further consolidated and the House of Representatives was able to establish the principle of the Government's accountability and forced it to take into consideration the opinions of the opposition in any measure that it took. Jordan also made notable progress in another sense, in so far as the opposition entered the Government for the first time and was represented therein by 10 ministers belonging to the Muslim Brotherhood, the Independent Islamic Bloc, the Nationalists, the Democratic Unionists and the Liberals.

## THE RIGHTS OF THE PALESTINIAN PEOPLE

For obvious reasons, the question of Palestine remained the regional issue most likely to be influenced, favourably or adversely, by developments at the international and Arab levels. As a result of this particularity, the rights of the Palestinian people were prejudiced in two respects during the year: (i) Due to the repercussions of the international order on the Palestinian situation, in so far as a large-scale emigration of Jews took place from the Soviet Union and Eastern Europe as a result of the political and social developments in those regions. This wave of immigrants, amounting to 200,000 persons by the end of the year, was described as the largest ever witnessed in Israel and was accompanied by a resumption of the immigration of Falasha Jews from Ethiopia. The adverse and far-reaching effects of these events on the rights of the Palestinian people were illustrated by the dismissal of 45,000 Palestinian workers in order to provide employment for the new immigrants; (ii) Due to the developments in the Arab regional order, and particularly the Gulf crisis. This, in turn, comprised many aspects, such as: the manner in which the United States of America established a "negative interlinkage" between the Gulf crisis and the question of Palestine when dealing with the latter question in the Security Council, in response to the controversial attempt to establish a "positive interlinkage"; the economic effects of the crisis on financial remittances to the occupied Palestinian territories; the enforced return of tens of thousands of Palestinian workers to the occupied territories where unemployment was rampant; and the deterioration in the Palestine Liberation Organization's relations with a number of Arab Gulf States. These events also had adverse repercussions on the overall developments in the question of Palestine.

As in the past, this year's AOHR report treats the question of human rights in occupied Palestine as a special situation since Palestine is the only Arab country that is still subjected to colonial settlement and displacement to the detriment of the collective rights of its population, particularly their right to self-determination, and also many of their individual rights. The report deals with twelve main aspects of these rights.

With regard to violation of the right to life, the report notes that, in spite of the relative decline in the level of intifada-related confrontations in 1990 and Defence Minister Arens' attempt to pursue a policy of curbing the intifada since his assumption of office in June, the death toll was not lower than in the preceding year. Estimates of the number of persons killed during the year ranged from 400 according to most non-Israeli sources to less than 300 according to most Israeli sources. The most notable feature of the violation of this right during the year was the large number of massacres to which Palestinians were subjected, as a result of which the question of their protection was raised in the United Nations Security Council and gave rise to unprecedented international concern.

With regard to the right to liberty and security of person, the report notes that the most widespread violations of this right consisted in various forms of detention, the imposition of blockades on villages, towns and camps, the proclamation of curfews, and restrictions on residence. The Israeli Judge Advocate General has admitted that 70,000 Palestinians were detained from the beginning of the intifada to December 1990; of these, 45,000 appeared before the military courts (35,000 were charged with participation in the intifada) and 14,000 other detainees were placed in administrative detention by order of the military authorities, the remainder being released after short periods of detention. At the end of the year, about 10,000 detainees were being held in Israeli prisons, including 900 in administrative detention (i.e. without trial). During the year, the occupation forces intensified their ill-treatment of the population in an attempt to force them to reveal the whereabouts of young men against whom arrest warrants had been issued. Relatives of wanted persons were also detained in an attempt to force the latter to give themselves up. An increasing number of eminent personalities well known for their moderation, and even employees of humanitarian organizations, were placed under arrest. Fifty UNRWA staff members were detained in February and members of the International Committee of the Red Cross were subjected to the same treatment.

The right to a fair hearing continued to be totally disregarded in 1990 and there was no improvement in the conduct of the military courts or in the working conditions of the Palestinian lawyers, which actually deteriorated due to the fact that they lost the minimum rights needed to enable them to discharge their professional duties and were subjected to arbitrary practices including physical assault and detention. The occupation authorities were also clearly remiss in preventing attacks on some eminent detainees who were sent for trial. It became increasingly evident during the year that the Supreme Court was being used as another instrument for the repression of the Palestinians and was under direct pressure from the occupation authorities.

The report refers to many aspects of abominable torture and ill-treatment in Israeli prisons and detention centres in 1990. Even minor children and young persons were tortured and death from torture became a recurrent phenomenon in the detention centres. The deplorable living and sanitary conditions with which detainees were faced in those centres led to several hunger strikes.

Freedom of opinion and expression remained severely restricted and journalists continued to be detained in the occupied territories, although in relatively smaller numbers than in 1988 and 1989.

Force, consisting in the use of tear-gas and even firearms, continued to be applied against all forms of peaceful assembly and the regulations prohibiting gatherings of more than 10 persons were enforced in an extremely arbitrary manner, even to the extent of attacks on wedding parties and funeral processions. The establishment of any type of political association remained strictly forbidden and severe restrictions were imposed on trade-union organizations.

The report also refers to numerous violations of freedom of movement, including restrictions on travel within the occupied territories, restrictions on the right to travel abroad and subsequently return, and expulsions and deportations. Moreover, Israel continued to deny Palestinian emigrants the right to return to their homeland.

With regard to social, economic and cultural rights, the report notes that 1990 was characterized by an increase in the scope of operations involving the demolition of residential and commercial premises, which became one of the principal methods of collective punishment. The Israeli Supreme Court finally abandoned the role that it had sometimes played in curbing this type of punishment and showed a consistent tendency to grant all the occupation authorities' applications in this connection. In the educational sector, many West Bank schools were closed for various periods in 1990 in spite of the fact that they had reopened in July 1989 for the first time since the beginning of the intifada as a result of mounting international pressure. However, the West Bank universities remained closed for the third successive year. The right to health care continued to be violated by the occupation authorities in 1990; sick persons suffered greatly due to the lack of medical attention during the intifada and hospitals were raided by occupation forces seeking to arrest wounded patients on their "wanted" list before they could be treated. The right to work was affected by the increasing unemployment in the occupied territories and 1990 witnessed several new phenomena which constituted direct and indirect violations of the various aspects of this right. During the year, for the first time, there was a trend towards the dismissal of large numbers of Palestinians working within the "Green Line" so that their jobs could be taken by Soviet Jewish immigrants.

#### THE ORDEAL OF THE OCCUPATION OF KUWAIT

Following its occupation by Iraqi forces on 2 August, Kuwait was added to the list of "special human rights cases" in the Arab World. The invasion flouted the fundamental rights of the Kuwaiti people, particularly their right to self-determination, and led the entire region into an unprecedented crisis that threatened the lives and

achievements of its peoples, as well as Arab and foreign expatriate workers. The implications of the crisis were not confined to the Kuwaiti people; they also affected Arab and foreign expatriates, hundreds of thousands of whom were expelled or felt it advisable to leave, although thousands of others, especially foreigners, were prevented from leaving. The crisis also had far-reaching implications in regard to the right to development in many Arab and some third-world countries.

The AOHR report contains a long list of collective and individual violations committed by the Iraqi occupation authorities in Kuwait and some of these violations of civil, political, economic, social and cultural rights were tantamount to war crimes. There were three periods during which these violations reached a peak of intensity: at the beginning of the occupation, following the appointment of Ali Hassan al-Majeed as "Governor" of Kuwait to suppress the resistance movement, and finally during the period in which Iraq began to lose its control over Kuwait on the outbreak of the ground war.

Full details concerning the magnitude of the damage suffered by the Kuwaiti people were not available at the time of preparation of this report (about one month after the cessation of hostilities). Mass graves are still being discovered, exploding mines are still causing further loss of life, many persons are still missing, the oil wells are still burning and environmental pollution is assuming even more alarming proportions. The final costs of the war and reconstruction therefore have yet to be determined. Acts of vengeance and reprisal have been reported and there is a long list of forms of material and psychological damage.

Since the beginning of the crisis, AOHR has expressed the view that the Iraqi invasion of Kuwait was, in itself, a denial of the right of the Kuwaiti people to self-determination and free choice of their system of government. The invasion led to bloodshed, destruction of the infrastructure and paralysis of the State's public services; it also entailed the looting of public and private property, repression of the resistance, the detention of opponents, foreign military intervention and risks of military confrontation. In all its communiqués concerning Kuwait, AOHR stressed the need for immediate and unconditional Iraqi withdrawal from Kuwait in order to enable the Arab people of Kuwait to determine their own future, and for acceptance of the principle of negotiations as an indispensable first step towards a settlement of the existing problems between Iraq and Kuwait. AOHR also stressed the need to protect the lives and property of the Kuwaiti people and other residents of Kuwait and, in the light of subsequent developments, called for every effort to be made to avoid war and allow scope for peaceful endeavours to reach a settlement based on respect for the rights of the peoples of the region and protection of the lives, rights and interests of Arab and foreign nationals working in the Gulf.

Following the outbreak of the crisis, AOHR formed a field research team to gather testimonies concerning the situation in Kuwait and the plight of persons who had left that country either voluntarily or under duress. AOHR maintained regular contacts with the parties directly concerned in the crisis and tried to send fact-finding missions to Kuwait and areas that had been seriously affected by the repercussions of the crisis, as illustrated by the plight of the Yemenis in Saudi Arabia. However, none of these good intentions met with a favourable response, not even from the Kuwaiti Government after its return to the country.

### III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

In 1990, collective economic, social and cultural rights were violated in many countries of the Arab World as a result of the Gulf crisis and within the context of the political controversies to which it gave rise at the international and inter-Arab levels. These violations assumed two principal forms: (i) infringements of the rights of Arab and foreign workers in a number of countries of the region, and (ii) prejudice caused to the right to development in some countries of the region as a result of the crisis.

#### 1. THE RIGHTS OF ARAB AND FOREIGN WORKERS IN THE REGION

This was the most notable phenomenon of the year, since it directly affected about two million Arab and foreign workers, in addition to its indirect implications and repercussions in many other fields. According to an International Labour Office report, about 1.9 million Arab and foreign nationals were working in Kuwait and Iraq (with Iraq accounting for a slightly larger number than Kuwait). They were accompanied by about 700,000 dependants, 85 per cent of whom were residing in Kuwait. Egyptians constituted the largest proportion (45 per cent) of this labour force, followed by Indians (7 per cent), Jordanians, Palestinians and Sudanese (6 per cent each), Bangladeshis, Pakistanis and Sri Lankans (4 per cent each), Filipinos (3 per cent), other Arab nationals (6 per cent), other Asians (5 per cent) and Africans, Americans, Europeans and Vietnamese (2 per cent).

The ILO estimated the number of foreign workers who remained in Iraq and Kuwait up to 2 October 1990 at 1.1 million, of whom 63 per cent were Egyptians working in Iraq. From that time to the end of the year, a large number of Asian civil servants left Kuwait, as well as all the foreign workers and nationals who were detained by Iraq as a human shield against external attack, in addition to other persons who wished to leave. About 850,000 Yemeni nationals living and working in Saudi Arabia also left that country.

In spite of the different situations of each of these categories of Arab and foreign workers and nationals, they were all subjected to similar types of violations. Of the Arab workers and nationals, many were killed during the invasion (estimates vary as to the actual number) and it was reported that the Iraqi authorities had executed dozens of them for allegedly engaging in acts of theft and pillage. AOHR received no information concerning the holding of any form of trial in this regard. Some reports indicated that a number of persons had died and the lives of others had been endangered when they were attacked by Iraqi troops after protesting against raids on their homes or theft of their property or whilst attempting to protect their womenfolk from assault. Persons leaving the country also risked their lives during the hazardous journey across the desert in which they could lose their way or exhaust their supplies of food and water or due to the lack of the minimum facilities, particularly in the first weeks following the invasion.

Hundreds of thousands of migrant workers lost their property and their personal belongings and, in some cases, their valuables were confiscated at frontier crossing-points. Some of them were ill-treated in the temporary accommodation camps, particularly in Jordan, either as a reaction to this turbulent influx at frontier posts that were ill-equipped to receive such large numbers, or as a reaction to protests against the lack of facilities. Some persons were also ill-treated due to intergovernmental political disputes.

Egyptian authorities (Ministry of Manpower) estimated the entitlements of Egyptian workers and nationals returning from Kuwait at about \$US 13 billion in respect of their furniture, their deposits in Kuwaiti banks, amounts owed to them in respect of unpaid wages, salaries and separation indemnities, as well as their investments in Kuwait which, under the regulations in force in the country, were guaranteed by the Kuwaiti Government, even if they were purely Egyptian investments. In fact, the Kuwaiti Government allocated \$ 30 million in emergency assistance to meet this situation.

The Palestinians were subjected to pressure on two opposing fronts, firstly as a result of the repercussions of the crisis on Palestinian workers, and secondly as a result of the attitude of the Gulf States towards the Palestinians in the light of the position adopted by the Palestine Liberation Organization in regard to the crisis. Although no detailed information has been received concerning the extent of the material damage to their interests, it is estimated that about 40,000 of them were forced to return to the West Bank from Kuwait and it was also reported that some of them were expelled from other Gulf States, including at least 40 well-known personalities who were holding important posts in Qatar.

While Egyptian and Palestinian workers were leaving Iraq and Kuwait in the largest migratory movement witnessed in the region's modern history, Yemenis also joined the tragic exodus as a result of the decision of the Saudi authorities to withdraw the facilities that they had been granting to Yemenis in connection with work and residence permits.

Stricter measures began to be taken against the Yemenis in Saudi Arabia in late August 1990 as a reaction to the Yemeni Government's policy on the Gulf crisis and these measures were intensified after the Saudi Government announced on 19 August that it intended to impose restrictions on the issue of work and residence permits to Yemeni nationals. The Saudi Government gave each Yemeni a one-month period of grace in which to find a Saudi sponsor or leave the country and this period was subsequently extended for a further month. According to Yemeni official sources, by 10 November 1990 the number of Yemeni nationals who had been forced to leave Saudi Arabia and return to their home country amounted to 850,000. Those returnees lost the property, assets and rights that they had acquired over a period of ten years due to the rapid and unexpected measures taken against them and the short period allowed for them to wind up their affairs. Their families also lost their basic sources of income, consisting in the regular remittances that they received from members working in Saudi Arabia.

According to reports received by AOHR, these measures were accompanied by arbitrary practices against Yemenis, including detention, physical assault and ill-treatment which, in some cases, bordered on torture. One of the most serious cases involved the expulsion of about 400 Yemenis who had been receiving regular renal dialysis treatment in Saudi hospitals and who subsequently flocked to Yemeni hospitals which lacked the facilities to treat their medical condition. Many of them died as a result and Muhammad Ali Muqbil, the Yemeni Minister of Health, declared that 32 persons had died after being ordered by the Saudi authorities to leave the Saudi hospitals and return to their home country.

In the light of the implications of this mass repatriation, in the middle of December the Yemeni authorities decided to finally dispense with the services of foreign workers in order to replace them with Yemeni workers and provide employment opportunities for the repatriated migrants. According to Yemeni official sources, only workers in the education and health sectors would be exempted from the consequences of the decision. It was announced in Sana'a that this decision would entail the departure of about 100,000 foreign, and particularly Asian, workers by the end of December 1990.



## 2. CONSEQUENCES OF THE GULF CRISIS IN REGARD TO THE RIGHT TO DEVELOPMENT

The Declaration on the Right to Development, which was adopted by the United Nations in 1986, designates this right as an inalienable human right. The aim of the Declaration is to promote a constant improvement of the well-being of the entire population on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. The preamble to the Declaration also emphasizes the close interrelationship between civil and political rights, on the one hand, and economic, social and cultural rights, on the other, and regards them all as indivisible and interdependent principles formulated to ensure respect for fundamental freedoms and human rights.

The Gulf crisis was obviously highly detrimental to this right, since it affected the economies of most Arab countries and hampered development opportunities in many of them. The tense atmosphere created by the crisis reduced the benefits which some of these countries had reaped as a result of the increase in petroleum prices in the international market. However, the effects of the crisis were not confined to the Arab countries; they extended to many other countries, particularly in the third world and Eastern Europe. The World Bank report identified 60 countries whose situation was likely to be severely affected by the crisis and which would require international assistance. These included 24 States in sub-Saharan Africa, 10 in the Middle East and Europe, 19 in the Americas and seven in Asia.

The Kuwaiti and Iraqi economies were undoubtedly the most seriously affected by the crisis. In keeping with the time-frame of this report, we are referring primarily to the pre-war damage, which was catastrophic to both economies, although obviously greater in the case of Kuwait. The report contains a long list of the damages suffered by the Kuwaiti economy, including the organized and random pillage of Kuwait's resources, loss of control over its principal resource (petroleum), the mining of its oil wells (which were subsequently set on fire), the declaration by the Iraqi authorities of an equal exchange rate for the currencies of the two countries, the subsequent total abolition of transactions in Kuwaiti currency, the cessation of production and the departure of hundreds of thousands of Arab and foreign workers, in addition to the effects of the economic embargo and the chaotic conditions that prevailed during the period of Iraqi occupation.

In the case of Iraq, in spite of the lack of reliable information concerning the effects of the economic embargo during this period, particularly on its production institutions which depend on imported intermediate and capital goods, press reports emphasized the lack of pharmaceutical products and infant formula, and indicated that the Iraqi authorities were forced to mix wheat flour with a high proportion

of bran in order to enable the country's bakeries to continue producing bread from locally available flour for as long as possible. The economic embargo also halted Iraqi petroleum exports, which constituted the country's principal source of income, and the Iraqi authorities announced that a large number of children had died due to the lack of vaccines and medicine.

Of the Arab countries not directly involved in the crisis, Jordan suffered the most adverse consequences, mainly due to the embargo, the expulsion of its citizens from Saudi Arabia, the closure of the frontiers and the suspension of commercial relations with its principal trading partners (Kuwait, Iraq and the Gulf States). According to a UNICEF report, Jordan suffered greater detriment than Iraq. The mission that the Secretary-General of the United Nations sent to assess Jordan's losses resulting from the imposition of the embargo reported that its losses exceeded those of any other country adversely affected in various ways by the crisis, except Kuwait itself. Jordan's difficult situation was further aggravated by the disruption of its trade and financial relations with Saudi Arabia. Jordan's losses resulting from the embargo in 1990 were estimated at about \$ 1 billion dollars and it was expected to lose about \$ 200 million per month in 1991. Jordan also suffered from other economic effects, including the loss of external governmental grants to cover its budget deficit, which some sources estimated at \$ 570 million in 1990 and more than \$ 90 million per month in 1991. In addition, the country suffered from the suspension of petroleum supplies, since all of its needs were formerly supplied by Iraq at preferential prices (with large quantities donated free of charge) and, far from being payable in cash, the cost of these shipments was offset against loans that Jordan had formerly extended to Iraq.

These losses are extremely heavy for an economy such as Jordan's, since they represent 16-35 per cent of its GDP and 24-51 per cent of its total foreign exchange earnings. Moreover, about 20 per cent of the country's labour force were unemployed after returning from Kuwait or being dismissed from Saudi institutions.

Egypt is one of the Arab countries most adversely affected by the Gulf crisis, in so far as it lost a major source of hard currency when its expatriate workers were forced to return from Kuwait and Iraq after losing their jobs and even their savings through currency devaluation. The number of repatriated Egyptian workers amounted to about half a million persons and remittances from the country's migrant workers, which constitute its principal source of foreign exchange, were correspondingly reduced. Income from tourism and Suez Canal dues also declined, together with other external sources of income such as construction projects that were being undertaken by Egyptian companies in Iraq and Kuwait, and trade suffered due to the embargo on commercial dealings with Iraq and Kuwait. In March 1991, President Hosni Mubarak estimated Egypt's overall losses resulting from the Gulf crisis at \$ 30 billion.

In the occupied Palestinian territories, the right to development was also severely affected. Up to the time of preparation of this report, the problem centred around the Palestinian labour force in Kuwait, which was faced with disaster due to the freezing of its substantial assets in Kuwaiti banks and the loss of its sources of livelihood. This will inevitably have repercussions on the economic situation in the occupied territories, since at least 100,000 Palestinians working in Kuwait were from those territories and their annual remittances to individuals and institutions there were estimated at about \$ 120 million, i.e. about eight per cent of the local GDP. The return of large numbers of them to the West Bank will also increase the rate of unemployment there. Furthermore, the cessation or at least the reduction of assistance from Kuwait, and possibly from the Gulf in general, is having an adverse effect on many health, educational and other service institutions which used to depend on such assistance. The economic situation in the occupied Palestinian territories is also being affected by the deterioration in the Jordanian economy as a result of the Gulf crisis, particularly since more than one third of the West Bank's exports were routed through Jordan, and by the depreciation of the Kuwaiti dinar which was commonly used as a local monetary unit and a favourite currency for the investment of savings in the West Bank and Gaza Strip.

The situation is aggravated by the fact that the major problems impeding the right to development in the occupied territories (as a result of the Gulf crisis and the Jordanian economic crisis) occurred at a time when their population was already faced with difficult economic circumstances brought about by its heroic three-year intifada which virtually placed the economy on a war footing.

Yemen's right to development was likewise severely prejudiced by the Gulf crisis. In addition to the disruption caused by the repatriation of hundreds of thousands of Yemeni workers from the Gulf States and the problems posed by the need to retrain them, find employment for them and reintegrate them in Yemeni society and the Yemeni economy, which was facing all the various difficulties that habitually beset a State classed as one of the least developed countries, the Yemeni economy was suffering from numerous other problems. The principal problem lay in the oil-refining sector, since Yemen had concluded contracts with both Iraq and Kuwait, the suspension of which entailed considerable losses in refining fees and port dues in addition to the costs of the unemployment resulting from the non-execution of those contracts. The losses in this sector up to the end of 1990 were estimated at about \$ 40 million and were expected to rise to \$ 220 million in 1991 on the basis of the contracts that had been signed.

Yemen lost the annual amounts that had been provided by Iraq and Kuwait (\$ 50 million from Iraq and \$ 18.3 million from Kuwait) for the purpose of supporting general and higher educational and health-care services, as well as other annual appropriations and grants (amounting to \$ 70 million from Iraq and \$ 8.65 million from Kuwait) to fund specific projects which those two countries were implementing on a regular basis. Yemen also lost the preferential loans (amounting to \$ 396.5 million) from the Kuwait-based Arab Fund for Economic and Social Development and is suffering from the suspension of its non-oil commodity imports from both Iraq and Kuwait. This is adversely affecting its balance of trade and economic activity and raising the rate of unemployment in Yemen, which was already high and has been further increased by the influx of repatriated migrants.

Yemeni official sources have pointed out that, in addition to these direct losses, there are also indirect losses resulting from the performance of the national economy in general, future balance of payments difficulties, increasing unemployment, the suspension and higher cost of the implementation of projects, greater burdens on the State's general budget, and the decline in trade with neighbouring countries. The Yemeni authorities estimate these indirect losses at \$ 300 million.

In addition to these countries in which the right to development has been severely affected by the Gulf crisis, other Arab countries such as Lebanon, Tunisia and Mauritania have also been affected in varying degrees as a result of the suspension of governmental assistance and investment projects, the losses incurred in the export, services and commercial credit sectors and in regard to the bank deposits and earnings of their expatriate workers in Kuwait and the cost of the retraining and reintegration of those repatriated workers. All these factors are affecting development opportunities in those countries.

#### IV. THE ARAB APPROACH TO HUMAN RIGHTS

In its report issued in 1990, AOHR presented its first survey of the general objectives of the Arab human rights movement under the heading "The Arab Human Rights Movement: Institutions and Objectives". In continuation of that endeavour, this year's report monitors further developments in this field and, for the first time, deals with another aspect: the Arab approach to human rights.

The report notes three new developments in the Arab human rights movement in 1990:

(i) The establishment of governmental human rights organizations. This phenomenon originated and developed in the Maghreb, beginning with the establishment of an Office of Human Rights at the headquarters of the Algerian Ministry of Justice, which was followed by the formation of an Advisory Council on Human Rights in Morocco and the establishment of a Tunisian governmental Committee on Human Rights.

This development has obviously been evaluated in differing ways and it may still be too early to undertake a final analysis. However, some indicators concerning the modus operandi of the Advisory Council are not conducive to optimism. A statement issued after a meeting of the Council, which comprises representatives of several Moroccan national organizations, indicated differences of opinion among the participants as to whether they should request an amnesty for political prisoners. These differences of opinion on such a fundamental human rights issue undoubtedly give an indication of the problems that might be encountered when discussing the numerous other thornier questions.

(ii) The schism that occurred among some sections of the Arab human rights movement in regard to their position on the most significant event of the year: the Gulf crisis. Many sections of the movement, including professional and trade-union associations, viewed the Gulf crisis merely as a foreign military build-up which they regarded, justifiably, as a threat to the region's hard-won independence. The reasons for that build-up and the dilemma caused by the continuing occupation of Kuwait, without any tangible response to Arab and international endeavours to secure a withdrawal, were viewed as minor details. Other sections maintained the blinkered view that the Iraqi occupation was the sole point at issue in the Gulf crisis, regarding all other aspects as mere details that in no way changed the situation. Only a few sections of the Arab human rights movement were able to see both sides of the situation and adopt a position that took account of all the complex aspects of the crisis.

(iii) The fluctuating nature of the progress made by the movement during the year. After losing one of its important branches in the Sudan in the wake of the June 1989 coup, which led to the dissolution of the Sudanese Human Rights Organization together with other democratic organizations, the movement lost its principal country grouping through the Iraqi invasion of Kuwait. On the other hand, the movement made headway through the establishment of the Jordanian branch of AOHR and the legalization of new human rights groupings in Algeria. From the middle of the year, AOHR's country grouping in Yemen was engaged in a constant struggle to establish an independent association in the face of attempts to endow it with an official or party-political character.

In its study of the Arab approach to human rights, AOHR reached a number of conclusions, including the fact that this approach still lacked a uniform attitude towards some fundamental issues in the absence of a common document expressing an Arab consensus. Consequently, there are several Arab approaches to human rights expressing different values and, in the absence of a common reference framework, there are also differences in their standards and in the issues to which they attach greatest importance. This, in turn, has affected the practical results of the activities of the Arab human rights movement. Some political and social forces have refrained from participating on the ground that its approach fails to address extremely serious and widespread violations, while other forces have broken way from the movement for a diametrically opposed reason, since they regard its standards as being so high that it cannot function without undue problems.

Another conclusion reached in the AOHR study was that the Arab approach focuses on the first generation of human rights, namely civil and political rights, whereas the international community is now taking a broader view covering other aspects of human rights. This might be partly attributable to the extent to which Arab public opinion has accepted the concept of human rights, although more important factors are the nature of the issues addressed by the Arab human rights movement and the type of the widespread violations on which orators have felt obliged to focus.

A further aspect lies in the moralizing tone of the Arab approach. In the absence of legal safeguards and the proliferation of violations in most fields, this approach focuses on general principles without referring to specific violations to which citizens, and particularly minorities, are subjected in Arab countries. This deprives the Arab approach of the specificity that constitutes the principal characteristic of the international community's approach.

The report also notes the manner in which the Arab approach to human rights is being reflected in official Arab statements. However, although the term "human rights" is increasingly being used in such statements, there is still an evident disparity, in varying degrees, between the official statements and the actual practices of Arab regimes. Even the regimes that have adopted a liberal policy or manifested an evident tendency in this direction have not succeeded in avoiding this disparity. Freedom of opinion, expression and criticism is guaranteed only to an extent that is not prejudicial to the political leader, whose person is protected by a hedge of legislation and, in many cases, signature of international covenants and conventions, however well-intentioned, is purely formal. There are countries which have signed conventions recognizing the right to strike but in which strikers are put on trial due to the failure to incorporate this international obligation in domestic legislation. There are also countries which, while recognizing the precedence of international over national law, have failed to promulgate a code of procedure under which this principle must be observed by the courts.

## V. FUTURE PROSPECTS

If the progress made in the field of human rights were assessed solely on the basis of the lofty tones of official Arab statements, the revelation of erroneous practices and the award of international prizes, we would be able to record significant improvements in human rights in the Arab World during the period under review in so far as greater attention has been paid to this question in official statements. Some Governments of the region have established official committees on human rights and others, such as those of Iraq, Somalia and the Sudan, have engaged in an ostensible witch-hunt for major and minor violations of human rights. Two leaders in the region have even been awarded prestigious Western prizes for their endeavours to promote and protect human rights. Unfortunately, we cannot base our assessment on these criteria, which must be viewed in the light of their political background and do not have a significant bearing on human rights issues. The actual situation is more relevant for an assessment in this regard.

When AOHR issued its first annual report five years ago, the Arab World did not have a regional human rights document reflecting its cultural particularity. Official endeavours in the last five years to promulgate such a document within the context of the Arab League proved unsuccessful, as did non-governmental endeavours to formulate a document that would enjoy wide public support. Limited local attempts to adopt country-specific documents during the last five years also proved abortive.

However, these failures do not imply total inertia in this field. Through the African Charter of Human and Peoples' Rights, which was promulgated in 1987, eight Arab countries comprising about three quarters of the peoples of the Arab nation acceded to a regional instrument expressing a certain number of jointly shared attitudes and intentions.

In a wider context, some Governments of the region subscribed to similar joint attitudes concerning the Islamic Charter of Human Rights, which was promoted at the last Conference of Islamic Foreign Ministers during the year.

With regard to the legal commitment of Governments to international covenants and conventions, there were a limited number of changes in the positions of some countries of the region. If we consider accession to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as a criterion, the extent of progress in this connection can be assessed at one third. Whereas the first AOHR report recorded the accession of nine Arab countries to those Covenants, this year's report notes the accession of twelve countries. However, eight Arab countries, including the members of the Gulf Cooperation Council, Mauritania and Djibouti, have yet to accede to those Covenants.

A comparative review of the constitutional framework shows that some Arab countries still lack constitutions. Moreover, some constitutions or articles thereof have remained suspended in other Arab countries for the last five years and emergency acts and martial law regulations have remained in force in some countries. In Jordan, the only Arab country which showed signs of lifting its state of emergency, the Government and popular organizations found cogent reasons for maintaining it in force. Should we be more optimistic about the South African Government's repeal of its Emergency Act during the year, or more concerned at the fact that our Governments are continuing to delay this necessary measure, that the leader of a major Arab country described the opposition's demand for the repeal of the Emergency Act as "a joke", and that another leader described the extension of the curfew in his country for the nineteenth consecutive month as being "at the people's demand"?

In the legislative sphere, the Arab legal structure remained packed with emergency legislation. Although some of this legislation was repealed in rare cases, in other cases further such legislation was promulgated. Types of legislation that are unheard of in other parts of the world continued to be promulgated. In Iraq, for example, legislative acts made provision for the payment of rewards to persons who divorced their Iranian wives and also authorized party leaders to carry out death sentences on persons evading military service. Act No. 111 promulgated in February 1990 even abolished the principle of legal liability for the murder, albeit premeditated, of spouses, children, uncles, nephews and nieces in order to "expunge dishonour", although this was repealed later in the year under pressure from international public opinion.

Legislation continued to regulate freedom of opinion and expression, notwithstanding constitutional safeguards in this respect. With a few exceptions, most notably the Algerian Press Act, most of the provisions governing freedom of opinion and expression tended to be restrictive rather than regulatory and disregarded not only the degree of political evolution in the countries of the region, but also the fact that the world around us has become an "electronic village" which any person is able to traverse in seconds by virtue of the television and broadcasting media. This aspect is most vividly illustrated by one large Gulf State, which suppressed news of the Iraqi invasion of Kuwait for three days in 1990 before informing its population.

With regard to collective civil and political rights, the first AOHR report referred to the sufferings of the Palestinian people in their attempt to exercise their right to self-determination, whereas this year's report refers to the problems impeding realization of the right to self-determination of two peoples of the region. This time, the aggressor was a neighbouring Arab country.



Developments concerning the right to take part in the conduct of public affairs are an even greater source of concern. In spite of all the talk of restructuring, political pluralism and political reform, inadequate progress has been made in the establishment of the frameworks needed for the exercise of this right. Most Arab regimes failed to ensure participation by other political forces in the assumption of governmental responsibilities and many of them even failed to establish frameworks for the participation of other political forces in elections. The Algerian and Jordanian experiments, although differing and as yet incomplete, are exceptions to this general trend.

The alternation of political power, which constitutes the essence of this right and the essence of democracy, is still totally inconceivable to Arab regimes. Of the instances in which this power has changed hands in five Arab countries in the last five years, four involved military coups d'état or changes brought about by the peaceful or non-peaceful use of force and the fifth instance occurred after the assassination of the political leaders.

On the subject of economic, social and cultural rights, the first AOHR report issued in 1986 noted four principal negative phenomena concerning: (i) Arab migrant workers in the Arab World; (ii) the crisis in the Arab trade-union movement; (iii) the situation of Arab women; and (iv) the forcible displacement of ethnic groups. What developments have taken place in regard to these four phenomena?

It is distressing to note that, whereas the migrant labour crisis in the Arab World affected about 100,000 Egyptian, Tunisian, Sudanese and Palestinian workers at the time of the first report, about two million Arab and foreign workers in the countries of the region were affected in 1990. The accompanying negative phenomenon referred to in the first report, namely denial of entitlements, retention of wages and indemnities and the use of violence against some workers, has continued and even constituted a characteristic feature of the actions and reactions that prevailed in the region in the wake of the Gulf crisis.

The crisis in the Arab trade-union movement ranged from denial of freedom of association in the Gulf States to the imposition of official supervision in most of the other eastern Arab countries and the gradual restriction of trade-union practices in the States of the Maghreb and the Nile Valley. The principal features of this crisis remained unchanged, with the exception of the developments in Algeria.

The situation of women, who were facing numerous social problems in many countries of the region and suffering from a lack of participation in public activity, has not changed significantly in spite of all the clamour in the press. Even in countries in which women are more emancipated, such as Egypt and Jordan, they are unable to enter the Jordanian House of Representatives and are very underrepresented in the Egyptian People's Assembly.

The phenomenon of displacement which, according to the first report, was forcible and confined to Iraq, has now become more widespread; its forms are also more varied and its scope has been expanded. It continues in Iraq and can also be observed on a large scale in Somalia, the Sudan and Mauritania. It now transcends the traditional framework of ethnic conflicts to include the settlement of political scores, as happened in the case of about a million Yemeni citizens in Saudi Arabia.

#### CONCLUSION

Fortunately, this negative trend in the course of human rights in the Arab World, although a source of grave concern, is not the only aspect of the developments in this field. On the positive side, the Arab human rights movement gained in strength, influence and experience. The frequent references to human rights in the political declarations of Arab regimes is an indication that they can no longer ignore the demands of the Arab human rights movement and Arab public opinion concerning urgent issues. Moreover, we cannot disregard the numerous positive achievements in the national struggle in many fields. These combined achievements will inevitably help to steer the course of human rights in the Arab World in the right direction.

