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CAIRO PAPERS IN SOCIAL SCIENCE

**HUMAN RIGHTS:
EGYPT AND THE ARAB WORLD**

FOURTH ANNUAL SYMPOSIUM

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CHAPTER FIVE

THE ARAB DRAFT CHARTER FOR HUMAN RIGHTS

MOHAMED NOMAN GALAL

The Charter of the League of Arab States which was adopted on March 22, 1945 did not deal with the issue of human rights. This may have been due to the establishment of the League prior to the adoption of the Charter of the United Nations, which did to some extent touch on the issue of human rights--as in Article 1/3 which urges "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, Language or religion".

On Dec. 10, 1948, the United Nations also adopted the Universal Declaration On Human Rights. The Declaration, which contains 30 articles, deals in detail with various aspects of human rights and fundamental freedoms. Article 30 of the Declaration is of special significance as it stipulates that "Nothing in this Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein".

However, the failure of the Charter of the League of Arab States to deal with human rights was not corrected in the Joint Defense and Economic Cooperation Treaty signed on June 17, 1950. Thus the first two important documents of the Arab League, the Charter and the Joint Defense Treaty, totally ignored any reference to both individual and collective human rights. Nevertheless, this does not imply that the concept of human rights was not in the mind of the drafters of the Charter and the Treaty. It is noteworthy that certain phrases in the Charter and its annex regarding Palestine refer to collective human rights. Thus, Article 8 stipulates: "Each member state shall respect the systems of government established in other member states and regards them as exclusive rights of those states". In other words one may conclude that the issue of human rights was dealt with by the Arab League in the framework of the rights of peoples to independence and self determination. This was reflected clearly in the annex regarding Palestine, and in the resolutions of the League in support of the independence of Egypt, Syria, Lebanon and other Arab states. The Arab Summit held in Egypt on May 28, 1946 expressed support for the rights of the Palestinian Arabs. The Arab Summit held in Lebanon in November 1956 expressed support for Egypt against the Tripartite Aggression of 1956. That was the Arab approach to the issue of human rights until 1965.

On Dec. 20, 1965 the UN adopted Resolution 2081. Passed to mark the 20th Anniversary of the Universal Declaration of Human Rights, the resolution urged regional organizations to adopt similar measures. Thus,

the Council of the League of Arab States adopted, for the first time, on Sept. 12, 1966, a resolution calling for the establishment of a steering committee to elaborate a program for the celebration of the Human Rights Year in 1968. The Committee recommended the establishment of a permanent Arab Committee on Human Rights under the auspices of the League. The Steering Committee also recommended that the League convene an Arab Conference on Human Rights. This was held in December 1968 in Beirut. The Conference considered a number of issues, most of which related to Palestinian rights. So did most of the resolutions adopted by the Conference. Thus, from 1966 onward, the expression "human rights" gained larger use in the discourse of the League. But the concept was mainly limited to the context of collective human rights; that is, to the rights of society and people to self-determination and independence. The issue of economic rights crept slowly to Arab political discourse primarily finding expression in the Arab states advocating a socialistic style of economic development.

The Arab Permanent Committee on Human Rights, which held its first meeting in March 1969, called for sending a UN committee to investigate the violation of the Palestinian human rights in the Occupied Arab Territories. The Committee also considered the possibility of drafting an Arab convention on Human rights and establishing an Arab court for human rights. In its meeting in Abu Dhabi in May 1970, the Arab Permanent Committee on Human Rights recommended, drafting an Arab Declaration on human rights as a step towards drafting an Arab covenant on human rights.

A group of Arab experts met between April and July 1971 to prepare a draft "Declaration on the Rights of Citizens in the Arab Countries". The 31 draft article, which dealt with civil, political, economic, social and cultural rights, was forwarded to member states for comments. Only 9 countries responded. These were Egypt, Syria, Iraq, Kuwait, Saudi Arabia, Lebanon, Jordan, Libya and Palestine. The replies varied from reservation to objection to support. Thus, the attempt was shelved. The Council of the League did not adopt any substantial resolution on human rights for the next decade.

The issue of the declaration was reactivated in the beginning of the 1980s after a meeting of Arab jurists adopted a draft convention on Arab human rights. However, in September 1981, the League Council decided to commission two experts to draft a charter instead of a declaration. The draft was prepared and forwarded for study to the Permanent Arab Legal Committee and the Permanent Arab Human Rights Committee as well as to member states. In March 1985, it was decided once more to freeze the issue until the Organization of Islamic Conference finished drafting a declaration on Human Rights in Islam, an effort that had been under way since September 1979.

As stated earlier, the issue of human rights was discussed within the Arab league for many years without reaching a tangible outcome. The

highest body within the league involved in this issue was the Council of the Arab League.

In 1971 the Council issued Resolution 2668, which states that a committee of experts should be formed to draft an Arab declaration for human rights. At that time, the declaration was considered a step toward an Arab charter for human rights that would take into account the historical, spiritual and cultural characteristics of the Arab Nation. The desired declaration was drafted by the Committee and forwarded to the member states for their comments. However, the declaration was not successful in overcoming the existing obstacles. The Secretariat of the League then resorted to a different approach to revive the issue by attempting to draft an Arab charter for human rights. This draft was approved by the Permanent Committee of the League for Human Rights. In 1981, the Council of the League resolved to form a committee of experts to draft the charter.

In 1984 the League's Council returned the draft charter to the Human Rights Committee to examine the comments of member states. The draft was submitted to the Council at its 1985 session. However, it was decided to delay action until the Organization of Islamic Conference finalized its "Declaration for Human Rights in Islam".

In September 1992, after a lengthy study by the Human Rights Committee and the Legal Committee of the League, the League's Council returned the draft to the two Committees for further examination in the light of the comments presented by Iraq, Jordan, Qatar, Kuwait, the U.A.E., Morocco and Syria. In April 1993, after the two Committees concluded that there was no contradiction between the draft Charter and the Islamic Declaration, the League's Council returned the draft to the two Committees for further study. The two Committees re-approved the draft and resubmitted it to the Council to be placed on the 1994 agenda.

The attitudes of some member states during the deliberations, especially during the 101st Council session, is of a considerable importance in analyzing that prolonged process:

1. The U.A.E. presented two reservations on articles 19 and 29 of the draft.

2. Bahrain and Kuwait put on record their requests to delay acting on the draft until Arab ministers of Justice decided upon a draft declaration for human rights which, ironically, was not on their agenda.

3. Saudi Arabia put on record its position that the Kingdom--like all Islamic states--would only abide by the "Cairo Declaration for Human Rights in Islam" based on the Shari'a. The Shari'a, it was argued, being the word of God, is sufficient to ensure an adequate legal system of human rights for all human beings.

The Egyptian delegation to the Legal Committee of the League expressed its position as follows:

1. The Government of Egypt is strongly in favor of adopting the draft Charter.

2. The Charter - if adopted - would serve as a 'regional defensive line' to ease the pressure exercised on the Arab states concerning their human rights records.

3. The Arab states should take into account international developments which give high profile to issues of human rights.

4. The Charter, as an agreement, is open to all Arab states for signature, without any encroachment on their sovereignty or will. It was significant that a number of delegations, among them Syria, Jordan, Iraq, Palestine and Tunisia, supported the Charter as formulated.

The main reason behind the prolonged treatment accorded to the draft charter lay in the differences among Arab states. Most Arab states have not expressed views on the draft; few presented written reservations.

The first major point of difference is over the inclusion of the term 'Zionism' in the preamble and in Article 1 of the draft. This article deals with collective human rights. The preamble stipulates that Zionism and racism violate human rights and threaten international peace. Article 1/B states that Zionism, racism, occupation and foreign domination constitute challenges to humanity and major obstacles to the fundamental rights of all peoples and therefore should be condemned and abolished.

The Egyptian government proposed that the term 'Zionism' not be included in the draft charter as the document focuses on human rights regardless of ideological beliefs. The Palestinian delegation and some other Arab states insisted on the explicit inclusion of the term.

The second point of difference has been over Article 19, which stipulates that governments derive power and authority from the people, as the latter are the source of legitimacy and all citizens are equal in political eligibility. This draft article has not been approved by the U.A.E. It is obvious that this article is not consistent with systems of government adopting inheritance as the source of political power.

Other differences have arisen over the following articles:

- Article 27, which stipulates that individuals equally enjoy the right of exercising their religious beliefs and practices.

- Article 28, which stipulates the right of all nationals to gather peacefully.

- Article 29, which stipulates that states must ensure the right of individuals to establish unions and resort to strikes.

Nevertheless, it is note worthy that the draft charter includes articles which reflect progressive views as far as human rights are concerned. For example, Article 2 ensures the fundamental rights of all human beings who exist within the territory of any Arab State with no discrimination on the basis of race, color, sex, language, religion, political orientation, wealth, place of birth or nationality.

Article 39 stipulates that young people should be granted opportunity to upgrade their mental faculties and observe their religious practices with no discrimination between different religions.

Article 37 ensures the right of minorities to maintain and exercise their cultural, religious beliefs and practices.

The draft charter was intensively discussed during the meeting of the League's Council in March 1994. Iraq and Jordan supported the draft charter in its current form on the basis that it is consistent with the principles embodied in "Cairo Declaration for Human Rights in Islam". Qatar, the U.A.E., and Morocco requested the amendment of some articles. On the other side Kuwait, supported by the Gulf States, has requested that the document be called a "declaration" instead of a "charter" so that it would be morally, not legally, binding. Saudi Arabia and, to some extent Oman, expressed outright objection to the draft charter on the basis that the Arab States have no need for any secular document since they find sufficient principles covering the area of human rights in the *shari'a*.

During the plenary meeting of the League's Council, the majority favoured either putting off the whole issue to a coming session or abandoning it. A minority advocated approving the draft charter as formulated. In the end, it was decided to postpone action on the draft. This showed that the Arab World has not yet reached that stage of cultural, political, economic and social evolution which brings about a comprehensive realization of the vital issue of human rights.

In understanding the position of opponents of the draft charter, it is helpful to compare that document with the Declaration for Human Rights in Islam.

In the first place, the Declaration is just a morally binding document, while the Charter is an international agreement that is legally binding and must be ratified by the legislative authorities of the states that accept it.

In terms of substance, the Declaration stipulates, in Article 9, that legitimate political power is derived from "God". The Charter considers the people as the source of all authority and states that qualified nationals are equally eligible to exercise political rights. The Declaration does not include any reference to racism or Zionism as violations of human rights, while the Charter makes these points in both the preamble and Article 1. Finally, the Declaration, unlike the Charter, stipulates that Islam is the religion that all human beings will eventually follow. The charter does not refer to the supremacy of any religion.

Conclusion

The Arab world is still living in a stage characterized by turmoil and a state of political, economic and social instability. Its institutions are still evolving. Needless to say, without stable and permanent institutions it is not possible to have a serious discussion, or even serious thinking, about human rights.

Nevertheless, the human rights environment in the Arab world is not as bad as it is often portrayed by Western media and some Arab NGO's. However, it is still necessary to work for establishing various types of institutions to safeguard human rights and fundamental freedoms. A human rights court and an independent judicial system would represent important steps in the right direction. However, the growth of popular awareness in

the Arab World is the most important guarantee of human rights. So too are the Arab national character and Arab culture, both of which provide for an environment receptive to the concept of human rights.

The cause of human rights, though a noble one, suffers from problems of double standard and selectivity. This issue is often raised by developing countries against the Western powers who ignore human rights violations by allies in the developing world but react energetically in other cases.

Talking about human rights raises also the issue of specificity, that is the particularities of certain societies or cultures and the significance of this on the cause of human rights promoted by the West. In this context, it should be remembered that France raised the issue of culture particularity in the GATT negotiations and the French Parliament has discussed the need to protect French culture and language from corruption by the English language, which is invading every corner of the globe. Thus, it is clear that the issue of cultural specificity is a real one, and has to be dealt with in more serious way.

Third World countries are very sensitive to threats to their sovereignty. They remain fearful that the cause of human rights will be exploited as a means of interference in their internal affairs. The fear is not groundless, for it is possible that the noble cause might be used as a tool for achieving political aims by exerting pressure against small countries.

All this helps explain why the Arab draft charter on human rights is still under consideration. It will remain so, in all probability, until the Arab World's political, economic and social climate becomes far more receptive. In the meantime, many Arab countries will continue being actively involved in various international instruments designed to promote human rights.

HUMAN RIGHTS IN EGYPT: THE PRACTICAL EXPERIENCE

PAULA TARR

Egypt's Ministry of Foreign Affairs has special competence in international human rights and social development. This is manifested in the establishment of a special office in the Ministry which handles a special point for dealing with these issues in the government's work. The Ministry's approach to human rights and social development encompasses three dimensions: the constitutional framework, the legal framework, the operational framework.

Regarding the first dimension is a question of any distinction between civil and political rights on the one hand, and economic, social and cultural rights on the other. This applies to both individual and collective rights. While the individual is entitled to such basic rights as freedom of speech and thought, there should be an arrangement on the collective level of the Egyptian society. There is no doubt that the Egyptian people have been experiencing a series of serious economic and social problems since the 1970s, which has brought to the fore the question of social justice and economic order of law and justice. The Ministry is fully aware of these problems and is working to solve them.

PART TWO

THE HUMAN RIGHTS ISSUE IN EGYPT

This brings us to the legal framework of Egypt's approach to human rights. Egypt's approach to human rights is based on its constitutional and legislative framework. Egypt is a member of the United Nations, and it is a member of the United Nations Human Rights Commission. Egypt is also a member of the United Nations Human Rights Council. Egypt is also a member of the United Nations Human Rights Commission. Egypt is also a member of the United Nations Human Rights Council. Egypt is also a member of the United Nations Human Rights Commission. Egypt is also a member of the United Nations Human Rights Council.

The third element of Egypt's approach to human rights is its operational framework, within which projects are made to implement the constitutional and legal responsibilities. It has adopted the idea that the Human Rights and Social Development Desk at the Ministry of Foreign Affairs does not operate in a vacuum. It has been successful in maintaining excellent cooperation and coordination with various government ministries and departments. So far the outcome has been satisfactory.

At this point a few remarks regarding the work of the Human Rights Desk are in order. First, we note our approach to human rights on the following operational experience:

1. Political and economic liberalization are basic aspects

the right of every man to the highest attainable standard of living. It is the duty of the State to ensure that the basic needs of the population are met and that the right to work is realized.

The right to work is a fundamental right and is essential for the realization of other rights. It is the duty of the State to create conditions of work which are just and equitable and to ensure that the right to work is realized for all.

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THE HUMAN RIGHTS ISSUE IN AFRICA

HUMAN RIGHTS IN EGYPT: THE PRACTICAL EXPERIENCE

NAILA GABR

Egypt's Ministry of Foreign Affairs lays special emphasis on issues of human rights and social development. This is manifested in the establishment of a specialized desk at the Ministry, which today is a focal point for dealing with these issues on the government level. The Ministry's approach to human rights and social development embodies three dimensions: the conceptual framework; the legal framework; the operational framework.

Regarding the first, there is an avoidance of any distinction between civil and political rights, on one hand, and cultural, social and economic ones on the other. This applies to both individual and collective rights. While the individual is entitled to such basic rights as freedom speech and thought, there should be no infringement on the collective rights of the Egypt's society. During recent years, Egypt has been experiencing a wave of terrorist actions against government officials, tourists and innocent laymen in the streets. The government is doing its utmost to maintain the order of law and protect the masses within the framework of law and democracy.

This brings us to the legal framework of Egypt's approach to human rights. Egypt was among the first countries to join and ratify international conventions related to human rights. Egypt has also worked to harmonize its national legislation with these conventions. Related to this are Egypt's obligations to the United Nations, in particular those requiring presentation to the international body of periodic reports on matters related to human rights. The fact that Egypt tries to fulfill its commitments contributes greatly to its international credibility. Moreover queries by various competent bodies regarding issues of Human Rights and those of social development are carefully reviewed and answered.

The third element of Egypt's approach to human rights is its operational framework, within which attempts are made to implement the conceptual and legal aspects discussed earlier. In this respect, let me state that the Human Rights and Social Development Desk at the Ministry of Foreign Affairs does not operate in a vacuum. It has been successful in maintaining excellent cooperation and coordination with various government ministries and departments. So far the outcome has been satisfactory.

At this point, a few remarks regarding our work at the Human Rights Desk are in order. First, we base our approach to human rights on the following operational imperatives:

1. Politicization and commercialization are to be avoided.

2. While monitoring is important, education, awareness and implementation are of equal significance.

3. The "third generation" of Human Rights, including the right to development, peace self-determination and a healthy environment, are extremely important.

In discussions with various governments and NGO's, we at the Human Rights and Social Development Desk seek to emphasize these principles as a prerequisite for dialogue. We have reiterated more than once that monitoring is not the only factor in a dialogue. We look forward to assistance and cooperation in the fields of education and implementation. Unfortunately, our efforts so far have had of minimal success. It is worth pointing out that we believe that governments play a primary role in the protection, implementation and promotion of Human Rights principles, norms and standards. It is crucial to have an objective dialogue with governments instead of focusing solely on monitoring with a view to making accusations.

Our work at the national level does not mean that we disregard the regional and international levels. Our activities in both the Arab and African settings are quite energetic. Egypt is currently playing a pivotal role in pushing for the adoption of the Arab Charter for Human Rights by the Arab League. In Africa we participated at a very early stage in the drafting and adoption of the African Charter.

Internationally, we participated in all the preparatory work for the Vienna World Conference for Human Rights. Nor did we spare any effort during and after the conference to ensure its success and the full implementation of its declaration and program of action.

While Egypt did not oppose in principle the establishment of the new UN post of the High Commissioner for Human Rights, it held that prior to this step existing UN Human Rights bodies should be strengthened and that the new post should have a clear definition of its mandate to avoid unnecessary duplication and overlapping.

Human rights and social development go hand in hand, and we at the Ministry charged with these issues do not neglect the latter. We are participating in the current preparatory work for the international conference for social development and the world conference for women, which will be held respectively in Copenhagen and Beijing in 1995.

In Egypt, we believe that the limitations on resources that obtain in developing countries are not obstacles to playing an active role in the promotion of human rights and social development, nationally, regionally and internationally. We do not claim that everything is rosy and perfect. On the contrary, there are problems, difficulties and challenges that need to be tackled. We aim to put things into perspective, objectively and without exaggeration.