

Arab Organization For Human Rights



Human Rights Situation In The Arab World

Introduction to AOHR report for 1988

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INTRODUCTION

Since 1986, the Arab Organization for Human Rights has published an annual report on the human rights situation in the Arab World during the preceding year, giving details of any improvements or deteriorations therein. This third report, containing a review of the exercise of these rights in 1988, is divided into two parts:

Part I monitors the human rights situation in each individual Arab country.

Part II deals with the activities of the human rights movement in the Arab World as a whole.

In its reports, the Arab Organization for Human Rights does not discriminate between one country and another; it merely monitors events and circumstances and submits its findings to Arab citizens and persons concerned with the cause of human rights. Its principal objective, to which it will remain fully committed, is to ensure respect for the rights of Arab citizens everywhere so that their natural aptitudes, freed from all restrictions, can contribute to the development and advancement of the Arab World.

The Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations in 1948, was the first international instrument in this field. Although its adoption in the form of a resolution of the General Assembly did not vest it with unequivocally legally binding status, the international community has endeavoured to establish the principles that it contains as firm provisions in the field of human rights and the enthusiasm with which numerous States have declared their commitment to those principles has endowed them with the force of law. In fact, many jurists believe that the Declaration has now acquired the status of international customary law, and this view has been endorsed by a number of international conferences and bodies.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights give a more detailed presentation of the principles set forth in the Universal Declaration, thereby establishing norms against which respect for human rights can be gauged. Although more than half the Arab countries are not parties to the two International Covenants, this does not mean that they are not bound by their provisions which detail and expound principles that are increasingly being regarded as international customary law. For the above reasons, this report approaches the human rights situation in the Arab World from the standpoint of international law. It also does so for another important reason, namely the endeavours that the Arab Organization for Human Rights is making to encourage all the Arab countries to accede to the two International Covenants and comply with their provisions.

Although any violations of civil and political rights can be monitored chronologically, in so far as they occur at a specific time, and can therefore be included in the report on a particular year, violations of economic, social and cultural rights may be characterized by the fact that their exercise has been restricted for a long time and, consequently, they cannot be dealt with appropriately in a report on a particular year. Nevertheless, this report covers the substantive violations of those rights, as well as cases of general deterioration in their exercise as a result of the aggravation of socio-economic crises.

The sources on which the report is based consist mainly in complaints from Arab citizens, information received from members of AOHR and from international, governmental and non-governmental organizations, and Arab and foreign press reports. AOHR makes every effort to exclude politically motivated complaints and reports and also verifies the information received by assessing it within the general context of the available data and, wherever possible, tracing each reported incident to its original source. Accordingly, any shortcomings in regard to the coverage of a particular right in any country are attributable to the lack of sources. This implies either that violations occur but are not reported, or that violations do not occur. On the other hand, the abundance of sources on some countries, sometimes even within those countries, should not be taken as implying a high prevalence of violations in those countries; on the contrary, this could be indicative of a high degree of enjoyment of human rights or, at least, exercise of freedom of expression and the right to obtain information, by virtue of the fact that such information reaches us from within those countries.

The constitutional framework

Constitutional legislation is the principal source of guarantees in regard to human rights. The rights and freedoms of individuals and peoples are set forth in constitutions, which are the basic laws of States, and are subsequently supplemented and elucidated in the provisions of ordinary law and various statutes and regulations. Modern constitutions have a tendency to give a more elaborate presentation of human rights and fundamental freedoms with a view to endowing them with the characteristic stability of constitutional texts. The significance of such constitutional provisions is not diminished by the absence of a guarantee that they will be respected by the State, since their infringement by the State constitutes a violation of the rights of its citizens and the State can therefore be called to account and accused of contravening the basic law. Although the decisive criterion may ultimately lie in the balance of power between the State and society, the constitutional provisions nevertheless reflect the objectives that society is seeking to achieve and the State therefore has an obligation to respect them.

Like other countries of the world, the Arab States have constitutions that regulate their systems of government and specify the rights, obligations and public freedoms of their citizens, except in the cases of three States which do not have constitutions: Saudi Arabia, Oman and Libya. In the latter case, although a constitution was promulgated in 1969, the 1977 declaration proclaiming the authority of the people designated the Quran as the constitution of the Jamahiriya.

There are two Arab countries, Djibouti and Mauritania, which do not have constitutions in the full sense of the term; they only have a constitutional act and charter, consisting in brief simple documents which, in regard to public rights and freedoms, merely indicate the State's intention to respect the principles contained in the Universal Declaration of Human Rights.

Of the Arab countries possessing constitutions, some of which are provisional, the Lebanese Constitution was promulgated in 1926, the Jordanian Constitution in 1952, the Tunisian Constitution in 1959 and the Kuwaiti Constitution in 1962. The other Arab countries promulgated their constitutions in the 1970s, with the exception of the Sudan which promulgated its Constitution in 1985.

All these constitutions devote special chapters or sections to the public rights, freedoms and obligations of their citizens, with the exception of the Tunisian and Moroccan Constitutions.

Civil and political rights are expounded in the greatest detail. In view of the importance of the question of equality between men and women, the preambles to the constitutions of most of these countries make provision for equality and non-discrimination on grounds of race, religion or sex. However, some Arab constitutions omit the reference to "sex" as a ground on which there must be no discrimination among citizens. This can be noted in the constitutions of Jordan, Iraq, the Emirates and Kuwait.

Economic, social and cultural rights are set forth in varying degrees of detail, although almost all the constitutions provide for the right to education, compulsory primary education, and the right to work. Some of the constitutions promulgated in the 1970s, such as those of Bahrain and Somalia, give elaborate details of these rights.

This is the general constitutional framework for the exercise of human rights in the Arab World. States have an obligation to respect and implement its principles governing their political societies. The absence of constitutions in some countries does not exempt them from the obligation to respect human rights in their territories, since these rights have become international customary law and constitute general moral principles which civilized societies have accepted and the spirit of which is fully consistent with the divine law that these countries have adopted as their guiding light.

International human rights instruments

There are disparities in the extent to which the Arab countries have acceded to the conventions constituting international human rights instruments. Whereas, in 1988, Tunisia was a party to 16 and Egypt to 15 conventions, we find that Bahrain and Oman had not acceded to any convention at all, although Oman had signed but not yet ratified one convention.

Ten Arab countries (Jordan, Tunisia, the Sudan, Syria, Iraq, Lebanon, Libya, Egypt, Morocco and Democratic Yemen) had acceded to the two International Covenants on human rights, which had also been signed, but not yet ratified, by Algeria.

In 1988, only Egypt and Tunisia had acceded to the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. Only three countries (Iraq, Egypt and Democratic Yemen) had acceded to the International Convention on the Elimination of All Forms of Discrimination against Women, although it had also been signed, but not yet ratified, by Jordan.

While the accession of States to international conventions does not automatically guarantee that the provisions of those conventions will be applied to their citizens, it at least provides an incentive for the States parties to respect the provisions of those conventions in their territory, since their accession thereto places them under obligations in regard to the international community to which they might be answerable. Although international organizations do not as yet have central authority under which they would be entitled to call member States to account, there is at least a minimum degree of ostensible international moral responsibility towards those organizations.

Finally, it must be acknowledged that the provisions of international law supplement the basic laws of States and ultimately limit the authority of any State that treats its citizens in an arbitrary manner.

Rights and freedoms in practice and in law

In 1988, the exercise of human rights in the Arab World continued to follow the pattern set in previous years. On the whole, there was no noteworthy improvement. The year was characterized by distressing events in regard to human rights in some countries, particularly the reports of massive violations of human rights by the occupation authorities in Palestine.

It is also regrettable that the evident indications of violations of human rights far exceeded the indications of respect for those rights.

In Iraq: There was an alarming increase in reports of executions following summary trial, or even without trial. These executions were estimated to amount to hundreds and the authorities were accused of resorting to the assassination or poisoning of opponents. In March 1988, reports received from Iraq accused the authorities of ordering the aerial bombardment, with chemical substances and toxic gases, of areas inhabited by Kurdish ethnic groups in Iraq, thousands of whom had been killed as a result. Similar reports were again received in September.

In Algeria: Prices rose after the abolition of government subsidies on basic commodities. The black market flourished, the housing problem worsened, the rate of unemployment increased to 15 per cent of the labour force and wages were frozen. When citizens demonstrated in protest against this situation, a state of emergency was proclaimed, troops were deployed in the streets and violence was used to disperse demonstrations, as a result of which hundreds of persons were killed and many more wounded.

In Somalia: The human rights situation throughout the country had already been deplorable for many years. The population of the northern region, and particularly members of the Ishaak tribe, were subjected to harassment and persecution, since the authorities arbitrarily regarded them all as supporters or sympathizers of the Somali National Movement, simply because the movement was active in that region. As a result, death sentences were carried out after sham trials, there were cases of assassination, detention and torture, and civil servants from the northern region and the Ishaak tribe were dismissed from their governmental posts.

In Lebanon: The basic right of the Lebanese people to live united and in security continued to be violated. Bombings, murders and abductions persisted and the phenomenon of Lebanese and foreign hostages remained unchanged, although some of the latter were released during the year. Hundreds of persons died during recurrent clashes between armed groups. Due to the failure to elect a president, the country found itself with two governments but no responsible authority, the State was unable to

discharge its functions and there was an appalling deterioration in the socio-economic situation. In short, this signifies the complete violation of all the rights and freedoms of the Lebanese people as a whole.

In the Sudan: Hundreds of thousands of persons lost their homes and were displaced during the floods. Food ran short and diseases became rampant. The civil war continued in the southern part of the country where the hostilities prevented food supplies from reaching the population, as a result of which thousands starved to death.

In Egypt: By order of the security agencies, some nationals of Arab countries residing in its territory were handed over to the authorities of their countries, even though the threat to their lives at the hands of those authorities was evident. This constituted a serious departure from Egyptian traditions, under which the right to asylum and security had always been offered to Arab politicians and citizens of all tendencies if they were in danger in their countries of origin. It was also an infringement of the provisions of the Egyptian Constitution.

On the other hand, there were some positive signs in regard to the exercise of human rights in the Arab World. In Tunisia, a number of measures were taken to rectify the situation and put an end to violations of the rights of citizens, including their freedom of movement, and laws concerning the exercise of human rights were amended. On the occasion of the New Year, the Tunisian President proclaimed a general amnesty from which 405 prisoners benefited, including political prisoners belonging to

the Islamic Tendency and other movements. This was followed by a second amnesty in March, a third in May, a fourth in July and a fifth in November on the occasion of the first anniversary of the 7 November 1987 movement. Some politicians who had been exiled for short or long periods returned to the country.

In the legal sphere, the Constitution was amended to restore the balance between the legislative and executive authorities and the principle of life presidency was abolished. Two legislative acts were promulgated abolishing the State security courts and the post of Public Prosecutor of the Republic. Two new acts were also promulgated concerning the press and the organization of political parties. All this legislation was designed to allow greater scope for the exercise of freedoms, although the opposition parties expressed reservations, particularly concerning the latter act.

In Libya: Hundreds of prisoners were released in March. It was announced that the lists of persons forbidden to travel outside the country had been abolished and that passports would be issued to all persons applying for them. The General People's Congress held in June approved the Green Charter of Human Rights, which included many of the basic principles contained in international human rights instruments. However, some guarantees were missing and its text contained expressions incompatible with human rights.

In Nouakchott, the capital of Mauritania: At the end of March, the Mauritanian Human Rights League organized the first Maghreb Conference on Human Rights, which was attended by

the human rights leagues of the countries of the Maghreb. The Conference issued a declaration and a number of recommendations aimed at promoting the development and integration of these countries.

In Iraq: Before the end of the year, the Iraqi President proclaimed an amnesty in respect of a large number of prisoners and fugitives, including Kurdish citizens wishing to return to the country after engaging in armed rebellion against the Government. The Iraqi President also announced the establishment of a pluralistic political system and greater freedoms, although this so far remains within the realm of good intentions and has not yet taken the form of policies and legislation.

In Algeria: Amendments were made to the Constitution and the National Liberation Front adopted resolutions vesting wider authority in the people's parliamentary representatives and allowing greater scope for political expression and participation by citizens.

These were the principal positive and negative aspects of the human rights situation in the Arab World in 1988. We will now review rights and freedoms in general, in the light of the same criteria.

The legal situation: laws and personal freedoms.

There was no significant change in the legal framework of the Arab countries in regard to the exercise of human rights and the laws restricting freedoms remained in force. In Egypt, it was decided to extend the state of emergency for a further period of three years and a Local Administration Act was promulgated which is regarded as a set-back to the exercise of the right of political association. A state of emergency remained in force in Jordan, Syria, the Sudan and northern Somalia and was also proclaimed for a while in some regions of Algeria during the October disturbances. Some constitutional articles remained suspended in Bahrain and Kuwait, as a result of which these two countries were left without a parliament to assume legislative authority.

The right to life continued to be violated in a number of countries, the most serious manifestations of this violation being observed in Lebanon, Iraq and Somalia, as already mentioned, and also in Syria where a number of detainees died as a result of torture.

The liberty and security of person of citizens were violated and thousands of members of Islamic groups were detained in Egypt prior to the festival marking the end of the month of Ramadhan and also in August and again in November on the occasion of the clashes that occurred in the district of Heliopolis at Cairo. A number of students were detained at the beginning of the year

for demonstrating to express their solidarity with the uprising of the Palestinian people. The same happened in Morocco and there were similar reports from Jordan. This was surprising, since all the Governments of these countries have announced their support for the uprising. An armed group hijacked a Kuwaiti airliner and deprived its passengers of their liberty for 16 days in an attempt to secure the release of 17 persons imprisoned in Kuwait. The hijackers killed two of the hostages before freeing the others and putting an end to their ordeal.

Prisoners and other persons deprived of their liberty continued to be treated badly, particularly in Syria where prison conditions were deplorable and medical care was denied to prisoners serving long sentences, as a result of which some died.

In Egypt, two court judgements were handed down condemning the acts of torture committed against persons accused in two different cases and allegations of similar acts against persons accused in another case are still being heard. Prisoners were also ill-treated in Morocco. In Somalia, prisoners were subjected to torture on the premises of the security authorities and sick prisoners were denied medical care. In Jordan, prisoners complained that they had been subjected to psychological pressure, in addition to being denied the most fundamental rights of detainees.

Accused persons were denied the right to a fair hearing and to appeal to a higher court for review of the sentences passed on them. There were many examples of this in Somalia and Iraq where, in some cases, there were no trials at all and citizens were

executed without even being sentenced to death. In Morocco, a lawyer was tried on a charge relating to his defence of a person accused of a political offence.

In this connection, the Egyptian judiciary exhibited particularly noteworthy independence. This is illustrated by the impartial judgement of the Administrative Tribunal annulling the decision of the Minister of the Interior to place the persons accused in the "Egyptian revolution organization" case in solitary confinement. The Criminal Court awarded compensation to Dr. Umar Abdul Rahman in respect of the torture to which he had been subjected and the Higher Constitutional Court ruled that article 4, paragraph 7, of the Political Parties Act was unconstitutional in so far as it stipulated that the establishment of a political party could not be approved if any of its founders publicly advocated principles and policies that were inconsistent with peace with Israel.

Freedom of expression

Freedom of expression and association continued to be violated in an absolute or relative manner. Press censorship remained in force in most countries. In Jordan, a number of writers and journalists were forbidden to exercise their profession and reports on the Palestinian uprising were censored. In Kuwait, the Dean of the Faculty of Arts of Kuwait University was temporarily suspended for publishing a scientific book of which the authorities did not approve. In Egypt, an order was issued for the dissolution of the "Association of Friends of Arab

Information" and the cessation of publication of its "Voice of the Arabs" newspaper. The party political press and journalists working therein were subjected to harassment. The judiciary also upheld the appeal against the denunciation of the "Egyptian Association for Peace and Freedom". This highlights the need for the promulgation of new legislation regulating the establishment of associations operating in other than charitable fields.

The positive aspects in regard to the exercise of freedom of expression and association can be found in the promulgation of the Political Party and Press Acts in Tunisia, the legalization of the Tunisian branch of Amnesty International and the granting of permission for the holding of the Constituent Assembly of the Moroccan Human Rights League at the end of the year after the obstruction that it had previously encountered during the year. In this connection, particular note should be taken of the important role played by the Algerian Human Rights League during the events in October.

Economic rights

The exercise of economic, social and cultural rights was affected by the deterioration in the overall economic situation, particularly in some countries. In the sphere of social rights, reference can be made to the fact that Libya began to settle the claims of the Tunisian workers who were expelled in the summer of 1985 and also undertook to settle the claims of the 120,000 Egyptian workers whom it had also expelled. In the field of

labour migration, Egypt and Jordan concluded an agreement that made provision for the insurance of Egyptian workers residing in or passing through Jordan against travel accidents. Only a partial solution was found to the problem arising from the Saudi Royal Decree annulling the application of the pension component of the social insurance scheme to foreign, including Arab, workers who thereby lost large amounts that they had contributed over many years towards their future security. Only 5 per cent of the salaries of the insured persons was declared repayable. This constituted only a partial response to the appeal made by AOHR in its report for the year 1987 and the Organization hopes that the Saudi authorities will agree to pay the full entitlements of the insured foreign workers. At the end of the year, the Iraqi Ministry of Labour and Social Affairs issued instructions stipulating weekly working hours, overtime hours and the compulsory weekly day of rest with full pay. However, the Office of the President of the Republic immediately ordered the cancellation of those instructions, since it regarded them as incompatible with what it called the "new method of the administrative and economic revolution for the reconstruction of Iraq". The Presidential Order called for the adoption of organizational methods conducive to increased production, continuous work and maximum efforts to increase working hours. Needless to say, this Order violates the right of workers to the reasonable limitation of their working hours, as well as their right to rest and periodic holidays with pay. With regard to cultural rights, it should be noted that the centuries-old Zeitouniya College in Tunis was reopened and reinstated in its Islamic form after being closed and disdained for many years. Note should also be taken of the Tunisian President's

announcement before the Conference of the Tunisian Democratic Rally concerning his support for the Arabization of education and the need to allow the Islamic religion to play its proper role in Tunisian society.

Finally, 1988 also witnessed the continuation of the Palestinian people's uprising in protest against the occupation and the violation of its collective right to self-determination. The occupation authorities treated the Palestinian people with extreme violence, violating all its civil and political rights, in addition to its economic, social and cultural rights.

The Israeli forces have resorted to beatings as well as the use of firearms and cold steel against the Palestinian people, thereby violating its right to life. Estimates of the number of persons killed ranged from 400 to 500 and the number of wounded exceeded 40,000 during the year. The occupation authorities also violated the Palestinians' right to liberty and security of person, as well as their right to freedom of movement, in numerous ways through individual and mass arrests, administrative detention, the designation of forbidden military zones, the imposition of curfews and restrictions on residence, the blockade of camps, deportation outside the occupied territories, the use of tear gas and the raiding and demolition of houses. The Palestinians' right to a fair legal hearing was also violated, since most trials were held before military courts and conducted in Hebrew, which the accused did not understand. The occupation authorities placed restrictions on religious worship and these violations led to the decision of the Christian churches to cancel the celebration of Christmas. The occupation