THE RUGGED ROAD

The Emergence, Evolution and Challenges of Human Rights Action in Arab Countries

edited by
Khaled Mansour

Arab Reform Initiative

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Photo: A mural near Cairo's Tahrir Square drawn by Egyptian artists on concrete blocks that bar the way to the Ministry of Interior headquarters, March 2012. © Jonathan Rashad

ISBN: 979-10-93214-19-1
EAN: 9791093214191

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Introduction: Evolution, Present Challenges and Future Prospects

Khaled Mansour

From a vantage point looking ahead to a horizon of hopes in many Arab countries in 2011, most advocates for social justice and human rights have descended into deep ravines of despair in the following few years and until 2019 when new waves of massive protests erupted again in several Arab capitals. In this decade, several Arab states disintegrated into civil war, others moved back to authoritarianism, while a couple more fortunate societies have had to wade into a jungle of policy options all shackled by tight domestic and global political and economic structures that are at best failing to address extreme inequalities and poverty. This rather bleak and unpredictable transition fits within a global trend of exploding social anger and protest.

Rising walls separating nations in general as well as the haves and have-nots within the same country are becoming increasingly difficult and dangerous to cross with more entrenched security measures. Fear and securitization are spreading hand in hand with the latter feeding rather than mitigating the former. This can be seen in the increasing suburbanization and multiplying walled compounds of Cairo to the murderous civil wars of Syria, Libya, and Yemen. Despite this bleak reality, multitudes of people are still thronging the streets and public spaces calling for social justice, dignity and basic rights. People living in the Middle East and North Africa (MENA) region are back in the streets clamouring for human rights as evident in the recent protests in Sudan, Algeria, Iraq and Lebanon.

Public protests have rocked this region for about ten years, revealing deep cracks in societies and multiple state failures. This region is inextricably integrated within the global economy and the challenges it faces are part of global dynamics that have been reshaping the world as we knew it since the early 1990s when the cold war era ended and neo-liberal ideology and economics started to dominate. Local human rights actors entered the public scene in earnest at this juncture, though their story started much earlier, with the first formal Arab human rights organizations formed in the early 1970s, only a few years after such groups appeared in the West[1].

Political activists, especially from nationalist and leftist backgrounds, as well as lawyers interested in fostering the rule of law and in public issues all came together to seize the opportunities created by the internationally rising discourse on human rights to engage in a new form of meta-political activism in the Arab region.

Three major intersecting trends accompanied the foundation of Arab human rights organizations.
Firstly, there was a clear demand for human rights advocacy due to rising incidence and ferocity of violations especially by state security agencies against political and social activists. Political organization had been largely restricted if not outright banned in most Arab countries with massive waves of repression from the mid 1950s till the late 1980s[2]. States had then started to lose their postcolonial legitimacy with such repressive measures becoming far less defensible under the guise of state-building and guarding against real and imagined neo-colonial or foreign "conspiracies".

Secondly, people had long suffered from the failing of quasi socialist state-led policies and then without a pause started to pay the price of also state-led neoliberal policies as of the late 1970s[3]. These failures marked a major breakdown in an implicit social contract within most of the non-rentier states in the region: social safety networks and promise of social mobility were maintained in exchange for curtailed political freedoms and sham democratic processes.

This trend did not translate into rights-based advocacy until probably the early 2000s when skyrocketing inequality, increasing poverty and visible marginalization became ubiquitous and unbearable for the majority. The unwritten and un-negotiated but tacitly visible social contract in the region allowed ruling regimes to behave in an authoritarian and often repressive manner as long as they provided for a minimum level of social services especially in the fields of health care, education, housing, and leisure. This state failure was compounded by the visible state capture by senior government and security officials.

With Arab nationalism, including its Baathist version, fast eroding, ensuring social compliance under a blatantly unfair and corrupt system necessitated more surveillance and repressive practices especially against political opponents from the dwindling left and the rising Islamists. The ignominious defeat at the hands of Israel in 1967 drove a major nail into the coffin of Arab nationalism and the claims of ruling postcolonial elites. The end of the cold war and the failure of non-oil producing Arab states' economic policies drove many more nails into the same coffin but the corpse was not buried until the early 1990s in

[1] One of the earliest such groups was Amnesty founded in 1961. Other groups followed in the 1970s including in the Arab world where the oldest formal human rights organization was established in Morocco in 1972 as the League for the Defense of Human Rights or Ligue marocaine de la défense des droits de l'homme (LMDDH), followed by Tunisia's League for the Defence of Human Rights in 1977 or Ligue Tunisienne de la Defense des Droits de l'Homme (LTDH).

[2] For example, the Egyptian Nasserist regime systematically incarcerated both communists and Islamists in massive numbers from the mid 1950 to the late 1960s in horrible prisons where activists were tortured and detained for years without trial or after sham judicial proceedings. Morocco went through three decades of massive politically-motivated state violence as of the early 1960s during which security agencies killed, disappeared, and tortured dissidents and suspects. Syria, Libya and Iraq had the bloodiest and most unaccountable security agencies which imposed a total state of fear for decades and went as far as aerial bombardment and using chemical weapons against their own citizens.

[3] Almost all Arab states, monarchies and republican, resorted to neoliberal economic policies which the more well-off citizens in gulf rentier states were able to withstand, while the urban poor and the rural population of non-oil countries suffered tremendously especially in densely populated countries such as Syria, Egypt, and the Sudan.

the aftermath of the Iraqi invasion of Kuwait. This ideological void opened a space for the emerging discourse of human rights to gain traction especially that the discourse enjoyed a legal support system rooted international law and treaties signed in previous decades. Human rights as a framework for sociopolitical arrangements and in some cases as an ideology was thus fast embraced especially by leftists and nationalists who did not cross over to the Islamist camp. This was the third trend that strengthened the appeal of a human rights discourse.

Focusing initially on political and civil rights, human rights defenders (HRDs) in MENA documented violations of these rights and advocated against them while rendering legal aid to victims of torture, legal persecution, and extrajudicial harassment. When neoliberal policies started to markedly affect the populations, an increasing number of HRDs started to pay attention in the early 2000s to economic and social rights as well. The far more popular Islamist movements, often dismissed the rights approach altogether as a foreign enterprise especially when it focused on personal rights, but nevertheless, they also started selectively using a rights-based rhetoric.

In 2010/2011 loud demands for dignity, social justice and freedom reverberated through streets in the Arab world and virtual web-based spaces in massive and viral protests after decades of oppressive and dysfunctional state policies. The protestors demanded freedoms that they have been denied or rights they could not attain while asserting their legitimacy as the source of sovereignty by repeating in all these marches one slogan that echoed from Tunis to Damascus and Sanaa: "The People Want to Bring Down the Regime." Fast forward to 2019, a second wave of these popular protests broke out in several countries while most of the countries that underwent the first wave were either struggling with policy issues, subject to re-invigorated authoritarian regimes, or decimated by civil war and violence. There is a hankering in Cairo and in parts of Tunis, for example, to an imagined status quo ante of a peaceful stability; this illusory longing is fuelled by the alarming and unpredictable waves of instability and economic hardships after 2011. It was also fuelled by individuals and networks spanning security agencies, business elites, conservative religious and traditional formations and media platforms, all buttressed by regional power brokers, especially Arab oil-rich countries in the Gulf, and the intervention or negligence of global centres of influence in Washington DC, Moscow and Beijing.

Whatever transpires, the Arab spring has probably ushered in the end game for the majority of Arab regimes that came to power in the 1960s and before. These regimes had been slowly decomposing politically and economically for the best part of the previous two decades. The three countries we are addressing in this book – Egypt, Morocco, Tunisia –have been in a delicate, if brutal at times, dance among various fires and desires. These states, as Anderson argues, had more than often "privileged external actors over local interests" which meant that their ruling elites were more accountable to foreign interlocutors than they were to their own peoples. The population was largely left to fend for common interests through communal forms rooted in informal economies, kinship systems, and ethnoreligious communities while state institutions treated them all as subjects to be controlled rather than citizens to be served[4].

Thus, it should not be surprising that people from Morocco to Yemen and from Tunisia to Syria, started to embrace human rights more vigorously in the first two decades of this millennium. The middle and upper middle class protesters stressed civil and political rights while the more impoverished and oftentimes destitute demonstrators stressed economic needs and demanded social justice. Across the spectrum, dignity was a demand for all.

Tunisia has gone farthest in breaking with its recent political past. The Moroccan regime survived with some constitutional reforms and relatively loosening the monarchical grip on political and economic resources. Egypt went through two turbulent years then a counterrevolution returned power to the military-led conservative elites. HRDs and relevant organizations enjoyed an unprecedented influence in the three countries for a short period of time, then they were either demonized or marginalized, if not outright punished or jailed.

What did we study?

This book contains 18 chapters focussed on six thematic issues in each of the three countries under study. Working with leading human rights organizations in Egypt, Tunisia and Morocco, the researchers for this volume analysed the current context and possible scenarios of action and activism in a region undergoing major socio-political and economic upheavals. The research has benefitted from a thorough review of the past trajectory of human rights action in the three countries.

The six research themes tackle the evolution of human rights action and organizations; relations between human rights activists and the state; the complex relationship between Islamists and the human rights discourse; human rights and the rest of the civil society (trade unions, social movements, political parties, etc.); the internal governance of human rights organizations; and, finally, the impact of human rights action.

HRDs operate in a crowded field where other civil society organizations, social movements, state institutions, and internation-

[4] Lisa Anderson, "'Creative Destruction': States, identities and legitimacy in the Arab world", Philosophy and Social Criticism, 2014, Vol. 40 (4-5) 369-379

al organizations interact. They work within various formations ranging from advocacy organizations which employ full time professionals in capital cities all the way to grass root groups agitating for housing rights in a small community; they work for membership organization or small research centres and legal aid offices; and, finally, they are part of bureaucratized structures or simply belong to groups of activists loosely connected through social media platforms in a non-hierarchical manner.

For this research project, we opted to focus on a comparable set of actors in all three countries; these are non-profit organizations which have a clear structure, consistent record, a minimum level of recognition within the field, claim to work for a greater common good, and root their actions broadly in the human rights instruments.

Our Findings:
The 18 chapters of this book are descriptive, analytical and in some cases also prescriptive. In the following six sections, we will summarize the main findings of these chapters along the relevant themes.

1. The Evolution of Human Rights Action
In their chapters, Mohamed Kadiri, Yasmin Shash, and Asma Nouira, trace the emergence and evolution of human rights organizations in Egypt, Morocco and Tunisia respectively. These surveys are largely unprecedented and should serve as a valuable resource for future research and activism.

In "The Evolution of Morocco's Human Rights Movement", Kadiri reviews the increasing specialization and professionalization of human rights action, starting with advocacy for political rights, which represented a reaction to grave violations in the first decades after independence until the early 1990s. He then addresses the expansion of the movement to include advocacy for economic and social rights, then the emergence of service-oriented associations, and the rising interest in cultural and personal rights after strenuous efforts by women and Amazigh organizations.

Morocco had its first formal human rights organizations in the early 1970s, but human rights activism became more impactful as Morocco's bloodiest decades of repression tapered off in the early 1990s. Kadiri explores how the state handled HRDs through a mix of repression and containment strategies. After 2011, a large number of activists and organizations started to work on personal rights, justice reform, freedom of belief, sexual rights, as well as the rights of ethnic groups and socioeconomically marginalized communities.

"The Formal Birth of the Human Rights Movement in Egypt" shows that the human rights community in Egypt has truly flourished as of the late 1980s and became very vibrant in the early 2000s reaching its peak of influence and relevance in 2011/2012 before coming under tremendous government pressure as of late 2014 after a short-lived democratic experience in Egypt came to an abrupt end at the hands of the military. This chapter presents an analytical chronology of Egypt's human rights movement since its birth all the way to 2016. The chapter deals with the four main challenges facing human rights action in Egypt: the relationship between HRDs and various political actors including Islamists; the internal governance of human rights organizations and how to ensure institutionalization, professionalization and adequate representation; the issue of foreign funding and accountability; and, finally, the contentious relationship with the state.

Like Morocco, the human rights movement emerged in Tunisia in the 1970s. Nouira starts her chapter, "Origins, Evolution and Challenges to the Human Rights Movement in Tunisia", in 1977 when the Tunisian League for the Defence of Human Rights (Ligue Tunisienne des droits de l'homme, LTDH) was established to work on systematic violations of civil and political rights. Like the case with the first human rights organizations in Egypt and Morocco, it was political activists and/or lawyers who established the LTDH. Since the late 1980s, other human rights organizations emerged, both domestically or as branches of international organizations. Rights' activists were perceived by the government as part of the political opposition and were thus persecuted by state security agencies. The fall of the dictatorial regime of Ben Ali in 2011 and the ensuing shaky but persistent transition to electoral democracy had a major influence on the movement and the civil society at large, restructuring both and enabling them to play a key role in this transition. New human rights organizations focussed more on socio-economic, sexual and ethnic rights.

2. State: An Ally and a Foe?
It is arguable that a state is necessary to carry out the collective will even through coercive mechanisms if necessary to ensure mutual and public respect for rights of groups and individuals. In other words, there must be a functioning state that can impose agreed norms of justice to prevent violations of negative rights (e.g. end to torture) and to adopt policies and measure to guarantee positive rights (e.g. adequate health care and housing).

And this is why HRDs and organizations in the MENA region deal with the state as an ally and a foe at the same time. They document violations by state agencies and officials but also work hard to influence state institutions (especially the legislative and the executive) to change laws, policies and practices to guarantee, even if gradually, the attainment of social and economic rights. Most of the violations documented by HRDs are committed by state-run law enforcement agencies and to a much lesser

extent by non-state armed actors (e.g. violent Jihadi groups). The state is also the main interlocutor when it comes to advocacy for positive or socioeconomic and cultural rights through, for example, laws and policies to ensure delivery of minimum services in the fields of health care, education, housing, and employment.

On its part, the state often viewed HRDs and relevant organizations as a nuisance to contain and deprive of public support locally and internationally. This relationship is very hostile in Egypt, antagonistic in Morocco and guardedly functional in Tunisia. Hatem Chakroun attempts in "Tunisia: Human Rights Organizations and the State" to chart how this fraught relationship developed. The establishment and consolidation of national state institutions after independence was the main obsession of the ruling political class in Tunisia. This fuelled an antagonistic stance towards pluralism and political freedoms. The consolidated regime of President Habib Bourguiba succeeded in imposing an authoritarian single-party political system, whose "legitimacy" rested on the anti-colonial struggle. The autocratic political system continued after 1987 with the reign of President Zine El Abidine Ben Ali, who retooled the authoritarian political vision. The human rights community was always under pressure as the state attempted to coerce it into adopting a tailored vision of human rights compatible with the logic of a dictatorship.

After the fall of Ben Ali, a new relationship began to form on a very positive note with veteran HRDs playing a central role in the process of establishing a vision for the new republic based on respect for human rights. However, unmet economic demands and public pressure for meaningful reforms of the failing system and policies have shifted demands to social and economic issues. This shift has marginalized old human rights organizations which have been historically more invested in civil and political rights.

In Egypt, the state institutions have mostly looked down upon civil society as subservient to state prerogatives which assigned civil society organizations (CSOs) the role of a secondary provider of social services within a state-envisioned central plan. Sometimes it was also asked to perform secondary mobilization and propaganda tasks in the political field as determined by the state. Mohamed El Agati analyses in "The State and Human Rights Organizations in Egypt: A Problem of Political Culture or a Structural Crisis?" how Egypt's authoritarian regime in this way ended up largely suffocating civil society initiatives and autonomy by subjecting it to a complex web of laws and security measures. On the other hand, the CSOs, especially human rights organizations, were rarely able or encouraged by governments to overcome their own deep mistrust of the state.

In "Human Rights and the State in Morocco: Impact of the 20 February Movement", Rachid Chennani credits the persistent struggle of HRDs with forcing the state to gradually admit past systematic violations. Coupled with international geostrategic shifts, these domestic pressures led to several tracks of transitional justice and relative political opening in the late 1990s and early 2000s. The 2011 uprising revitalized the human rights approach to socio-political problems, and crowned many decades of struggle to peacefully and gradually establish a rights-based contract with the state. Such a state of affairs no longer seems far-fetched, according to Chennani.

3. A Tough Reconciliation: Islamists and Human Rights

Islamism, which is not a primordial nor an immutable ideology, has several overlapping variations, from the revivalist Brotherhood to the absolutist Jihadis. Political Islamist currents are still better understood as essentially a response to modern state formation and part of the post-colonial struggle over power and resources in many Arab countries. Unlike advocates of universal human rights whose claims rest on an almost exclusively secular and humanist world view, Islamists attribute their view of human entitlements to certain interpretation of Islamic texts and history.

In "Islamists and Human Rights in Morocco", Mohamed Wazif argues that the political protests in Morocco in 2011 led to a spectacular political rise of Islamist forces causing deep concerns among civil and political actors about power-sharing and the future of democracy and human rights. A history of confrontation between Islamists and HRDs intensified these concerns. From a different perspective, Heba Raouf Ezzat, who wrote "Islamists and Rights Activists in Egypt", traces the roots and continuing dynamics of "animosity" in the relationship between Islamists and rights advocates. Islamists turned a blind eye to many violations committed by the regime and its security agencies between January 2011 and mid-2013, she argues. On the other hand, some rights advocates took part in mobilizing and supporting the opposition movement that led to the 2013 demonstrations and the premature end of Egypt's first democratic experiment after a military takeover that sent Egypt's Islamist president and tens of thousands of his supporters to prison largely on trumped up charges. Killings, executions, and other egregious rights violations of mainly Islamists activists were soon followed by legal harassment of other political activists as well as HRDs in general. The government also enacted an unprecedentedly restrictive NGO law. All this led HRDs to condemn the regime and renew efforts to monitor, document and publicize its massive violations. She predicts that Islamists could increasingly see an opportunity in resorting to a human rights perspective in their advocacy. As such, this could lead to more cooperation among the two antagonistic groups thanks to various new initiatives and organizations established since 2014. This budding cooperation may end up resolving deep ideological rifts between the two sides.

In "Tunisia: Human Rights Organizations, Political Islam and its Groups", Mohamed Sahbi Khalfaoui argues that Tunisian Islamists have long had a bifurcated vision of human rights. They are torn between hostility to personal rights and embracing

public freedoms. While they attempted to include Islamic law as the main source of legislation in the latest constitution agreed after the fall of the Ben Ali regime, Islamists continued to declare their support to human rights principles. By analysing the changes during the drafting of the 2014 constitution, Khalfaoui offers a more nuanced reading of the Islamist position. While some analysts were optimistic concerning a transformation in the Islamist ideology of Ennahda movement in Tunisia, others claimed that the Islamists were duplicitous, bidding their time until they are empowered enough to impose their project, which is inherently antagonistic to human rights.

4. Human Rights and Social Movements

While the uneasy juxtaposition of religious and rights referential frameworks presents a challenge that must be negotiated and redefined over time as both frames keep changing, the common terrain inhabited by social justice, corporatist and trade union movements on the one hand and human rights activists on the other hand is a space of tension that paradoxically also has a potential for cooperation.

In "The Human Rights Movement and Contentious Politics in Egypt (2004-2014)", Amr Adly dissects the restless relationship between HRDs and bearers of socioeconomic demands, such as trade and professional unions. He argues that defenders of economic and social rights have partially succeeded in working with protest movements to challenge public policies and institutions in Egypt. However, no organic relationship developed between the two groups. The protest movement did not strategically adopt an economic and social rights framing that would have enabled it to get beyond its local, largely apolitical and un-institutionalized characteristics in favour of a nationwide platform. Meanwhile, the human rights movement was unable to cultivate strong and continuous organizational or discursive links with the broader protest movement and its various constituencies needed to counter potential authoritarian reversals like the ones that happened after July 2013. Gains made by "NGOization", civil "societization" and professionalization (access to resources and recognition), Adly argues, came at the high price of alienation from the aggrieved constituencies and hence hindered the development of organic links between the two sides. The head remained severed from the large leaderless but able body.

Hatem Chakroun tackles similar issues in "Rights and Politics: Human Rights Action and Socio-economic Struggles in Tunisia". He concludes that human rights actors need to review their roles and tactics to decide whether they could (or whether they indeed need to) perform the functions of mediation and representation (between the movements and the state) or they could explore other avenues that can address the complex issues of brokerage between human rights holders and duty bearers. Chakroun selected three movements in different regions of Tunisia in order to shed light on the dynamics of relations between rights activists and protest movements, and how HRDs attempted to mediate between movements, which often lacked a political structure, on the one hand, and a ruling regime over the distribution of wealth and power, on the other hand. He shows how and why such activists were at times able to play a useful role as brokers or defenders of these rights.

Youssef Mounsif's "Human Rights Action and Social Movements in Morocco" looks at a deep and broad national transformation as bridges started to appear over the gap between an alleged elitism of the human rights movement and the "masses". He explains how human rights organizations refocused their work after the 2011 protests on social, economic and local struggles of various communities, thus colliding with existing vested interests and the entrenched networks of patronage. Mounsif analyses the relations between HRDs on the one hand and the student movement, trade unions, and then the mobilization by the unemployed around the right to work, on the other hands.

5. How Do Human Rights Organizations Govern Themselves?

The fact that human rights organizations in North Africa have evolved in a very repressive state-imposed legal environment and in largely conservative societies has undermined their internal governance systems. CSOs were more concerned about exposing themselves to risks if they behaved more transparently or accepted new members without ensuring that they are not security agents and thus possible infiltrators. Still, understanding the issues of representation, accountability and internal governance of human rights organizations is vitally important for a revitalization of this movement.

In "Governance in an Island of Dysfunctional Governments", Hafidha Chekir explores the legal environment of Tunisian associations and how it affected their internal governance systems. After the adoption of a new law to regulate associations in September 2011, Tunisian CSOs have increased in numbers to 21,000 by the end of 2018 including 350 human rights associations. Tunisian CSOs had already acquired a prestigious national and international status after four of them together received the Nobel Peace Prize in 2014. Chekir analyses several governance issues related to management and funding, and highlights examples from organizations that have been active in the field of human rights for a long time as well as those that were established after the revolution. She describes a number of structural and financial hurdles which prevent Tunisian rights associations from carrying out their activities in a satisfactorily democratic, transparent and accountable manner.

Similar challenges are pointed out by Yara Shahin in "Unsolved Dilemmas: Issues of Internal Governance in Egypt's Human Rights NGOs". Shahin looks closely at internal structures and decision-making processes including governing boards, funding, donor relations, accountability, and representation. She argues that while the restrictive legal environment for civil society in

Egypt had hindered the development of effective governance mechanisms within many organizations, internal dynamics in these organizations had also weakened their governance structures. The dilemmas that persisted through different generations of Egyptian human rights organizations include balancing activism on public issues with bureaucratization and professionalization of vehicle organizations, the difficulty for and resistance from founders/directors to leave their influential posts, developing better participatory mechanisms of accountability towards constituencies and addressing the "stigma" of foreign funding.

Some of these dilemmas also surface in "Governance and the Human Rights Movement in Morocco", where Mohammad Tariq concludes that human rights CSOs faced several challenges especially in the area of financial governance because in the first place they lacked steady and sustainable resources. Moroccan CSOs struggle to maintain their independence from both the state and political parties due to their precarious financial situation. They have not only to grapple with pressures from donors and supporters, but also to deal with the unpredictability of the ambiguous legal framework they have to operate within and which regulates funding and public accounting for NGOs in general. He shows how the state has long turned monitoring mechanism and protocols of accountability into tools to control rights organizations.

6. Great Outputs but What Impact?

It is extremely difficult to measure the exclusive impact of civil society actors due to the near impossibility of attributing certain social, legal or policy changes only to their efforts or even determining how much they contributed to such changes. Very costly quantitative analysis can certainly help shed some light on the overall contributions of advocacy organizations in a specific sector, but even without fully undertaking such an approach starting with a baseline survey, some quantitative data gathering, discourse analysis and structured interviews with well-placed informants can somewhat help show the impact of human rights actors. This is what the last section of this book strived to achieve.

In "Making Use of a Revolutionary Movement: The Impact of Human Rights Organization in Post-Revolutionary Egypt", Soha Abdelaty argues that the unprecedented public mobilization in 2011 created a perfect opportunity for human rights' advancement. There was more public space than had ever existed during Mubarak's three-decade rule for all stakeholders to engage freely: media, political parties, the judiciary, and human rights organizations, in the absence of the usually domineering state security apparatus. Human rights organizations were dealing with a vulnerable regime that was keen to appease, willing to listen, and open to reform and dialogue, regardless of how genuine its intentions were. In the aftermath of the 2013 military coup, which followed massive demonstrations against the Muslim Brothers-led government, it became clear that many of the gains made by these rights organizations were fragile and reversible.

Mohamed Outahar follows a different approach when he studies the impact of human rights organizations in Morocco in "The Human Rights Movement in Morocco: The Dialectic of Influence". The 2011 uprising contributed to expanding social demands in Morocco and devolving them to the micro level, thus becoming more focused on everyday needs. The most significant results of this shift were the consolidation of a wider base for HRDs and more public support for action in defence of basic rights in peaceful and pragmatic ways.

In "The Impact of the Human Rights Movement in Tunisia: Between Legislation and Practice (2010-2016)", Afifa Mannai shows how the human rights movement moved from monitoring and exposing violations to actively participating in drafting bills and lobbying for policy reforms. Mannai explains how successful were the tools and mechanisms deployed under these changing circumstances to induce public pressure and policy/legal reforms on specific issues: women rights, combating torture, due process, and abolishing the death penalty. She argues that it was easier to assess the success of the human rights movement in the adoption of certain policies and legislations, but it was more difficult to ascertain its impact on actual state and social practices, both of which change as a result of many factors.

Concluding remarks

> "Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world." – Eleanor Roosevelt in extemporaneous remarks delivered in 1958.

Arab human rights organizations became more professional and complex over the past four decades despite the authoritarian repressive regimes everywhere in the region. They copied Western counterparts and operated as entities of expertise akin to think tanks and pressure groups that monitor, document, publish, sue, and engage in policy advocacy when tenable. But this very model has come under threat in the west as much as in the rest of the world, with the universal foundations for the human rights discourse being challenged at political, legal and moral levels. Authoritarian systems have been reinvigorated in a hyper securitized world mired in an endless global war on terrorism and against irregular migration.

The human rights community needs to reflect on and probably change some central strategies and tactics to better help engen-

der long term progressive change working with a broad spectrum of partners in the Arab region. This is a more pressing need in light of the rising nationalist-populist pressures regionally and globally to impose narrow particular entitlements versus universal rights. These movements are solidifying the divide between who "We" are and the rest of humanity or "They"[5]. The challenge does not only come from such right wing populism but also from segments of the left who are tempted to abandon such notions in the name of fighting Islamism or Western imperialism. Both rest on a serious anti-universalist moral system as pointed out by Ignatieff, who describes a moral system of ordinary virtues which "privilege the local over the universal; the citizen over the stranger; and the community over the cosmopolitan[6]." It is a system that contradicts universal rights with the sovereignty of democracy; or in other words, a system that enables people within a community or a state to decide who and how many outsiders should/could be entitled to the rights that insiders have.

The human rights community's first order of business then is to seriously address this non-universal moral system, at least on political and advocacy fronts, on the one hand while exposing its weaknesses, contradictions and dangerous consequences even for the insiders who are at one stage or another going to be also subdivided even further into a "them" separated from the rest of "us", and so forth, on the other hand. These divisions can theoretically go ad infinitum but even at the sectarian, confessional, religious and ethnic levels, they are potently destructive as evident in the Middle East and North Africa. Populism, as Moyn rightly argued, is significant "not only for outsiders who are treated callously but also for insiders who have no recourse when majorities wrest power from elites they feel have betrayed them[7]". The human rights community ultimately needs to recreate, and better advocate for the universality of human rights, to bring pressure to bear through public and policy debates about current challenges and future prospects of issues pertaining to social justice and equality. This cannot be realized without working closely with social actors/movements which enjoy a broader popular support and a larger capacity to mobilize and lobby.

Though human rights are usually presented in legal terms resting on international treaties, national constitutions and domestic laws, they are ultimately founded on a moral philosophy of universal equality among all human beings who are connected by empathy, or to put it differently, by the Kantian Categorical Imperative. These moral aspirations and claims are shaped and reshaped by the dominant political and economic structures. As Goldenziel argues, "human rights may only be attained once they are universally understood as simply what is right, regardless of what the laws say. Yet law is also necessary to check human behaviour when it strays from virtue. Human rights law and ordinary virtues must be mutually reinforcing for both to be sustainable[8]." Consequently, addressing multiple audiences at varying levels using an adjustable rhetorical spectrum is a must to help transform the work of human rights advocates to become better understood, more strategic, adequately supported, and, ultimately, more effective.

Since the initial research for this book was completed in 2017, the tide seems to have turned and human rights organizations have in many cases lost popular support or interest. In many countries, they have also come under tremendous pressure by security agencies and repressive regimes.

The rule of law in the shadow of such authoritarian regimes can easily turn from a tool in the hands of human rights advocates to a weapon in the hands of ruthless and co-opted judiciary and law enforcement agencies. Such laws and practices have been used against HRDs and organizations in Morocco and Egypt, focussing often on the issues of funding. For their funding, Arab human rights organization rely on European and American private foundations and, to a lesser extent on government and domestic public funding. In their tactics, these organizations tried to stay away from direct political engagement to the extent of sometimes only focusing on documentation of violations then disseminating their findings. This sometimes led these NGOs to become more elitist, donor-motivated, and research oriented (as opposed to advocacy, mobilization, and litigation) outfits. The impact of human rights organizations in these three countries ultimately relied on positive state response to social pressure as exercised by organized groups rather than due to acquiescing to demands articulated by expert NGOs. The issue here is that socio-political change does not come about because a ruling regime had seen 'the light' on a prescribed road to democracy or good governance, but that social movements had moved political levers and seized structural opportunities to bring about change. In other words, reinforcing human rights norms and infrastructures is the final outcome of a prolonged and organized struggles at local, national and international levels and not a sign of goodwill from the ruling elites in response to rational and principled demands by civil society organizations.

The tidal waves of the Arab Spring have shaken ruling regimes to their very core, but it has also exposed structural weaknesses in how human rights actors organize and practice in their field. When authoritarian institutions wobbled for a while in 2010-2012 and again in 2019, human rights actors moved freely and enjoyed more influence in shaping policies, legislations and affecting public practices. In countries where security agencies regained their dominant positions like Egypt or relatively as in Morocco, these organizations face a much more complex and restrictive reality. Having said that, the rhetoric and ideals of human rights have clearly infiltrated deeply into the public discourse and aspirations in almost all Arab countries as the structural causes of the 2011 Arab Spring persist and the seasons seem to have turned again one decade later.

[5] Cesar Rodriguez-Garavito, "Reimagining Human Rights," Journal of International Law and International Relations, 2017, Vol. 13:1, p.13
[6] see Michael Ignatieff, "Human Rights, Global Ethics, and the Ordinary Virtues", Journal of International Law and International Relations, 2017, Vol. 13:1, p. 5, and then commentary articles in the same volume by Samuel Moyn, Judith Lichtenberg, Jill Goldenziel, and Dwight Newman.
[7] Samuel Moyn, "Human Rights in the Absence of Virtue", Journal of International Law and International Relations, 2017, Vol. 13:1, p.28
[8] Jill Goldenziel, "Virtues are not Enough", Journal of International Law and International Relations, 2017, Vol. 13:1, p. 17.

PART I:

The Evolution of Human Rights Action

The Formal Birth of the Human Rights Movement in Egypt

Yasmine Shash

Summary

This paper analyzes a chronology of Egypt's human rights movement since its birth in 1985 going through its different phases and generations until 2016. The paper starts with a brief history of the Egyptian Organization of Human Rights (EOHR), the challenges it faced and the conceptual differences that led to its eventual fragmentation in early 1994.

The four challenges this paper is concerned with are: the relationship between human rights action (organized or informal) and politics including Islamic factions as well as the rest of civil society, the internal structure and governance of human rights organizations, the issue of foreign funding, and the contentious relationship with the ruling regimes as demonstrated in legal regulations affecting civil society.

Next, while the paper lays out a chronology of the birth and death of different human rights actors and their contribution to the movement, the four challenges are constantly dissected setting a framework in which the work of human rights actors unfolds. Finally, the paper concludes with questions and observations that, it argues, should be tackled by the human rights community in Egypt with a critical view towards its own history in order for it to learn from the past and hopefully re-adjust its strategies for a greater impact and alternative solutions in the future as it faces tremendous challenges in the present.
(In addition to secondary sources, in-depth interviews were conducted with Egyptian human rights defenders. Some were conducted on condition of anonymity and they will be referenced as numbers in this paper).

The Birth of the EOHR

Though a human rights discourse has evolved in Egypt much earlier, serious attempts to institutionalize, professionalize and popularize the struggle to improve human rights in Egypt started in 1983 with the establishment of the Arab Organization for Human Rights (AOHR). The AOHR wanted to "explicitly […] protest the erosion of civil and political freedoms in the Arab states[1]." The group of leading intellectuals and activists founding the AOHR attributed the multiple failures of Arab states to the authoritarian nature of the regimes and the general suppression of political participation in the decision making process[2]. Later in April 1985, the Egyptian Organization for Human Rights (EOHR) was established as a branch of the AOHR to focus on Egypt with the deteriorating human rights situation and the political impasse in the aftermath of President Sadat's assassination by an Islamist armed group. Violent confrontations erupted between security agencies and armed Islamist groups; a general crackdown on Islamists widened; torture became systematic and an "officially condoned practice"; there were increasing restrictions on freedom of thought and belief; and the government declared a state of emergency in 1981, which lasted for the following 30 years. Such conditions gradually engendered a culture of impunity among security agencies with respect to mass detentions, arbitrary practices and collective punishment. Under such circumstances, the establishment of EOHR in 1985 marked the most tangible and formal start of the so-called human rights movement in Egypt, as we know it today, partly as a response to a concrete need that the political society failed to adequately address[3].

The founders of the EOHR included a variety of Egypt's secular leftwing intellectuals such as Hani Shukrallah, Ahmed Nabil el Hilaly, Bahey el Din Hassan, Mohamed al-Sayed Saeed, Hisham Mubarak, Aida Seif El-Dawla and others. Others who joined early on from the nationalist Nasserites camp included figures like Nejad Al Borai and Hafiz Abu Sa'eda, the latter remains the Chairman of the EOHRs to date. Many of these founders would later start independent human rights organization in the early 1990s following internal disputes over the nature, structure and purpose of the EOHR.

It is important to highlight the challenges the EOHR was facing in the early nineties because they revolved around issues that still bedevil the Egyptian human rights movement in the second decade of the 21st century. The four challenges this paper is concerned with are: the relationship between human rights action (organized or informal) and politics including Islamic factions as well as the rest of civil society, the internal structure and governance of human rights organizations, the issue of foreign funding, and the contentious relationship with the ruling regimes as demonstrated in legal regulations affecting civil society. This paper will show how these four challenges shaped the evolution of the human rights movement in Egypt and precluded certain prospects while reinforcing others.

[1] Jill Crystal, ‹The Human Rights Movement in the Arab World› [1994] 16(3) Human Rights Quarterly 474 [hereinafter: Crystal]
[2] Bahey el-Din Hassan, A Question of Human Rights Ethics: Defending the Islamists. in Anthony Tirado Chase and Amr Hamzawy (eds), Human Rights in the Arab World: Independent Voices (University of Pennsylvania Press c2006) 42
[3] ibid., 38-43

A Brief History of the EOHR

According to founding members the real start of Egypt's human rights "movement" should be linked to the EOHR's separation from the AOHR and its move into a new independent premise in 1989. This move coincided with the change in leadership from Secretary General Sherif Hatata to new Secretary General Bahey el Din Hassan, considered by many as the leading figure of the EOHR. The move was not only in terms of office space and leadership, but it was also a qualitative and substantive leap regarding the work the organization produced. The type of work the EOHR had been engaged in changed from receiving complaints and simply forwarding them to the concerned ministerial entities to taking active positions, issuing statements and holding press conferences as well as observing trials. In other words, the EOHR evolved into what is classified today by many as a general, professional proactive human rights organization. Therefore, whereas older generations such as Mohamed Fayek and Saad el Din Ibrahim were the actual founders of the organization, the so called "movement" started with the involvement of younger and less state-connected activists such as Bahey el Din Hassan, Hani Shukrallah, Hala Shukrallah, Hisham Mubarak, Aida Seif Al Dawla, Nabil el Hilaly, Nigad al Borai, Mohamed el Sayed Saiid and many others. These were young politically active individuals, who came from student movements of the 70s or underground Marxist organizations or the Labour Communist Party. Some also came from a nationalist Nasserist background. The older generation had a diametrically opposed background as Fayek was a former minister under Nasser and a former intelligence officer in the 1950s while Ibrahim was very close to former president Sadat and his family.

Between the late eighties and early nineties, three dates and their corresponding General Assemblies are of much relevance to shed light on issues that would later fragment the EOHR. These are 1989, 1991 and 1993.

1989

The year 1989 is important for the EOHR, but it is also an important point in history, to understand the context in which such an organization emerged, especially that many of the EOHR members came from a leftist background. For some, 1989 was a year of revisiting and criticizing classical and rigid Marxist or leftist notions. With the fall of the Berlin wall, and before this the disintegration of what was then the Soviet Union, it was a year that witnessed a disillusionment with socialist convictions and a higher rise in notions of universal human rights worldwide.

In Egypt, in particular, 1989 was the year of the Iron and Steel workers strike whose violent dispersal resulted in one death, tens of injuries and around 600 arrests. Among the arrested were leading members of the EOHR, such as Amir Salem and Mohamed el Sayed Saiid, who were tortured in detention [5]. This incident resulted in more popularity for EOHR and its members. In addition, the year marked the beginning of a series of assassinations of Islamist figures and rising revenge terrorist acts locking the security agencies and the armed Islamists into a vicious circle of violence that spelled a lot of blood in the 1990s [6].

As left-wing movements were declining in Egypt and abroad, combined with the rise of Islamism in Egypt, it was natural for founders of the EOHR to divert into the human rights path. According to some founders, it was not a substitute path, but there was rather something authentic in redefining and revisiting certain leftist notions. Some argue that there was a genuine belief in the necessity of a human rights movement as it was unfolding all over the world. This view challenges the idea that the EOHR was actually being used as a platform for political activity. It seems that many of the interviewed EOHR founders agree that despite the fact that many of them came from politically active backgrounds, the EOHR was not a place they sought to continue engaging in politics. Instead it was an "authentic and genuine" human rights awakening [7]. Accordingly, the kern of all upcoming disagreements among EOHR founders and members was not caused by ideological differences between for example Marxists and Nasserites or leftists and Islamists. Rather, it seems that conceptual and even sometimes personal disagreements, were behind the eventual fragmentation of the EOHR membership [8].

In 1989 the first meaningful General Assembly for the EOHR took place, in which the nature of the work and mandate were discussed [9]. Some quote this General Assembly as the smoothest and its board as the best EOHR has witnessed. There was a general agreement and a conscious decision that the EOHR would start a Human Rights movement in Egypt and will work towards a model such as Amnesty International or Human Rights Watch in terms of the type of work it will produce.

1991

The General Assembly in 1991 witnessed the first waves of disagreement over the issue of foreign funding – a highly controversial issue to date. As the confrontation between Islamists and the State continued to unfold, increase and intensify, violations against Islamists in detention or outside became increasingly systemized and the organization continued to grow in its work and legal representation, which meant it required more funding to sustain itself. Those who objected to foreign funding in

[4] Interview 3
[5] Interview 1.
[6] Interview 2.
[7] See interviews 1,2,3 and 4.
[8] See interviews 1,2,3 and 4
[9] Interview 3.

principle argued that the West is economically stronger and donors would have agendas behind funding Egyptian NGOs, which would create a relationship of dependency [10]. Even a few years following the fragmentation of the EOHR Shukrallah expressed that "the impact of […] foreign aid […] has been quite negative." In his view, funding comes with "strings attached." He gave the example of the focus on civil and political rights, as a typical replication of Western NGOs' priorities that without foreign funding would not have been necessarily the direction of a local human rights movement in Egypt [11]. While Shukrallah was suspicious of foreign funding he did understand the pragmatic need for it and was of the opinion therefore to resort to foreign funding, but only under very stringent terms and conditions. Indeed, he wrote down conditions including that the organization would not accept funding from American entities, it would not accept funding from governments generally and the funding had to remain extremely minimal to guarantee only the survival of the organization while maintaining volunteerism as its nature as a membership organization [12]. The concept of foreign funding was opposed more dramatically by Nasserites and after the General Assembly when it was voted that the EOHR would resort to foreign funding (even though with stringent conditions) Nasserites like Helmy Shaarawi and Nader Farjani resigned from the organization over the issue.

The opposing camp, led by Hassan and Sa'id perceived "international interactions on both non-official/non-governmental and official /governmental levels as the only way for Egyptian society to thrive." Sa'id objected to invasive governmental monitoring of NGOs and foreign entities, arguing that "traitors" do not need to work in NGOs for a cover. Sa'id argued that Egypt had enough laws to protect national security "without any need to restrict private non-governmental activities [13]." In addition, based on comparing the EOHR before and after it started receiving foreign funding, Hassan argued that foreign funding does not necessarily influence an organization's agenda, and that the results of foreign funding are dependent on the donor as much as they depend on the receiver [14].

The decision was taken to accept foreign funding under growing financial pressure and control it through stringent terms and conditions that were laid out by Hani Shukrallah, Bahey el Din Hassan Nejad al Borai and others [15]. However, the majority of the members voted to accept foreign funding and the EOHR's first funding came from Oxfam and amounted to US$40000 of which 20000 were used to secure a premise.

1993

Being an open membership organization, some believed that the EOHR was facing what some founders believed to be a threat to be overtaken or dominated by one or another political group. Different attempts to neutralize the competition among political factions started since the EOHR's General Assembly in May 1991, however eventually the question became urgent on how the organization, as a structure, should move forward. The options included turning the organization into a closed association or to open up membership, and consequently become capable of mass mobilization on a bigger scale. The debate on the new form of the EOHR sheds some light on the other three challenges as well, as they are all interlinked.

In 1993 the organization was already on its feet, it was in a position of strength, it was the only human rights organization in Egypt and it had become a tempting platform for different factions with different visions for its future [16]. It was becoming unviable to continue with such levels of disagreements and decisions had to be taken as to the structure and philosophy of the organization after it has become a household name. Following a workshop for the EOHR in July 1993 leading members of the EOHR wrote papers presenting their vision of how the organization is meant to continue its work and critiquing opposing visions as well [17]. There were three visions proposed for the EOHR around the time of the 1993/4 General Assembly.

Hani Shukrallah's, a co-founder of the EOHR, summarized the three options that were being considered in 1993. One of the scenarios put forward, and the least popular one, was "the front of defending democracy [18]." This scenario would turn the EOHR into a representation platform for both legal and illegal political opposition forces in Egypt. In other words, it would turn the organization into a voice of all political factions. In this scenario, the discussion was put forward on how to balance the inclusion of Islamists while maintaining human rights as a priority. Shukrallah's critique of this option poses logical and tough question to seculars and Islamists alike: whether one of them (the Islamists) would accept the universality and indivisibility of human rights principles or whether the other (the seculars) would be willing to abandon the rights that a majority of Egyptian Islamists would find objectionable on religious grounds such as women's rights, the right to freedom of religion and conscience and the rights of minorities. In other words, the question would be if the EOHR would be willing to turn a blind eye to defending certain rights for the sake of a political gain of having Islamists on board. This scenario was unpopular amongst all secular camps and was not competing with the two other visions.

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[10] Nicola Pratt, Human Rights NGOs and the ''Foreign Funding Debate'' in Egypt. in Anthony Tirado Chase and Amr Hamzawy (eds), Human Rights in the Arab World: Independent Voices (University of Pennsylvania Press c2006) 116-117 [hereinafter: Pratt]
[11] Hani Shukrallah, in "International Aspects of the Arab Human Rights Movement", Harvard Law School Human Rights Program (2000), 45-46
[11] Hani Shukrallah, in "International Aspects of the Arab Human Rights Movement", Harvard Law School Human Rights Program (2000), 45-46
[12] Interview 2.
[13] Pratt, op. cit., 120
[14] Bahey el-Din Hassan, in "International Aspects of the Arab Human Rights Movement", Harvard Law School Human Rights Program (2000), 46
[15] Interview 2.
[16] Interviews 2, 3 and 4.
[17] See Bahey el Din Hassan and Hany Shukrallah's articles published in "Rawaq Arabi" in July 1996 under the title "From the documents of the intellectual debate in the Egyptian Organization of Human Rights".
[18] Shukrallah's article in Rawaq, 170.

The second and most popular of the visions was maintaining a "closed organization [19]." This option, according to Shukrallah, had the most support, including that of people such as Mohamed El Sayed Said and Bahey el-Din Hassan, who both a year later would found the Cairo Institute for Human Rights Studies (CIHRS) under this prototype. Under this scenario, the EOHR's members and board would consist of human rights practitioners mainly concerned with the human rights situation in Egypt, making sure the organization remains completely independent from Egypt's political scene. The organization's main reference would be international human rights law and its instruments [20]. According to supporters of this option, this would be the one way to maintain the organization's objectivity and independence and hence its credibility as well [21]. The closed organization scenario would effectively mean limiting and controlling new membership and avoiding turning the organization into a platform for political factions to pursue political power at the expense of a newly born human rights discourse. Bahey el Din Hassan, who took the lead in defending this option, also argued that keeping the organization "closed" would save the EOHR from "the challenge [Islamists] pose to human rights organizations [22]."

Shukrallah's camp, which included Aida Seif Al Dawla (later to establish Al Nadeem Center for the Rehabilitation of Victims of Violence, Al Nadeem) Ahmed Nabil el Hilaly, Hisham Mubarak and others remained critical of this option. The argument was that for human rights organizations to be turned into a movement, and hence have a better shot at effecting change, the organizations themselves must be "linked in a real struggle for real people." Five years later, Shukrallah would reiterate his position after a few closed organizations were already established under what he saw as a Western model of human rights practice. He argued that human rights organizations were becoming "increasingly professionalized" but at the same time increasingly "detached from the population [23]."

Finally, the third scenario for the EOHR's structure, which competed with the second and was put forward during that assembly, was "a popular and democratic organization for human rights". Shukrallah detailed his vision and support to such a scenario, suggesting some major reforms, including: broadening of the membership of the EOHR to ultimately turn it into a popular human rights movement, expanding the organizations' field of work to include all kinds of human rights violations without giving priority to civil and political rights, for example, and turning the organization's committees and branches into independent entities in an attempt to democratize the organization from within [24].

When asked about this scenario in 2016, a few of the members who were supportive of it explain that they aimed at building a human rights "movement" more than an organization and that the professional aspect of it should stay at a bare minimum, so it doesn't turn into a bureaucratized institution with self-interest in reproducing itself [25].

They wanted to create a current [26]. Some of them admit in retrospect that given the conditions of the 1990s the "closed organization" scenario might have been the only practical and realistic path to walk [27].

This open membership vision was met by skepticism by the other secular camp led by Hassan, who saw this alternative as another version of the first scenario. He argued that firstly, this scenario would politicize the organization, and while it does not include or call for the Muslim Brotherhood's membership as a political faction, it will deter such a possible infiltration or takeover only for a short while. More importantly, Hassan worried that if the organization were to pursue the "illusion" of popularity, it would pay the price by having to abandon basic human rights that are unpopular. At the forefront of these rights, for example, would be women's rights and the abolishment of the death penalty [28].

All these challenges were debated extensively in the special meeting of the EOHR in August 1993. From then on, one camp led by Shukrallah, was campaigning and supporting the mass mobilization concept, whereas those with a Nasserist background in addition to others supported limiting the organization's expansion and changing its structure to a closed organization. At its Fifth General Assembly in January 1994 the Nasserist faction became a majority on the executive board, alienating many founders and leadership members that came from other camps. This General Assembly is perceived by many founding members as a black spot in the history of the EOHR. As the arguments sharpened between the two camps, what happened exceeded difference in opinions. One member in coordination with the main supporters of the "closed organization" scenario manipulated and arguably forged memberships in retrospect for people from his hometown to come and vote at this specific General Assembly, in order to exclude supporters of the opposing team. From this member's point of view, it was a matter of survival, these were tactics to

[19] ibid., 165
[20] The International Human Rights Bill consists of the Universal Declaration of Human Rights, adopted in 1948, The International Covenant on Civil and Political Rights and its two optional protocols and the International Covenant on Economic Social and Cultural Rights. For details see www.ohchr.org/AR/ProfessionalInterest/Pages/InternationalLaw.aspx
[21] Shukrallah's article in Rawaq, 165
[22] Bahey el-Din Hassan, in "International Aspects of the Arab Human Rights Movement", Harvard Law School Human Rights Program (2000), 21
[23] Hani Shukrallah, in "International Aspects of the Arab Human Rights Movement", Harvard Law School Human Rights Program (2000), 20
[24] Shukrallah's article in Rawaq, 174-176
[25] Interview 2
[26] Interview 4
[27] Interview 2
[28] Bahey el-Din Hassan's article in Rawaq, 189

win and elections are campaigned for this way [29]. To him it was a war and it was important to be the last one standing. From the other perspective, this incident and the General Assembly as a whole is perceived as a shameful black spot in the history of the EOHR, in which elections were manipulated and forged in a human rights organization [30]. Some of them expressed that they were shocked as to the degree of politics and tactics involved to reach the desired outcome. One disappointed member recalls that "yes, the disagreements were many, but at the end of the day they were conceptual and philosophical disagreements. I never expected that for the sake of winning such people could reach that low level and turn things into personal attacks [31]." Another member considers what happened on that day a "crime" and holds one particular individual responsible for that General Assembly.

It remains ironic however, that it is the campaigners of the "closed organization" scenario that used the "open membership" nature of the EOHR in order to hijack elections and subsequently be able to turn it into a closed organization once the opposing members of the board were out.

Despite the fact that the period between 1989 and 1993 can be perceived a time of great accomplishment by the EOHR in terms of the professionalization of human rights action and improved documentation of violations, the challenges were too big and the human rights movement in Egypt splintered after 1994. Many EOHR leaders left to form their own closed organizations. This fragmentation had one positive outcome, nevertheless, which is the birth of a number of local human rights organizations working on various issues with different strategies. They, however, continued to face many of the challenges faced in 1991-1993, in addition to the increasing pressure of government legal restrictions forcing many organizations to survive in a grey zone under threat.

Until now issues of relations with political Islam/Islamism, foreign funding, state hostility, internal structures/governance, and actual impact still haunt the human rights community in Egypt. Proceeding in a chronological order from 1995 till 2015 will elucidate this continuity and help us define new questions and areas of additional research. To this we will turn in the rest of the paper.

The Litigation wave

In 1994 Hisham Mubarak, a young and active leftist human rights lawyer, left his position at the EOHR and founded the Centre for Human Rights and Legal Aid (CHRLA), the first and "most aggressive" human rights organization to use litigation as its main strategy in fighting human rights violations in Egypt. Its main mission was to provide free legal aid to victims of human rights abuses, and use the abundant number of cases it litigated for the purpose of advocacy through publicizing the human rights situation in Egypt. In terms of funding, the CHRLA relied solely on foreign funding, which allowed for its growth and ability to open two more branches in Alexandria and Aswan [32].

As the CHRLA's model proved powerful, other organizations were founded also using public interest litigation as their main strategy, this time with areas of specialization. The Center for Women's Legal Aid was established in 1995 to provide free legal aid to women against a range of forms of discrimination, with a special focus on gender-based violence. Similarly, the Land Center for Human Rights, established in 1996, dedicated its work to farmers facing potential eviction from their land in the late 1990s. According to Moustafa, between 1996 and 2000 the Land Center litigated over 4000 cases. Another established "legal" NGO was the Human Rights Center for the Assistance of Prisoners (HRCAP), which specialized in providing legal aid to prisoners in relation to allegations of torture, monitoring prison conditions and recurrent detention [33]. During its first 5 years the HRCAP initiated over 200 cases yearly and provided free legal aid (and other services) to 7000 – 8000 victims per year.

Crucial to the choice of litigation as a strategy to combat human rights violation was the faith in a relatively independent judiciary in Egypt – a factor that has arguably deteriorated significantly post the 2011 revolution. According to former director of the CHRLA and current executive director of the Egyptian Initiative for Personal Rights Gasser Abdel Razeq, ''in Egypt, where you have a relatively independent judiciary, the only way to promote reform is to have legal battles all the time. It's the only way that we can act as a force for change.'' According to Moustafa, by 1997, litigating human rights cases and challenging government legislation relating to rights had "unquestionably become the dominant strategy for human rights defenders because of the difficulty of creating a broad social movement under the restrictive Egyptian regime [34]."
The reliance on litigation and promoting an independent judiciary led in 1997 to the foundation of the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP), with former legal director of the EOHR, Nasser Amin as its director. The ACIJLP, even though not directly involved in litigation, complemented the newly formed network of human rights organizations that adopted litigation as its main strategy. The ACIJLP built ties with international human rights organization and adopted a strategy of international advocacy to put pressure on the Egyptian government and judiciary to minimize harassment of lawyers and guarantee the professionalism of the judicial system.

[29] interview 3
[30] interviews 1,2,3, and 4.
[31] interview 2
[32] Tamir Moustafa, Public Interest Litigation and the Egyptian Movement. in Anthony Tirado Chase and Amr Hamzawy (eds), Human Rights in the Arab World: Independent Voices (University of Pennsylvania Press c2006) 158 [hereinafter: Moustafa]
[33] Moustafa, 158
[34] Moustafa, 159

Institutionalizing Advocacy and Documentation

Apart from the ACIJLP, other human rights groups formed in the same period had advocacy, whether on an international or domestic level, as their main strategy. Among those was the CIHRS, which went on to embody what founders Bahey el Din Hassan and Mohamed el Sayed Sa'id envisioned but failed to implement for the EOHR. The CIHRS is a closed organization with international human rights law as its main reference. It has a regional focus and is mainly involved in research-based advocacy for policy and legislative reform [35].

In 1993, Al-Nadeem Center was established by professor of psychology at Ain Shams University Aida Seif al-Dawla together with two psychiatrists, Suzanne Fayyad and Abdallah Mansour (later joined by Dr Magda Adly), to offer medical support to victims of torture [36]. More personally, the founders' own friends were tortured because of their political activism and needed medical support. When the founder of Al Nadeem tried to help their friends, they discovered that there was no entity in Egypt where torture victims could obtain parallel medical reports or contest prison medical reports on torture. They then decided to establish Al Nadeem in order to issue parallel medical reports and provide psychiatric and psychological support for torture victims. Today they remain the only medical human rights clinic working with torture victims in Egypt. Interestingly, the founders of Al Nadeem expected to be dealing with people with political activism backgrounds. It was then an eye-opener that between 1993 and 2000 the centre did not receive one political victim of torture. It was a revelation that the epidemic of torture in Egypt was not linked to political activism but that it was widespread and systemic among the most vulnerable and the poor. Upon this experience the work of Al Nadeem grew into including human rights advocacy as opposed to being strictly a clinic [37].

While the centre was initially suggested to be part of the EOHR, for purposes of patient confidentiality as well as due to the EOHR fragmentation, it was decided that it would be founded as an independent entity [38]. In 2000, the founders decided to divide the centre into a programme for the psychological rehabilitation of torture survivors and a separate programme for women facing all kinds of violence. As of early 2016, and despite severe government pressure, Al Nadeem remains the most reputable and active institution dealing with torture cases.

A New Generation of NGOs, A Continued State Onslaught

It is important to highlight that since the establishment of the EOHR until the date of writing, the human rights movement in Egypt has been in a constant legal struggle with the Egyptian government. Egypt's NGO Law has been changed three times since the 1960s and awaits to be changed once again as a highly restrictive draft was pushed through parliament in late 2016 [39]. The different versions of an NGO law since the 1960s shed some light on "a desire by the state to dominate the space formulated by human rights groups, rather than to organize structures to facilitate a working relationship [40]."

As early as in 1986, the Egyptian government refused to acknowledge the EOHR and ignored its request to register as an NGO. Ironically, despite the peak of using litigation as their primary strategy for challenging the regime, NGOs were left without a solid legal status due to the restrictions of Law 32/1964, intact since the Nasser era [41]. The law prohibited civil society organizations from working on "religious or political issues" and established a government-appointed monitoring body to review NGOs finances and activities, with the apparent function of restricting foreign funding [42].

The regime's discomfort with human rights organizations increased dramatically in 1998. Hafez Abu Sa'eda, then secretary-general of the EOHR, was charged with ''receiving money from a foreign country in order to damage the national interest, spreading rumors which affect the country's interests, and violating the decree against collecting donations without obtaining permission from the appropriate authorities.'' Abu Sa'eda was facing a potential sentence of seven years in prison. The main message delivered to the human rights organizations was that foreign funding would not be tolerated. In the aftermath of the interrogations, the EOHR adhered to pressure and stopped accepting foreign funding [43].

A year after, a new law governing NGO activity was passed. Law 153/1999 increased the constraints imposed by Law 32/1964. The new law prohibited civil associations from engaging in ''any political or trade union […] activity, the exercise of which is restricted to political parties and syndicates [44].'' In addition, any organization ''threatening national unity or violating public order or morals'' could be dissolved in accordance with the law [45]. Finally, with regards to foreign funding, the main source of survival for most organizations, the law prohibited NGOs from even communicating with foreign associations without first informing the government. While various organizations campaigned against this law, it still caused a split even within the most renowned human rights centre back then, the CHRLA. As a result, the CHRLA split into two organizations. One faction decided to register their new Association for Human Rights Legal Aid in accordance with the new law, while the majority of lawyers, including Ahmed Seif al Islam established the new Hisham Mubarak Center for Legal Aid, named after CHRLA's founder, who had died a year earlier. Under the leadership of Gasser Abdel Razeq the Hisham Mubarak Center campaigned against the 1999 law. Only a year later, Egypt's Constitutional Court found the law to be unconstitutional arguably because it violated a constitutional right to organization, assembly and association. Some argue that the law was only found unconstitutional because its adoption lacked the correct procedures as it was not passed through the lower house of representatives before its adoption [46].

[35] May Shams el din, ‹Human rights in focus: A series of conversations› (Mada Masr on April 14, 2015) available at www.madamasr.com/sections/politics/human-rights-focus-series-conversations
[36] Lina Attala, "Human rights in focus: Aida Seif al-Dawla: Human rights as a political struggle" (Mada Masr on October 10, 2015) available at https://goo.gl/Lp4wYr
[37] Interview 4
[38] Attala, op. cit., and interview 4.
[39] NGO law Draft dated November 2016 available at www.madamasr.com/wp-content/uploads/2016/11/6504_2010_114.pdf. (Editor note: the new more draconian law was passed in 2017 few weeks after the final draft of this paper was submitted).
[40] May Shams el din, op. cit.
[41] Moustafa, 161
[42] See Law 32 (1964) available at http://dar.bibalex.org/webpages/mainpage.jsf?PID=DAF-Job:52577&q
[43] Moustafa, 163
[44] Moustafa, 164, See Law 153 (1999), art. 11(3).
[45] Law 153 / 1999 Art 11 (2)
[46] Case 153 (21 J.), available at www1.umn.edu/humanrts/arabic/Egypt-SCC-SC/Egypt-SCC-153-Y21.html

A New Generation and a New Restrictive Law

The Hisham Mubarak Law Center replaced the earlier CHRLA, not only in terms of attracting most of the latter's employees but also in terms of importance in the field. Again, prominent lawyers such as Seif al Islam, Taher Abu el Nasr and director Abdel Razeq were at the forefront of the fight for human rights, choosing litigation as their strategy. The centre again expanded to have a branch in Aswan as well. The organization inspired younger lawyers and human rights activists that were trained there to move on, creating their own associations and adding powerful voices to the human rights struggle during the 2000s. Among those people was freshly graduated Hossam Bahgat, who founded the Egyptian Initiative for Personal Rights (EIPR) in 2002 literally by borrowing 5000 EGP from Seif al-Islam [47]. A main trigger for the establishment of EIPR was the EOHR's reaction – or rather inaction – to the notorious Queen Boat case. Not only did the EOHR stand idly by, but it also refused to engage with aspects of the case that were integral to its specializations, such as State Security Emergency Courts and torture in detention. Even more, Bahgat was dismissed from his two-month new position at the organization as an International Relations Coordinator after writing an article [48] criticizing both the inaction of Egypt's human rights groups on the trial and the security service's targeting of Egypt's gay community [49].

The EOHR's quiet stance on the Queen Boat case and the subsequent dismissal of Bahgat were indicative of what has become of the organization after losing most of its founding members. Two important allegations were made by some especially younger human rights activists, which somewhat tarnished the image of the EOHR. They claimed that the EOHR became preoccupied with "safe"-to-defend rights such as torture as opposed to controversial rights such as sexual rights. Secondly its (in)actions, they added, reflected the conservative mentality of a one-man decision-making process under Abu Sa'eda as opposed to the democratic structure that was hoped for the organization in the 1990s.

EIPR's establishment came partially as a reaction to the former incident, but also due to a need to introduce young and passionate blood to the field. By 2002, directors of the first wave of human rights organizations were still in their same posts and recruited from the same communities since the early nineties. Working in the field in a local organization meant for young practitioners that commitment to the work came from a personal interest and it came with a minimal salary and a sense of sacrifice. EIPR, since its first day, aimed at attracting a caliber of young professionals that would usually aim to work in international organizations or the UN, for the lack of potential local organizations had to offer in the early 2000s. The idea was that local human rights organizations should be able to offer a career to young aspiring human rights professionals instead of having them go to an international organization based abroad and still work on Egypt from London or New York [50]. Furthermore, EIPR was not only a new model in terms of the caliber it attracted, but also in terms of the subjects it chose to work on. It chose to work on "forgotten or avoided rights" and initially started leading the battle of sexual and religious minority rights.

EIPR also succeeded in putting the right to health on the map of the rights discourse in Egypt, whether through strategic litigation (EIPR succeeded in halting the privatization of the health insurance system through strategic litigation before the State Council in 2008) or through constant negotiations and work with the ministry of health all the way leading to EIPR's right to health programme manager drafting Article 18 in the 2014 Constitution which includes the right to health as a constitutional right for the first time in Egypt's history [51]. EIPR did not adopt a particular choice between litigation and advocacy as much as it chose the strategy depending on the case and topic. It continued to grow in terms of litigation, advocacy, research and documentation activities to become one of Egypt's leading human rights NGOs today, with Gasser Abdel Razeq as its current director.

In 2004, rights lawyer Gamal Eid, a co-founder of the original CHRLA, established the Arab Network for Human Rights Information (ANHRI) following what he describes as "the Nasserist monopolization of the EOHR [52]". The organization adopted advocacy as its main strategy and was mostly concerned with violations of freedom of expression in Egypt and the Arab world.

Similarly, the Association of Freedom of Thought and Expression (AFTE) was established in 2006, initially for the purpose of defending students' rights, and fighting for academic freedom, on digital platforms, and in artistic production. Just as EIPR chose to work on under-represented rights, AFTE chose to work with an under-represented segment of society – the youth. According to its founder, it was shameful that over a period of 20 years, since the first wave of human rights NGOs, no NGO decided to focus its work on defending Egypt's politically active students, who represent Egypt's future and were being continuously oppressed and interrogated by the State's security apparatus on campus. The organization was established and led by Emad Mubarak, who experienced such oppression as a student and believed academic freedom, freedom of expression and student activism needed a dedicated institution, which can monitor, represent and advocate for those issues. Ten years later, AFTE has become the most prominent organization working on the issues; its founder has resigned and sits on its board.
Nazra for Feminist Studies was established by Mozn Hassan in 2007 aiming to change the discourse on women's rights in Egypt. The organization adopted a research-based approach to women's rights and engaged in advocacy encouraging women's political particiapiton. It also created a programme solely dedicated to the protection of women human rights defenders.

In 2009, leading leftist rights lawyer Khaled Ali established the Egyptian Center for Social and Economic Rights, which engaged in legal battles against the state's corruption in privatization contracts at the peak of Mubarak's businessmen government. One of the centre and Ali's main accomplishments is a court ruling in 2010 to force the state to abide by a minimum wage [53].

[47] May Shams el din, op. cit.
[48] Hossam Bahgat, "Explaining Egypt›s Targeting of Gays", 23 July 2001, available at: www.merip.org/mero/mero072301
[49] Interview with Egyptian human rights activist Hossam Bahgat: talked with Alasdair Soussi – available at http://newint.org/columns/makingwaves/2009/07/01/hossam-bahgat/
[50] Interview 9
[51] Interview 10
[52] Heba Afifi, "Human Rights in Focus: Gamal Eid", (Mada Masr on May 19, 2015) available at www.madamasr.com/sections/politics/human-rights-focus-gamal-eid
[53] May Shams el din, op. cit.

In 2008, when the famous Mahalla labour strike took place, the Front to Defend Egyptian Protesters (FDEP) was established as an informal group of activists and national NGOs employees to defend citizens' rights to freedom of assembly and provide them with legal aid [54]. However, one of its founders explained that the Front was gradually forming even before 2008, as lawyers were volunteering to represent political detainees from small protests or Kefaya between 2005 and 2008. The FDEP is an exceptionally interesting model, which has grown and been replicated following the 2011 revolution. The Front, whose members are 34 NGOs and at least 55 lawyers, provides free legal aid to detained protestors and disseminates information on the status of protestors especially when they are arrested or referred to trial across the country. The Front's meetings were hosted in Hisham Mubarak and NGOs that were members included AFTE, Al Nadim, Hisham Mubarak and many more. It has a loose structure with a rotating coordinator position to manage the division of legal representation across the country and between volunteering lawyers. According to one of the founders, the reason behind the continuity of the Front, as opposed to other models, was the fact that it did not seek to become politicized. It does not issue statements or take positions on any matters. They simply provide legal representation as lawyers [55]. In addition, the sustainability of the Front can be arguably linked to the fact that all its individual members are either human rights lawyers in NGOs or corporate lawyers and hence their livelihoods do not depend on the Front.

While all these new independent human rights organizations were being formed, the government's pressure was increasing, especially after passing the third NGO Law (Law 84/2002). According to Abdel Razeq, the 2002 Law is but a re-introduction of the annulled 1999 Law [56]. It imposes harsh prison sentences against organizations involved in civil society action without prior permission. Such NGOs can be dissolved by the government. As with the preceding law, it also prohibits NGOs from practicing political or trade union-like activities, which remains a rather ambiguous and broad description that can apply, for example, to advocating trade union rights or enabling women to take part in elections [57]. The result was that many of the previously mentioned NGOs resorted to evading the law by registering as law or commercial firms instead of as nonprofit NGOs.

Human Rights organizations between the 1990s and 2015 have taken different attempts and directions in dealing with the Government's repressive laws. Organizations like Al Nadeem or Hisham Mubarak have had the same stance since 1993, which refuses the idea of an NGO Law all together [58]. According to this stance, also adopted by other leading Human Rights NGOs, establishing an NGO should only be by notification and any criminal or illegal acts that could be undertaken by employees or founders of the NGO can be dealt with in accordance with the Egyptian Criminal Code and Egyptian Monitoring bodies.

The way in which the Ministry of Solidarity and Social Affairs dealt with registering NGOs and the way it applied the law is also indicative of the mentality behind the legislation. It most certainly was used as a tool to control as opposed to regulate NGOs. In 2003 EIPR decided to register under Law 84/2002. One reason was its recent establishment and rather unknown name, which meant it did not enjoy the leverage and recognition that Al Nadeem or Hisham Mubarak enjoyed and hence it wouldn't cause a public opinion issue if it were shut down. Secondly, EIPR's health programme required a lot of interaction with government bodies, which would be difficult without the NGO's papers [59].

In EIPR's experience, the Ministry kept sending back the papers by post, and asking for additional conditions to accept the papers. After a long and tedious process, which lasted six months, EIPR was rejected without being given a reason. By then, in early 2004 most of the organizations that had registered under the 2002 law were starting to witness how its application was unfolding. Programmes were halted and objected to by the ministry, the papers submitted to the ministry were sent straight to State Security and the NGOs were dealing directly with State Security officials. This is in addition to a level of bureaucratization that arguably intentionally made any efficient work impossible [60]. At this point new NGOs figured that the new registration process was a trap and opted to not register with the ministry. At this point, by the mid-2000s, it became a trend to establish NGOs outside the scope of the Ministry.

With the current "foreign funding case", it remains unpredictable what will happen next with the form of human rights NGOs. All interviewed directors of NGOs from the first or second generation agreed that the current deadlock with the government will see the end of human rights practice as we know it today in Egypt. According to them, there is no possibility for NGOs to continue under the current model of governance, of foreign funding and of non-registration as an NGO with the Ministry of Social Solidarity.

The operational context of these organizations was also changing fast politically, geo-strategically and technologically. The Mubarak regime was muddling through an ambiguous transition to a more openly neo-liberal dispensation with massive implications for social and economic rights. The region, (especially between 2005 and 2010) was seeing the end of a decaying regional security regime and the beginning of disintegration of dysfunctional states, which were coming under severe domestic and/or international pressures (Iraq, Syria, Sudan, etc.). The massive and pervasive technological advances in the fields of personal communications with the increasing penetration of mobile technology and social media platforms played a factor in enhancing forms of organization and circulation of information.

[54] See the Front's Facebook page at www.facebook.com/fdep.egypt/info/?tab=page_info
[55] Interview 5
[56] Lina Attala, "Human Rights in Focus: Gasser Abdel Razek", (Mada Masr on April 18, 2015) www.madamasr.com/sections/politics/human-rights-focus-gasser-abdel-razek
[57] May Shams el din, op. cit.
[58] Interview with Aida Seif Al Dawla.
[59] Interview with Hossam Bahgat.
[60] Ibid.

Post 2011, One Step Forward, Two Steps Backward?

In July 2011, the Egyptian military-controlled government that ruled the country after Mubarak stepped down, created a committee to look into the foreign funding status of all civil society organizations and determine which of them is registered under the 2002 law. The committee's report was then used in the 2012-13 case brought against a list of NGOs. Case 173 resulted in a Cairo criminal court sentencing 43 foreign and Egyptian employees of foreign NGOs to prison terms from one to five years. Most foreign staff members were sentenced in absentia and they had all earlier been allowed to leave the country. Egyptian defendants either left the country or waited out their suspended sentences. In addition, the International Republican Institute, the National Democratic Institute, Freedom House, the International Center for Journalists and the Konrad Adenauer Foundation were shut down by a court order [61]. The same case was reopened in 2016 targeting Hossam Bahgat, formerly of EIPR and currently one of the country's leading investigative journalists, Gamal Eid of ANHRI and Mozn Hassan of Nazra among other human rights activists. No interrogation nor trials have started by May 2016, though a court has been considering a prosecutor's request to freeze their bank accounts together with other leading human rights activists and even family members.

The government escalated the legal battle with human rights NGOs to a new level when the Ministry of Social Solidarity issued an ultimatum in July 2014, urging all NGOs to register under the 2002 Law before November of the same year or face legal repercussions, potentially including closure and prison sentences [62]. The 2014 ultimatum was but an opening salvo in a war of attrition against human rights NGOs. It resulted in international NGOs shutting down their offices in Egypt and moving elsewhere. The CIHRS decided to move all its regional and international programmes abroad, primarily to Tunisia where it has registered an office. Indeed, "one of Tunisia's major accomplishments in the first weeks of the revolution was the issuance of a democratic NGO law that meets international standards [63]."

Having issued the ultimatum, the government simultaneously drafted another more restrictive NGO law. Twenty-nine independent NGOs dismissed the proposed legislation for many reasons, including that the draft violated the 2014 Constitution, which guarantees the right to form NGOs only through a notification process with no "permissions" needed. In a statement, these NGOs described the draft as the most oppressive legal attempt since the 1964 law, under which human rights NGOs would not be regulated but rather strangulated [64]. For example, the draft allows for administrative interference in the form of a "Coordination Committee, [which] effectively gives representatives of the Interior Ministry and National Security a seat at the table of every NGO board meeting." Furthermore this committee can in practice object to any donor or a funding agreement for any NGO and hence maintain a veto power on its activities. Objections to the draft law also concerned the fact that it still contained vague terms such as "disturbing public order" as a claw back clause [65].

Under these circumstances newer human rights organizations were still forming. While NGOs, such as EIPR, AFTE and Nazra have expanded their programs and staffing significantly post 2011 then shrunk again after 2013, some newer NGOs were forming under the same model. Interestingly though, human rights practitioners who have started establishing their organizations in 2013 at the peak of state repression have a different view. To them, this crackdown is particular to take revenge from specific NGOs and specific individuals. Accordingly, these new organizations have followed the trend of registering as legal offices, relying on foreign funding and experiment with a less centralized form of governance. They believe that this is the only form of human rights work that can be maintained with such restrictive laws and such an oppressive government. One of the two interviewed newly established NGOs has taken the path of registering as a law firm, given the nature of legal aid they provide. In the director's opinion, any human rights work is forced to go through this legal loophole and register as a company. He argues that as a professional company, the only way to receive grants is through so called "mandate contracts" under the name of legal consultancies. In his view, donors have to understand the risks NGOs are taking today in Egypt and must modify their work to fit these conditions. They must adapt to giving grants either in cash or under the "mandate contract" scheme. Any grants, protocols or agreements outside these options does not fit under the legal activities of a "company" and must be excluded, at least temporarily until we see a change in repressive policies.

During the same interview, this director expressed that he, as well as others in his position, realize that there is a battle with the government over human rights practice, which has nothing to do with foreign funding. All that human rights practitioners can do is maintain correct and legal paperwork, to make it harder for the government to lead this battle. But the battle is not about foreign funding and will not end when foreign funding stops. According to him, the government decides to persecute his NGO, he will only make it harder for them to build a legal case by having correct paperwork.

Similarly, another director of an active NGO established in 2013 also views the government crackdown on NGOs as independent from the issue of foreign funding. However, his approach towards dealing with the legal limbo in which NGOs find themselves is to create a parallel system, in which the headquarters are registered as a company but in reality, the NGO is the first trying to implement the open membership scenario, which was last suggested by Hani Shukrallah and his camp in the earlier days of the EOHR. Since then, it seems this is the first serious trial to revive that model. The NGO follows a model of decentralization, started in different governorates simultaneously. The programmes of each governorate differ based on the immediate needs and violations specific to that geographical location. Each governorate office raises its own funds and has its own membership and own elections. When asked whether this model is actually applied on the ground, the NGO director explained that they are

[61] EIPR, "Background on Case No. 173 - the 'foreign funding case' Imminent Risk of Prosecution and Closure" available at http://eipr.org/en/pressrelease/2016/03/21/2569
[62] Mada Masr, "Ministry won't extend November 10 Deadline for NGO registration" published on October 2, 2014 and available at https://is.gd/DqQ2F8
[63] CIHRS, "After 20 years: CIHRS moves its regional and international programmes outside Cairo," available at https://is.gd/qCX8Uu
[64] AFTE (in Arabic), "Joint Statement: A Draft Bill subjects NGOs to Government and Security Agencies' Control," available at https://is.gd/Oc5SV5
[65] May Shams el din, op. cit.

still trying to figure out a way to be able to apply the membership model without being registered as an NGO and that so far, some aspects are fulfilled, such as the decentralization and the difference in programmes priorities, while other aspects of the model such as membership fees and elections remain unfulfilled given the difficulties with implementation in the absence of a formal legal structure that allows this.

Separate from the NGO model, a newer trend and form of human rights advocacy emerged that was more similar to campaigns and street organization than to NGOs.

An example is the FDEP which, together with "Freedom for the Brave" and "Wiki Thawra", have become the main source of information on political detainees in Egypt, despite the existence of formal and long-established NGOs.

Freedom for the Brave, defines itself as a campaign and an online network, which was created in response to a brutal wave of arbitrary arrests in 2014 following protests in the anniversary of the 25 January revolution [66]. The campaign was designed to document and advocate for the rights of Egyptian political detainees. It provides legal representation, undertakes cross-country documentation and most importantly publishes news on any political detainee online. Freedom for the Brave is a network that is based on volunteers who undertake the work on their own time, own effort and expense.

In the same way, the campaign 'No to Military Trials' was founded by Mona Seif in 2011 to document and represent cases of civilians being tried before military courts. The campaign was also based on volunteerism that came mostly from mothers and families of detainees in military prisons. The campaign has a fluid structure and provides free legal representation for civilians being tried before military courts.

These new forms of organizations responded to actual needs and did not follow the structured "closed organization" NGO model nor the formal membership ones. The impact, structure and sustainability of such organizations are however questionable issues. When interviewed, members of these campaigns agree that the work was only possible because the members in the campaign also work in other human rights organizations as full-time employees. Therefore, they could afford to volunteer and sometimes include the work with the campaigns as parts of their human rights positions in different organizations. Therefore, members of these campaigns are hesitant to perceive this as the new form of human rights practice in Egypt, given its direct reliability on employees of human rights organizations. It seems such campaigns can fill in during temporary exceptionally repressive times, it is however hard to assume that they are the new face of human rights practice in Egypt.

What Do We Need to Study Further?

Throughout the evolution of the human rights movement in Egypt, certain issues proved to be a constant struggle for NGOs. These issues deserve separate in-depth studies and can be articulated as follows:

Firstly, while this paper touched on the debate on working with the Islamist factions in the 1990s, it is necessary to revisit this question in depth especially in the late 2000s and post 2011 years. Ismail El Iskandarani observes three experiences in the 2000s of human rights work of the Muslim Brotherhood [67]. Examples of such experiences were the "Sawaseyya Centre", "Al Dahaya Centre", and "Al Shabab Centre", all of which seized to exist after the 2011 revolution. Generally, these attempts of human rights work related to the Muslim Brotherhood faced two main obstacles, according to Al Iskandarani. Firstly, what he described as an "amateur performance and lack of professionalism" and secondly, the general lack of knowledge and conviction of human rights literature and instruments. Whereas these MB human rights initiatives seized to exist after the revolution, they still shed some light on the relationship between the Muslim Brotherhood specifically and the human rights discourse in its pre-2011 years. There is thus a need to examine what the theoretical contradictions and overlaps are among seculars and Islamists who work on human rights issues in Egypt and how these relationships evolved. How different is it dealing with human rights issues for the Muslim Brothers, the Salafis and other lesser influential Islamic political organizations? How did human rights activists from these varying and clashing traditions work together, if they did at all? How much of the clash and divergence is ideological and how much is actually political interest?

Secondly, while there seems to be enough literature on the topic of the EOHR's disputes over internal governance in the 1980s and early 1990s, there is very little on the rest of the community in the following decades. In depth interviews and research would help identify the newer NGOs views and practices on issues of governance, foreign funding and relations with donors, and internal decision-making processes. In an in-depth study, Shahin focuses on the following issues: dependency of NGOs on foreign funding that could impact agendas and priorities, the relationship between NGOs and their claimed constituencies and the accountability question towards staff, towards donors, towards the government and most importantly towards alleged constituencies [68].

The paper tackles these issues comprehensively and compares different models of organizations that approached these issues in innovative ways. However, over the different generations of human rights practice in Egypt, it seems that the independent organizations' existence in legal limbo has put their internal governance and accountability questions as a second priority. In addition, being in a legally grey position, accountability and internal governance become voluntary acts that some NGOs adopt because they believe in their benefits and necessity, as opposed to being required by law. In addition to the organizations' legal

[66] Interview 12.
[67] Ismail Al Iskandarani, "The Revolution's Children or its Makers", unpublished manuscript, p.5
[68] Shahin, Yara: "Unsolved Dilemmas: Issues of Internal governance in Egypt's human rights NGOs" (ARI, Forthcoming in 2017)

position, the author argues that the most recent crackdown since 2013 "hindered a possible and expected revisit to the questions of internal governance that organizations had to grapple with as they expand and grew." Therefore, while the possibility to grow brought with it needed governance and accountability reforms, having to shrink under a crackdown has also placed governance and accountability issues as lesser priorities.

Thirdly, there is a need to unpack and analyze the relationships between human rights organizations and other civil society actors such as political parties, trade unions, religious institutions, student unions and even other NGOs focusing more on development and aid activities. In coordination with this research and with a special focus on economic and social rights, Adly in his paper "the Human Rights Movement and Contentious Politics in Egypt (2004-2014)" explores an example of such relationships. He examines the interaction between what he calls the Economic and Social Rights Movement (ESRM), which are predominantly human rights professionals and NGOs concerned with economic and social rights and use a rights discourse, and the wider contentious movement, comprising mainly of collective contentious actions against a neo-liberal government in Egypt since 2004. Adly examines the interaction and (attempts at) collaboration between these two groups. Despite some successful examples, he concludes that the ESRM failed to "cultivate" organizational links with the broader contentious movement and hence failed in advancing "basic economic and social rights as public claims over state actions and distributional policies." It basically failed to prepare the contentious movement against an authoritarian reversal that took place in 2013.

Similarly, the broader contentious movement, according to Adly, did not capitalize on the professionalization and institutionalization that unfolded within the ESRM, but rather continued to be characterized by what he describes as "localism and particularism" which weakened the chances of articulating a wholesome and nation-wide change of public policies as opposed to local and specific targets. The author, through his examination, portrays the contentious movement as a leaderless body, which has a disconnected head, the ESRM, with the latter being unable to give signals or coordinate the rest of the body. Alternatively, he suggests that the role of an assisting hand, instead of a controlling head, has proven to be a more successful role for the ESRM in order to ensure the contentious movement the necessary autonomy and organic growth required for political organization and political change. It seems from Adly's study that the lack of a political class in Egypt burdens the ESRM with a much bigger role and responsibility it cannot and should not fulfill. While Adly's study has a special focus on contentious movements and its relationship with rights groups, other types of relationships between actors of Egypt's civil society should be subject to further research.

Studying these probably overlapping circles and activities would help re-present and probably disentangle the EOHR debates of the 1990s on the role of human rights defenders in engendering political change and how they should work with the people at large.

Finally, this paper cannot ignore posing questions around the impact of the human rights organizations in Egypt more than 30 years after their creation. How have they affected the general discourse, if any? Did they help raise public awareness and engagement on such issues? and how? Beside direct help in the form of legal aid to thousands of defendants in human rights cases, how did their interventions affect the legislative processes, the judiciary, mass media, law-enforcement agencies and executive institutions in Egypt?

It is hard to measure the impact of the rights actors this paper has looked at. There are different opinions on whether the impact these actors had can be perceived as a tangible success. When asked whether there is or has ever been a human rights "movement" in Egypt, most of the answers of leading human rights practitioners were negative. However, there are clear points of success on which different leading figures seem to agree. There is a definite agreement that the work of human rights organizations between the early 1990s and 2011 has directly contributed to the uprisings / revolution in January 2011. While different human rights practitioners can disagree on the level of influence these organizations have had, there is no doubt that at a minimum they contributed to the events.

There is also no doubt that the level of human rights awareness in the Egyptian street has risen profoundly. Today, "no Egyptian can deny that there is a problem with systematic torture in Egypt" said one interviewee and was agreed on by many others. Bread, Freedom and Social Justice – all basic human rights – formulated the slogan of the 2011 revolution. The government itself has been forced to use and adapt to the human rights discourse to communicate with the population, which demanded rights in a rights discourse.

If this has often been seen as the human rights community's biggest accomplishment over the years, the most agreed upon failure was the lack of support and alignment human rights actors have for each other. Even though they are all in desperate need of support, there is a clear failure to overcome differences in opinions to look at the bigger picture and act as one front against a very brutal government. Instead, the same fragmentation and personalization of conceptual differences which happened with the EOHR in the mid-1990s is taking place today but between different NGOs.

All these questions were never meant to be answered in this present paper but rather articulated. If they are the right and most relevant questions, then some thorough answers would help Egypt's human rights movement take stock of its history, right size the current challenges and, hopefully, chart more creative scenarios for their actions with greater impact in the future.

[69] ibid.
[70] Adly, Amr: "the Human Rights Movement and Contentious Politics in Egypt (2004-2014)", (ARI, Forthcoming in 2017)

Origins, Evolution and Challenges to the Human Rights Movement in Tunisia

Asma Nouira

Summary

The human rights movement materialized in Tunisia in the mid-1970s. The first organized group was the Tunisian League for the Defense of Human Rights in 1977 (Ligue Tunisienne de la Defense des Droits de l'Homme, LTDH). The LTDH remained the only organization active in the field of human rights throughout the first decade of the history of the Tunisian human rights movement. The organization focused on civil and political rights that were systematically and massively violated by the politically-oppressive regimes ruling the country. Since its inception, the LTDH has acted as a refuge for political activists of various ideological and political backgrounds, sometimes resulting in conflating political and rights' activism, despite attempts by the founders to separate the two fields. This overlap affected the LTDH on several occasions, such as the drafting of its charter or the elections of its board. Since the late 1980s, other human rights organizations emerged, both domestic or as branches of international organizations. Rights' activists, whether at the LTDH or other associations, were perceived by the government as part of the political opposition, notwithstanding developments in the official human rights discourse. Activists were persecuted and restrictions imposed on the work of their organizations.

The year 2011 marked a milestone in the history of the Tunisian human rights movement. The fall of the dictatorial, corrupt regime and the ensuing shaky but persistent democratic transition had a major positive influence on the movement and the civil society at large, restructuring both and enabling them to play a key role in this transition. A number of human rights activists and "victims of the former regime" occupied very senior positions within the post-2011 governments. New human rights organizations emerged to focus on socio-economic, sexual and ethnic rights. Due to the way it evolved and because of the current context, the human rights movement in Tunisia faces a number of challenges, including its relationship with politics, the generational chasm among activists, and internal governance issues.

Introduction

The Tunisian human rights movement, like most other such civil society actions in the world, arose in the mid-1970s with the birth of the Tunisian League for the Defence of Human Rights (LTDH), officially in May 1977. The movement was born under the regime of former dictator and Tunisia's first post-colonial ruler President El Habib Bourguiba. His regime had consolidated its grip over the previous twenty years and by then had very little space left for any serious political opposition. After Bourguiba was removed, the human rights movement developed and persisted under a regime in which security agencies grew even stronger after former premier and minister of interior Zein El Abidine Ben Ali took over power in a bloodless coup in 1987. Ben Ali and his ruling clique claimed they worked to promote democracy and human rights. However, this so-called promotion of human rights was largely formalistic and devoid of actual policy changes.

The roots of modern human rights action in Tunisia can be traced back to the liberation struggle in the early 20th century when nationalists based their demand for independence on the right to self-determination[1]. After independence in 1956, however, the post-colonial state had side-lined and systematically violated human rights because of the focus by the ruling elite on Bourguiba's national construction project, which prioritized eradicating the remaining colonial influence and launching a top-down developmental project. Within this project, society was not capable of "handling differences of opinion or embracing democratic practices[2]." Public and political freedoms were severely restricted, especially freedom of expression and the ability of parties and voluntary organizations to operate - with the exception of the well-entrenched and strong Union Générale Tunisienne du Travail (The General Tunisian Labour Union, UGTT). Tunisia became a one-party state in the early 1960s, when the government banned the Communist Party in 1963. In the early 1980s, limited pluralism was tolerated within a dominant party system. All along, the state controlled and almost monopolized the mass media and persecuted dissenting views.

After Ben Ali came to power, the government deployed a positive discourse on human rights as the new political system was keen to present itself, both at home and abroad, as a democratic regime that respects rights and rule of law. In fact, the regime's position was duplicitous; it ratified international human rights instruments, created specialized official structures and distributed annual human rights awards[3], but at the same time it restricted freedoms, persecuted human rights defenders, detained activists, and tortured and prosecuted political opponents in unfair trials that ended with their imprisonment. It was extremely difficult for the human rights movement to challenge the political system, but it continued to struggle, partly aided by the fact that most of the rights they advocated for were protected by the 1959 Constitution.

The Tunisian political map changed dramatically after the revolution of 14 January 2011 as the country entered a period of genuine democratic transition. The whole environment of human rights action changed to the extent that several rights activists

[1] For example, the Tunisian party, which later became the Constitutional Party, better known as Destour Party, sent a memorandum to the Paris Peace Conference, addressed to US President Woodrow Wilson, invoking the principles of people›s right to self-determination in Tunisia and demanding other rights stipulated in the 1789 French Declaration for the Rights of Man and of the Citizen.

[2] Nourredine Daffi, "Tunis min Ayala ila il Jomhouria 18014-2014 (Tunisia from an Eyalet to the Republic 1814-2014)". Tunisia: Manuba University Publications, 2016, p. 220 (Arabic).

[3] In 1993, former president Ben Ali introduced an annual prize on the International Day of Human Rights.

moved from being shunned members of the persecuted opposition to participation in power and national decision making. Shaming, exposure and documentation became less important functions for the human rights activists than proposing policies and advocating legislations as well as supporting and implementing institutional reforms. The role of civil society organizations, in general, and the human rights community, in particular, was now welcomed – even if cautiously – in the corridors of politics.

In general, Tunisian civil society as a whole underwent structural and functional changes in light of the political and legal transformations that the country experienced after the 2011 uprising. After combatting torture and advocating for public and political freedoms (freedom of association, expression and assembly, for example) as priorities of human rights organizations, the attention shifted after 2011 to economic and social rights and individual freedoms. Also, the issue of torture no longer concerned political opponents in particular, but also included defendants in criminal cases.

On the other hand, this changed context brought new challenges, the most important of which was the opposition of religious actors to the recognition of some rights and freedoms, on the one hand, and the growing phenomenon of terrorism, on the other hand.

Salafists criticized freedom of expression on grounds that it opened the door to sacrilegious practices and statements. They refused to include freedom of conscience and belief in chapter VI of the 2014 Constitution[4]. These calls were echoed within the National Constituent Assembly, where deputies of the Islamist Ennahdha defended this position and demanded constitutional protections for sacred beliefs. Representatives of state Islam (Mufti of the Republic and the Supreme Islamic Council) adopted a similar position and called for abolishing the freedom of conscience, which, for them, encouraged apostasy among Muslims[5]. As for terrorism, it stimulated anew an often superficial and argumentative debate with the underlying assumption of a trade-off between security prerogatives and human rights guarantees.

In this paper, we focus on the various components of the human rights community and how it evolved in a dynamic interaction with its political, economic and social context of post-colonial Tunisia. Three major milestones mark this evolution: the paternalistic nation-building era of Bourguiba, the security-state era of Ben Ali and the ongoing transformation following the 2011 uprising.

I - Emergence of the Human Rights Movement under Bourguiba (First Decade: 1977-1987)

The LTDH, the first human rights organization in Tunisia and among the earliest to be established in Arab and African countries, obtained a license on 7 May 1977, five years after submission of its first request for registration by "a group of independent and moderate opposition politicians[6]". Marzouki believes that the state finally relented "as a result of the pressure exerted at the time by the [US] administration of [Jimmy] Carter, which made human rights one of its foreign policy priorities, but also for venting, at a very low price, as the Tunisian society was continually boiling... the authorities believed that tolerating the LTDH was less harmful than accepting an opposition political party which could break the political monopoly of the ruling party[7]."

A group of social democrats and liberals, who had resigned from the ruling party[8], applied for a license to the Ministry of Interior to set up the LTDH on 22 May 1976. In the absence of a formal response, which legally meant a rejection, this group created the Freedoms Committee chaired by Hasib Ben Ammar, the former defence minister. This Committee filed an appeal against this rejection with the Administrative Court and sent a petition signed by five hundred people to President Bourguiba to request the convening of a symposium on freedoms and human rights in Tunisia. The Committee launched an international advocacy campaign in several European capitals in addition to the United States to pressure the Tunisian government. While on a visit to Washington DC, the then Minister of Interior, Tahir Balkhuja, felt the impact of this campaign. After some reluctance, the prime minister decided to recognize the LTDH but not until an agreement was reached to include seven members from the ruling party in the 22-member LTDH Constituent Assembly[9].

The LTDH brought under one roof various (and sometimes conflicting) political and intellectual ideologies, but together they acted as united opposition front against the ruling regime (or the post-colonial state). The LTDH became a sanctuary for political activists and replaced, to some extent, banned political parties that were not able to operate freely[10]. LTDH founders chose to base their organization on democratic and pluralistic principles, claiming that they carry a "humanist civilizational mission of benefit to each citizen and every human, and that its mission is incompatible with partisanship, intolerance and all forms of discrimination against human beings... since human rights… are indivisible and our mission calls for concerted efforts and mobilization of all forces of good who believe in human rights and dignity… that is why the LTDH will always be open to all

[4] A movie theatre was vandalized in 2011 for screening Nadia El Fani's film, Neither God, Nor My Master. See "Director El Fani Commenting on Banning her Film in Tunis", Sanad, 28 June 2011, available in Arabic at bit.ly/2tXhAJ6. See also Hafid Eliani, "Political Parties between Condemning Attacks on Creativity and Deploring Sacrilegious Acts", Al-Sahafa Al-Youm, 14 June 2012, available in Arabic at goo.gl/nwV2Ut

[5] Rajab Ben Mohammed, "Tunisia's Imams and Sheikhs Rise up against the New Constitution for Criminalizing Accusations of Apostasy and Spreading Corruption", Elaph, 26 January 2014, available in Arabic at elaph.com/Web/news/2014/1/870892.html

[6] Moncef Marzouki, "Al Mohima Al-Sa'ba li Harkat Hokok al Insan fi Tunis (The difficult Task of the Human Rights Movement in Tunisia)", in Tahadiyyat al Haraka al Arabiya li Hokoki al Insan (Challenges of the Arab Human Rights Movement). (Arabic). Cairo: CIHRS, 1997, p. 149.

[7] Ibid., p. 150.

[8] The ruling party in Tunisia had changed name again to il Hizb Il-Ishteraki a-Destouri or the Socialist Constitutional Party in 1964. It will be renamed a-Tajamo' a-Destouri a-Democrati or the Democratic Constitutional Rally in 1988, the year after Ben Ali became president.

[9] Souheyr Belhassen, "La LTDH ou la Gestion du Paradoxe", Confluences Méditerranée, No 51, 2004, pp.105-6.

[10] Larbi Chouikha and Eric Gobe, "Les Organisation de Défense des Droits de l'Homme dans la Formule Politique Tunisienne: Acteurs de l'Opposition ou Faire Valoir du Régime?", L'Année du Maghreb, (Dossier: S'opposer au Maghreb), 2009, p. 165.

good, humane, patriotic efforts[11]." So, in addition to trade union and independent activists, the LTDH included Destourians, leftists, Islamists, and nationalists, many of whom belonged to banned political parties or worked underground. Initially, the LTDH included only figures from the ruling party[12], the banned Communist Party and the Movement of Socialist Democrats[13].

In the 1970s, various left-wing groups were established[14] and by the end of the decade, Harkatul Ittijah I-Islami (the Movement of Islamic Tendency) was formed (becoming Ennahdha Party in 1988)[15]. Islamists joined the human rights movement in 1982 through Salah Eddine Jourchi, who belonged to what was called the Islamist left or the Progressive Islamists of Tunisia (a group that split from the Movement for Islamic Tendency in 1981 as they refused political engagement preferring to focus on intellectual pursuits and revision of religious heritage)[16] Ennahdha itself became part of LTDH board in 1985 through Sahnoun Jaouhari[17]. This openness towards all political factions, notwithstanding, the LTDH has almost only had leftist presidents since its inception[18].

Before the LTDH was established, various political factions did not pay much attention to human rights. Some leftist factions regarded the discourse as "a mere diversion used by the bourgeoisie to keep deprived classes away from the essence of class struggle and the establishment of socialism." As for Islamists, they were the last to acknowledge the significance of human rights and the need to use the discourse, although the debate is still ongoing within their ranks around some aspects of the international bill of rights[19].

The LTDH has always sought to assert its independence from the authorities, on the one hand, and from any political affiliation of its members, on the other hand. This was confirmed by the president of the LTDH, Saadoune Zmerli, during the second National Conference in 1985, when he stressed that LTDH was not "an alliance among political parties, nor is it an open space for political organizations to carry out their activities. Membership of the LTDH was granted on an individual basis[20]." Membership was open to anybody who believed in defending human rights regardless of his political affiliation, even if he was a member of the ruling party. However, in reality there was an unwritten agreement on a proportional representation of the various political forces on the LTDH board, including a reserved number of seats for the ruling party. There was political sharing of key positions, especially in the highest LTDH administrative structures. Many human rights activists maintained their membership and activities in various political parties and movements, while others were suspected by security agencies as political opponents of the regime simply because of their human rights work. A number of LTDH activists were prosecuted and imprisoned, among them Mohammed Al-Khamili, secretary general of the Gafsa branch, and Belqassem Al-Issaoui, chair of the Sidi Bouzid branch[21]. LTDH was run by a 25-member governing body elected by the general assembly[22]. Members of the LTDH were organized in local branches, that were established after the approval of the central board upon the request of at least 50 people to start such a branch[23]. The LTDH expanded quickly with the national conference in 1982 which was attended by representatives of 24 branches[24].

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[11] Address of LTDH president Saadeddine Zmerli, in LTDH, 1985, "Proceedings of the second LTDH national conference held at the Amilcar hotel 23-24 March 1985", p. 2.

[12] The Communist Party in Tunisia was founded by European Marxists after the First World War. Leading Tunisian members split in 1937 to establish the Tunisian Communist Party. The Bourguiba regime banned the party and arrested its leaders in 1963. The ban was lifted in 1981. See Chaker Mustapha, "Idées dans l'histoire: les idées politiques du parti communiste tunisien", Paris: Mémoire de D.E.S, Université Paris I, Pantheon-Sorbonne, 1972.

[13] The Socialist Democrats group was formed in 1978 by senior members of the ruling party who had been an internal opposition wing since the early 1970s. They demanded more political freedoms and democracy in decision making within the party. The group included Bahi al-Adgham, Hasib bin Ammar and Beji Caid Essebsi. The group did not get the state permission to set up a legal party until 1981 when Bourguiba allowed pluralism. See Sarah Fayez.. "il Ahzab wal Harakat a Siyassiyya fi Tunis 1932-1984 (Political Parties and Movements in Tunisia 1932-1984)", Damascus: Fayez Sara, 1986, p. 10. (Arabic).

[14] The most important leftist groups were Afaq, il 'amil a Toonsi and a Sho'la (Horizons, Tunisian Worker and the Torch). Afaq was established in the early 1960s in France by immigrant students and professors. It grouped Maoists, Trotskyists, Marxists, Nasserites and Baathists. This lack of ideological harmony and the arrest and torture of some members put an end to Afaq. The Maoist members, including some who lived in France like Mohamed Cherfi and Khemais Chammari formed the Tunisian Worker Organization. The Marxist-Leninist faction set up the Torch which quickly disappeared and was replaced by the movement of Democratic Patriots. For more about those groups, see Ibrahim Ommari, "Horiyat Takween al Ahzab al Siyassiya min khilali al Khitab alSiyassi al-Rassmi wal Tankkihat a Dostoriya 1987-2002 (Freedom of Establishing Political parties in the Official Political Discourse and Constitutional Amendments 1987-2002)," Ph.D. dissertation in Political Science, Faculty of Law and Political Science, Tunis, 2016 (Arabic).

[15] Hermassi El Baki, "L'Etat tunisien et les islamistes", Annuaie de l'Afrique du Nord, Tome XXVIII, 1989, pp. 298-308.

[16] See more about this current in Salah EddineJourchi (2015), Al Islamiyoon a Takadomiyon (Progressive Islamists), Tunis, Ro'ya Publications, 2015 (Arabic).

[17] Jouahari fled Tunisia in 1981 after a security crackdown on his group. He joined Amnesty International in France in 1982. Upon return to Tunis in 1984, he joined LTDH, Sejoumi branch, and became a board member in 1985. Ten years later he died in prison due to inhumane treatment and medical negligence.

[18] LTDH presidents:
1977-1989 Saadeddine Zmerli (Socialist Democrats)
1989-1989 Mohammed Charafi (Afaq - Communist)
1989-1994 Mocef Marzouki (leftist)
1994-2000 Taoufik Bouderbala (leftist)
2000-2011 Mokhtar Trifi (leftist)
2011-2016 Abdel Sattar Ben Moussa (leftist)
2016- Jamal Mussallam (independent)

[19] Salah EddineJourchi, "Rabitat Hokok il Insan wal Soltta … Wifaq sa'ab wa laken lais Mostaheelan (LTDH and the Authority... A Difficult but not Impossible Reconciliation)", Al Hiwar Net, 10 June 2010, available in Arabic at www.alhiwar.net/ShowNews.php?Tnd=7571

[20] LTDH (1985), op. cit., p. 12.

[21] LTDH, 1985, op. cit., p. 47.

[22] LTDH, 1985, "LTDH Bylaws", op. cit., chapter 13.

[23] Ibid., chapters 3 and 4.

[24] Ibid., chapter 7.

In developing its concepts, the LTDH refers to three complementary sources, "a historical reference represented in the freedom principles infusing certain values of our Arab Islamic culture", freedoms enshrined in the Tunisian Constitution, and, finally, the international human rights bill[25]. Those three anchors were mentioned in the LTDH charter published in 1985. The drafting of the charter followed deep, and sometimes, heated discussions among the various intellectual and ideological currents forming the organization. While drawing up its first charter of 1985, the LTDH faced the problem of reconciling the universality of human rights, in which it believed and on the basis of which it was founded, on the one hand, and the claims of Arab Islamic specificity adopted by Islamist and nationalist factions, on the other hand.

From the beginning, the LTDH advocated political, economic, social and cultural rights as an "indivisible whole". It formulated its objective in the "defence and protection of fundamental individual and general human rights enlisted in the Tunisian constitution, the laws of the country and the international declaration of human rights[26]." Despite the inclusion of all these rights in the League's charter, it expectedly focused on a small number of them, depending on the political circumstances of the repressive regimes it operated under. The LTDH always advocated the release of political detainees and for the government to issue a general amnesty. Torture, systematic and widely used in the 1980s and 1990s, constituted one main focus for campaigning for LTDH, and for which dedicated organizations were later formed such as the Tunisian Association to Combat Torture and the Islamist-leaning International Association to Support Political Prisoners.

In 1980, the LTDH organized the international day for human rights under the slogan "General Legislative Amnesty". The importance of general amnesty lied in the fact that it had been the only legal mechanism, under which political exiles and those who had undergone political trials could return to a normal life in their own country, reclaiming their civil rights, including the right to work. The successive authorities never responded to this repeated demand from the LTDH. Release of political prisoners took place only upon a specific presidential amnesty or after a conditional release decision or a special legislative amnesty. A general legislative amnesty was not granted until after the 2011 revolution, when it became one of the first decisions made by the interim Mohammed Ghanouchi government. This long-awaited amnesty covered everybody who was subjected to a political trial before 2011.

The LTDH defended the right to a free media, the freedom of the press, association and assembly, belief and the right for all citizens to be free from all forms of racial or religious discrimination. It also defended the rights of Tunisians abroad, including their working conditions, access to passports and conditions of recruitment for military service. The LTDH monitored violations and judicial investigations in these matters since its inception and investigated and monitored the violations that took place during the clashes between security forces and the UGTT workers on 26 January 1978 and the subsequent trials of 1978 and 1979[27], the Gafsa unrest in 1980[28], and the bread riots in 1984[29], always with a focus on exposing and combating torture and improving prison conditions.

Women's rights were one of the main concerns of the Tunisian human rights movement. Women occupied various positions in the LTDH board and different committees, especially those related to women's issues. The LTDH was the only African and Arab organization that participated in the UN Third World Conference on Women in Nairobi in 1985 to evaluate the UN decade for women. Article 8 of the LTDH's charter was devoted to the personal status law which it viewed as "a cultural asset and an important step in the promotion of women's freedom[30]."

The LTDH did not limit its work to Tunisia, as it supported the Palestinian cause and co-operated with the Palestine Liberation Organization (PLO) advocating the right to self-determination. It also organized a campaign of solidarity with the Palestinian and Lebanese peoples against the Israeli invasion of Lebanon in 1982.

Marzouki attributed LTDH's success in the 1980s not only to its moderation and tactical agility to reconcile competing political agendas among its constituent groups while insisting on a principled commitment to the international human rights bill. Its success also was the result of the "weakness and later collapse of democratic opposition parties and the attack on the trade union movement, which turned the LTDH into a sanctuary for all democrats and defenders of freedom when the totalitarian state visibly succeeded, in the 1990s, to regain and control all the space it had lost in the 1980s because of the ageing of former President Bourguiba, the weakness of the ruling party, the proliferation of democratic organizations and movements and the rise of Islamists[31]."

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[25] LTDH, 1985, op. cit., Charter Preamble.
[26] LTDH, 1985, op. cit., chapter 2.
[27] On Black Thursday, 26 January 1978, the UGTT organized a general strike to protest worsening economic condition after several years of failed liberal economic policies. Security forces killed and wounded several hundred people. The crisis deepened as the UGTT decided to distance itself from the ruling Destourian Party (UGTT secretary general Habib Ben Achour resigned from the party's Central Committee).
[28] On the night of 26 January 1980, an armed group of 60 Tunisian Arab nationalists aided by the Qaddafi regime in Libya, attacked security and strategic installations in the southern city of Gafsa and called on the population to join a rebellion. The attempt failed. Several attackers and some Tunisian soldiers were killed, while the rest of the insurgents were arrested and tried in a State Security Court, where 18 were sentenced to death and executed in April 1980.
[29] Bread riots engulfed Tunisia in early January 1984 after a government decree to raise flour prices. Despite the declaration of a state of emergency and the banning of gatherings, protests spread. Rioting and arson destroyed buses, cars, and buildings. Many protesters were killed in confrontations with security forces. The situation did not calm down until President Bourguiba cancelled the price hikes.
[30] Article 8 of LTDH charter issued in 1985.
[31] Marzouki, op. cit., p. 151.

Marzouki and others raise a major problematic which affected almost all Arab human rights organizations when it came to their relationship with the state, on the one hand, and with the political opposition and the rest of civil society, on the other hand. Ultimately, human rights actors address the state and authorities in order to press them to refrain from violating political or civil rights or to work to guarantee economic and social rights, but they do not seek to control state institutions through contestation themselves. They do not seek political power but work all the time to press political institutions into certain directions. Marzouki argued that the relationship between human rights defenders and the state should be constructed to "support reformist forces within [the regime][32]." And since the Ben Ali regime, throughout most of its years, lacked such reform forces, the relationship with the state was primarily contentious, especially in the nineties.

Since the LTDH was a mixture of different political factions, this resulted in repeated disagreements to the effect that the first charter of the organization was not issued until 1985, i.e. eight years after its foundation. The process of endorsing the charter suffered from deep disputes, mostly from the Islamist opposition, to four main provisions related to equality between men and women, freedom of belief, corporal punishments (Hodoud) and adoption. Although the charter was ratified in a way close to the provisions of the Universal Declaration of Human Rights, still the dispute left "cracks within the body of the organization[33]". The LTDH's commitment to independence, however, did not prevent it from being used as a battleground between the political authority, on the one hand, and the political opposition, on the other hand, nor among various opposition factions. This political diversity within the organization sometimes led to heated frictions, one strong example was when Iraq invaded Kuwait in 1990. The LTDH formed the first and main nucleus for the Tunisian human rights movement and remained committed to the international human rights bill. It also defended a wide range of rights in different ways, distinguishing itself from other organizations that defended specific rights only, such as the UGTT, which defended workers' rights and the women's union, which embodied state feminism.

II- Development of the Human Rights Movement under the Ben Ali Regime (1987-2011)

Ben Ali started his rule with relative political liberalization and openness. The state enacted Tunisia's first ever law for political parties in 1988; political opponents signed a national charter; and the government issued an amnesty for political prisoners. Since the beginning of the 1990s, human rights were in the forefront of speeches by former President Ben Ali[34]. Tunisia ratified several international human rights conventions[35] and established the Supreme Commission for Fundamental Human Rights and Freedoms in January 1991, the first such official structure in the country[36]. In June the same year, the president appointed a human rights counsellor in his office to follow up and support the state's human rights policy, report to the president on issues pertaining to the human rights situation and advise on relevant national legislations and the ratification of international conventions[37]. This adviser coordinated his work with human rights units established in a number of ministries, foremost among which was the Ministry of Interior[38]. These units were supposed to receive complaints about rights violations and facilitate the relationship between the state and civil society. The term "human rights" was added to the name of the Ministry of Justice in the middle of the 2000s, while human rights were included in university curriculums regardless of specialization. Tunisia participated in as well as hosted several international human rights conferences. There was a marked legislative change: hard labour was abolished from the Criminal Code in February 1989 while torture was recognized and defined as a crime in accordance with the provisions of the international Convention against Torture in August 1999. The creation of such structures and these legislative changes were part of a plan to create a positive image of Tunisia in international forums as a democracy that respects and promotes human rights[39]. In this context, the new political system sought to co-opt some human rights activists despite continued restrictions and allowed some human rights organizations to operate.

1 - Human Rights Activists between Containment and Persecution

In its early years, the Ben Ali regime worked to maintain the appearance of openness and democratic practices but, in reality, it strove to contain human rights activists. For example, LTDH president Mohamed Charfi was appointed Minister of Education in 1989, while the organization itself was included in the High Commission for Fundamental Human Rights and Freedoms together with other human rights organizations. The unwritten condition was that the LTDH representative in the High Commission should not belong to any political opposition faction.

But the regime gradually showed its true despotic colours. Harassment of human rights organizations continued parallel to attempts to contain human rights activists, especially the LTDH. After a honeymoon that lasted only a few years, the crisis erupted between the government and Islamists. In 1991, security services announced they uncovered a coup attempt. They arrested many Islamists and put them on trial. Soon, with the exception of the UGTT, there was no longer an autonomous organized force in civil society that worries the Ben Ali regime except those working in the field of human rights. In 1992, the government amended the Law on Associations, thereby reclassifying the LTDH in such a way that could allow regime loyalists to join and take over the organization.

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[32] Ibid., p. 155.
[33] Ibid., pp. 152-3.
[34] See speeches by president Ben Ali on 9 September1989 and 7 November 1992; Cabinet newsletter 1989 and 1992.
[35] Tunisia ratified the Convention against Torture without reservation on 11 July 1988.
[36] Order 54 on 7 January 1991 to establish the High Commission for Human Rights and Individual Liberties, the Official Gazette, No 3, 11 January 1991, p. 43. The High Commission advised the president on how to promote human rights.
[37] Allala Mourad, "Human Rights Institutions in the Arab World", proposal for a Masters in Political Science, Tunis: Faculty of Law and Political Sciences, 1996, p. 57.
[38] These were the ministries of interior, foreign affairs, justice and social affairs.
[39] Khiari Sadri et Olfa Lamloum, "Tunisie: des elections entrompe-l'oeil", Politique Africaine, Vol 76 No. 4, 1994, pp. 106-15.

In its first chapter, the 1992 Association Law classified such organizations into certain categories: women, sports, science, culture, art, charity, relief, social and development, and, finally, associations of a general nature[40]. A paragraph was added to this last category stating that these associations "cannot refuse membership of any person who adheres to its principles and decisions unless this person has lost his political and civil rights or has activities and practices that were incompatible with the objectives of the association." In case of a disagreement regarding the right to enrol, the applicant can apply to the court of first instance, in which the association branch is located.

On 14 May 1992, the Ministry of the Interior issued a decision to classify LTDH as an association of a general nature, which meant that it had to accept almost any applying member. In practice, this could have led to the enrolment of a large number of regime loyalists and accordingly put an end to LTDH independent and critical positions. The LTDH was able to annul the ministerial decision (and again have the right to decide on who could become a member at will) at the Administrative Court on ground of its unconstitutionality, but it took the court four years to issue this verdict. Meanwhile the government continued to press the LTDH, preventing it from holding its annual congress. The fourth such meeting took place in 1994, but LTDH fifth congress had to wait till 2000, and even then, its resolutions were abolished by a court order. The court case followed a complaint by regime loyalists, who were members of the ruling party and claimed electoral irregularities were behind their failure to win seats on the LTDH board. The court froze LTDH operations and placed it under judicial control as of November 2001. The LTDH was thus prevented from convening its sixth congress and was entangled in court proceedings until 2009[41].

The persecution of human rights activists intensified in the final years of the 2000s, especially after protests at Tunisia's Mining Basin in 2008. A number of activists from various human rights organizations (LTDH, Liberty and Equality Organization, the National Council for Liberties, etc.) were held accountable and illegally investigated. Security authorities prevented local activists from contacting and dealing with regional and international organizations, as well as restricting activities of the latter in Tunisia. For example, Jalloul Azouna was interrogated in November 2009 after receiving a delegation from the Euro-Mediterranean Human Rights Network at his home. The delegation was harassed to prevent field work, meetings with rights activists or victims of violations[42].

Unknown persons broke into and robbed the offices of human rights organizations and lawyers. In 2010, the LTDH main office was broken into and its central computer disappeared with the main storage unit[43]. Meanwhile, newspapers close to security agencies, launched a smear campaign against political and human rights activists accusing them of immorality, treason and serving foreign interests.

In addition to various forms of harassment by security agencies, the government restricted the funding for human rights organizations. Independent human rights organizations often resorted to foreign funding since, unlike other civil society organizations, they did not receive any state funding. But through the Central Bank, the government repeatedly froze their assets or stooped financial transfers. For example, on two occasions, a European Union grant was denied to LTDH, one for the establishment of a central legal documentation and counselling centre, and the other to fund LTDH branches[44]. The regime had long exploited foreign funding to discredit human rights organizations in the eyes of patriotic Tunisians. In a televised cabinet meeting in 2009, former President Ben Ali challenged the patriotism of human rights activists and accused them of distorting Tunisia's image abroad and hating their own country[45].

2- How Other Organizations Joined the Struggle

In the early years of Ben Ali's regime, a group of Tunisian feminist activists challenged the state-sponsored National Women Union. They saw a linkage between the struggle for women's rights and democratization, when they went ahead in September 1989 and established the Tunisian Association of Democratic Women (ATFD), which considered "full and effective gender equality and equal opportunities an essential condition to achieving freedom, democracy and social justice. On the other hand, true democracy is the guarantee for public and private freedoms and the granting of rights and dignity in the private as well as public space[46]."

This strand of activism was born out of several feminist initiatives including the Women's Issues Study Group at the El-Taher Haddad cultural club, established in 1978, and a committee for the study of working women issues formed in the UGTT in 1982. The latter group issued "Women" magazine to raise awareness about feminist issues in 1983 and became active within the LTDH women's committee in 1985. ATFD founders were a mix of leftists; some independent and others belonged to the Communist Party. They were careful to separate their ATFD and political activities to ensure the independence of their association away from all political parties[47]. Still, the regime viewed them as political opponents since many of them had had a history of public political struggle. Among its objectives, the ATFD demanded separation of religion and state, thus also getting into an ideological confrontation with the Islamists. The ATFD worked more specifically to "combat patriarchy, eliminate all forms of gender discrimination, combat all forms of violence against women and develop and disseminate a progressive secular feminist discourse in order to build Tunisia on the basis of dignity, freedom, democracy and social justice." It also advocated equality in inheritance, women's freedom to choose their partners in accordance with international conventions, which meant the

[40] Basic Law 25 for 1992 on 2 April 1992 to complement Law 154 of 1959 dated 7 November 1959 on Associations, p. 411.
[41] Omara Ben Romdhan, "LTDH", Tunis: Mohamed Ali Elhami publishing house, 2011, p. 20 (Arabic)
[42] LTDH statement, "Assaults and persecutions of a number of human rights activists because of a visit by a Euromed delegation", 17 November 2009, website of the Arabic Network for Human Rights Information (ANHRI) www.anhri.net/tunisia/ltdh/2009/pr1117.shtml (Arabic)
[43] LTDH statement, "LTDH office subjected to raid and theft", 8 February 2010, ANHRI, available at www.anhri.net/tunisia/ltdh/2010/pr0208.shtm (Arabic)
[44] LTDH, Annual Report 2003, available in Arabic at anhri.net/tunisia/ltdh/pr040000.shtml
[45] See the meeting video at www.facebook.com/205911609426924/videos/1102538619764214/
[46] The ATFD website was available at femmesdemocrates.org.tn/ar/ but it went offline before this paper was finalized. Some ATFD documents can be viewed at their FB page www.facebook.com/femmesdemocrates
[47] Interview with Souad Triki, founder of ATFD, on 27 December 2016.

possibility of marriage between a Muslim woman and a non-Muslim man, a choice that remains denied to almost all women in predominantly Muslim countries. In January 1989, these feminists founded the Tunisian Women's Association for Development Research to produce critical and action-oriented research about the status of women in Tunisia and to support their active participation in development at political, economic, social and cultural levels[48].

As of the late 1990s, several human rights organizations sprang up to fill the void left by an increasingly restrained LTDH and to monitor human rights violations, in particular torture, which became rampant, especially against Islamist activists in an increasingly repressive environment.

In 1998, the National Council for Liberties was established by former LTDH members, including Marzouki, Mustapha Ben Jaafar and Siham Ben Sedrine. Radhia Nasraoui, lawyer and wife of Tunisian Communist Party leader Hamma Hammami, founded the Tunisian Association against Torture in 2003. As for Islamists, they founded the International Organization for the Support of Political Prisoners in 2001. Among the founders was leader of Ennahdha movement and lawyer Samir Dilou. On his return to Tunisia in 2009, Mohamed Nouri, a member of the movement who lived in exile in France, founded Huriya wa Insaf (Liberty and Equality) organization.

In addition to organizations that were more concerned with documenting and exposing violations, and providing legal aid, Tunisia also started to tolerate regional and national organizations concerned with human rights research, training and education. Foremost among these was the Arab Institute for Human Rights (AIHR), which was established in 1989. These organizations enjoyed more freedom in their work as they do not work on documenting violations in a way that exposes the government's responsibility or complicity.

The AIHR was the initiative of the LTDH, the Arab Lawyers Union, and the Arab Organization for Human Rights, in addition to assistance from the United Nations. In the context of the relative political opening at the beginning of Ben Ali's rule, the AIHR was allowed together with branches for other Arab and international non-governmental organizations. The AIHR organized training courses and symposiums to raise awareness about human rights and teach skills necessary to work in this field. It also undertook research projects and provided researchers and activists with a specialized library containing books, periodicals, reports and UN documents on human rights. Despite the integration of the AIHR into the Tunisian human rights fabric, it maintained its Arab regional dimension. In addition to its headquarters in Tunis, it kept branches in Cairo and Rabat and included in its scientific committee experts and human rights activists from various Arab countries.

The relative opening under Ben Ali also allowed the opening of an Amnesty International branch in Tunis in April 1988. The LTDH and ATFD joined the International Federation for Human Rights (FIDH). These steps and others enhanced networking among various human rights organizations working on Tunisia domestically and internationally.

III. Transformations of Civil Society after 2011

After 14 January 2011, and the fall of Ben Ali's regime, a few human rights activists moved from opposition to direct political action in elected bodies, committees, councils and ministries. The following few years saw a dramatic legislative improvement with almost all universal freedoms and rights included in the 2014 Constitution. Torture, long an established practice by security forces in the country, ceased to be a systematic instrument. Nevertheless, several reports issued by local and international human rights organizations still indicated that much work remained to be done to ensure respect for human rights in Tunisia[49].

The confusing overlap between the human rights and the political has been inevitable for the Tunisian human rights movement, and perhaps for all human rights action in countries that suffer from dictatorial regimes or lack a stable system of popular representation. In these cases, advocates for human rights are also necessarily opponents of the dictatorship and the regime it embodies. Also, the closure of political space drives those concerned with public issues to engage in and use the smaller spaces granted to civil society to work for their causes. This explains the return of Islamist and leftist human rights activists to the political field after 2011. Even some rights activists who never engaged in political action moved into politics after the fall of Ben Ali. Meanwhile, new human rights organizations multiplied and became more varied bringing into the foreground issues related to economic, social and cultural rights as well as the rights of marginalized groups and minorities.

1- Human Rights Activists: From Opposition to Power

The seats shifted dramatically after 2011 with yesterday's victims moving into positions of power, including ministerial positions and the presidential palace. It started with the High Commission to Achieve the Objectives of the Revolution, Political Reform and Democratic Transition[50], which included several human rights activists, either as public figures or representing their own organizations. The High Commission was the institution that brought together representatives of various political and ideological circles to develop legal mechanisms for peaceful democratic transition (electoral law, press law, political party law, and associations law).

[48] See the organization's website at www.afturd-tunisie.org/a-propos/

[49] See LTDH Freedoms Monitor, "Freedoms in Tunisia: two years after the Elections from October 2011 to October 2013", and Human Rights Watch, World Report 2016, Chapter on Tunisia, available at bit.ly/2fiKGNn , and Euro-Mediterranean Human Rights Centre, "250 Cases of Torture and Maltreatment in Prisons and Detention Centres in Tunisia", 8 May 2016, available at bit.ly/2t0O9WH

[50] On 17 January 2011 Law Professor Ayad Ben Ashour was appointed to form a committee on political reforms to prepare for presidential and legislative elections after the fall of Ben Ali few days earlier. The committee included about 16 experts in law and political sciences. It quickly evolved into the High Commission taking in 150 additional members representing political parties, CSOs and public figures. See Decree No. 6 on 18 February 2016 for the decision to establish the commission.

The High Commission represented a negotiating ground for the various actors, both from civil society and the political and business community. The LTDH, ATFD, the Tunisian Women's Association for Development Research, the National Council for Liberties in Tunisia, the International Association for the Support of Political Prisoners and Hurriya wa Insaf all became members of the High Commission. This allowed a large number of human rights activists to join government bodies either in their individual capacity as public figures or as representatives of their organizations. For example, Kamal Jendoubi[51] participated as a representative of one of the organizations of Tunisians abroad, while Ali Ben Salem[52] represented the Association of Veterans of Resistance[53]. LTDH president Abdel Sattar Ben Mousa, AIHR president Abdel Basset Ben Hassan, and ATFD president Ahlem Belhadj, all joined the High Commission as public figures.

Other government institutions also included human rights defenders. Taoufik Bouderbala, former LTDH member, was appointed head of the National Fact-Finding Commission on Abuses and Violations in January 2011[54]. Among the members of the same committee were Bochra Belhaj Hmida, former ATFD president, Hayat al-Wartani and Charifa Tilili, members of the same association, and Abderrahmane Hedhili, LTDH board member, and Salah Eddine Jourchi, also from the League. Siham Ben Sedrine, former president of the National Council for Liberties, became chairperson of the Truth and Dignity Commission in 2013. Among members of the Independent High Commission for Audio-visual Communication was Hisham Senoussi, the North Africa representative of Article 19.

A number of human rights advocates took part in the legislative elections in 2014 on party lists such as Bochra Belhaj Hmida, who was nominated on a Neda'a Tunis list, Ali Ben Salem, who ran for the same party in Bizerte, and Samir Dieou, former President of the International Organization for the Defence of Political Prisoners, on the Ennahdha list in Bizerte, too.

Marzouki, LTDH former president, became the first elected president of the country after the fall of Ben Ali and remained in office till 2014 after he re-energized the Congress Party for the Republic and chaired it until his success in the elections. Dilou was appointed Minister of Human Rights and Transitional Justice under the Troika Government[55]. Abdelkarim Harouni, former member of the board of Hurriay wa Insaf became Minister of Transport under the same government; while Mustapha Ben Jaafar, co-founder of LTDH and chair of the Alliance party for Labour and Freedoms became head of the National Constituent Assembly (2011-2014).

The performance of these activists varied toward human rights issues when they assumed office but with the majority giving priority to their political party prerogatives and strategic objectives. Thus, despite the large number of human rights activists in the corridors of power, violations continued, though far less systematically. For example, security forces shot heavily at protest marches in Siliana town and in Tunis in 2012 while two young Salafis died in detention after a protracted hunger strike in 2013[56]. On the other hand, the performance of some activists, who did not have partisan affiliations before 2011, was not supportive enough of some human rights issues, especially with regard to socially sensitive rights such as the rights of sexual minorities[57].

On the other hand, the presence of human rights activists in some positions was positive. That was especially the case within the High Commission to Achieve the Objectives of the Revolution, Political Reform and Democratic Transition, and inside the High Commission for Fundamental Human Rights and Freedoms. The former commission drafted the most important legal texts that opened up the political life after 2011. Hafidha Chekir, an ATFD founding member and member of the panel of experts on the taskforce formed by the High Commission for Electoral Planning, managed to include an equitable quota system for women in the electoral lists. A number of rights activists worked within the High Commission for Fundamental Human Rights and Freedoms in their personal capacity or as representatives of their respective organizations, including Abderrahman Hedhili (LTDH), Souad Triki (ATFD), Rami El-Salhi (Euro-Mediterranean Human Rights Network), as well as the Tunisian Association Against Torture, ATFD and the National Union of Journalists in their organizational capacity. Members of the taskforce worked to produce a new, more effective Basic Law on Rights and Freedoms[58].

[51] Jendoubi is a human rights activist who lived in exile in Paris, where he graduated from a business institute. He had chaired the Euro-Mediterranean Organization for Human Rights since 2003. In 2011, he chaired the Independent Electoral Committee and in 2014 he was appointed as minister in charge of relations with civil society in the Habib Essid cabinet and served till 2016.

[52] Head of the LTDH branch in Bizerte and a parliamentarian, who was detained and tortured in the early 1960s after being suspected in a coup attempt.

[53] This organization now includes a small number of veteran anti-French resistance fighters.

[54] This was one of three committees formed immediately after Ben Ali's fall. The other two were the Political Reform Committee led by Ben Ashour and the National Commission of Inquiry on Corruption and Bribery, led by Abdel Fattah Ammar

[55] The Troika was formed after the 2011elections of the National Constituent Assembly and ruled till 2014. It included Ennahdha Movement, the Congress Party for the Republic and the Party for Labour and Freedoms.

[56] Mohammed al-Bakhti and al-Bashir al-Qali were members of a Salafi group suspected of attacking the US Embassy in Tunis on 12 September 2012 in a protest against an American film that ridiculed prophet Mohammed. The detainees entered a hunger strike to protest prison conditions and long incarceration without charges. Bakhti and Qali's health deteriorated and they died. In Silliana, the police shot at demonstrators protesting against unemployment and poverty on 27 November 2012. Many civilians sustained eye and other injuries. Interior Minister Ali Laarayedh claimed in a Parliamentary hearing that birdshots were used for self-defence against stone-throwing demonstrators. Samir Dilou, Minister of Human Rights and Transitional Justice, said security forces acted legally. He was kicked out of hospital when he tried to visit the injured protesters.

[57] Shams Society, which defends sexual minorities, did not find the support expected from human rights advocates who became MPs nor from Kemal Jendoubi, Minister of Relations with Civil Society, when they faced a registration problem. Interview with Hadi Bouhadid, Shams board member and spokesperson, 28 December 2016.

[58] Interview with Souad Triki, ATFD founding member and current member of the High Commission for Fundamental Human Rights and Freedoms, on 27 December 2016.

2- Diversity of Human Rights Organizations

According to official registration statistics in 2017, there are about 21,000 associations or NGOs in Tunisia, of which at least 350 work on human rights[59]. According to a study conducted by the National Observatory - Elaph on associations after the revolution, human rights associations represented 28% of all NGOs[60]. The database of the AIHR lists 856 organizations active in the field of human rights throughout the country[61]. This disparity in numbers may be attributed to the varying definitions of human rights work and the different periods of data collection, but they all point to a large and sustained increase in the number of rights organizations after the revolution.

The scope of human rights activism also expanded after 2011 to include rights that had not received much attention before, such as the rights of sexual, racial and religious minorities. Identity politics and debates were foregrounded after the revolution with traditionalists and Islamists positing an "Arab Islamic identity" and labelling the rest as secularists or even "anti-Islam" or anti-Arab. In this context, the issues of diversity were discussed in a hostile and volatile atmosphere loaded with assumptions as well as offensive and defensive dynamics on religion, race and sexuality. These debates helped show the fallacy of a presumed homogeneity of the Tunisian society with minorities speaking up and demanding respect for their collective and individual rights, some through organized NGOs.

Although the issue of homosexuality, or non-heterosexual identities at large, has been the subject of public debate since 2011 when some Islamists used the label to smear leftist candidates in the elections of the National Constituent Assembly, the first association to defend LGBTQ rights did not appear till 2015. Shams (Sun in Arabic) was established under the old association law, thus it needed a license, which was not granted. After heated public controversy, a court order suspended Shams activities in early 2016 for a month following a complaint by the government that it had been "misinformed [by Shams] … when submitting its application[62]." Its members were also subjected to harassment and violent attacks, driving some of them to attempt suicide or leave the country. However, Shams, whose ultimate objective is to decriminalize homosexuality through removing Article 230 of the Penal Code, continued to be active well into 2017 and seems to slowly have more support and social acceptance[63]. Advocates of bodily integrity in the human rights community expanded their work from a focus on combating torture and documenting bodily violations against detainees to include other degrading treatment such as forced anal examination used by interrogators to prove the charge of "sodomy". These examinations constitute a form of torture or cruel, degrading, and inhuman treatment, prohibited under the Convention against Torture, the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights[64].

Although Chapter VI of the 2014 Constitution provides for religious freedoms, especially freedom of belief, certain Tunisians are still unable to express their religious choices freely such as Bahá'í, Shiite or those who do not want to abide by certain social or religious customs such as Ramadan fasting in public. For example, the government refused to permit a Baha'i group to establish an association in 2011 on the grounds that the group was named the "Bahá'í Assembly"[65]. Shiite associations became active after 2011 and demanded permission to proselytize and hold their religious rites. Despite the absence of a legal provision criminalizing apostasy or conversion of religion, like other Arab countries, those who convert to Christianity in Tunisia do not dare to profess their religious choices openly in view of the expected social pressure in this regard. Also, public declaration of atheism is not possible because of expected violent reaction. A good example for the complexity and sensitivity of this issue was the attack by a Salafi group on a movie theatre for showing Nadia El Fani's "Neither God, nor My Master" in 2011[66].

As for ethnic minorities, at least 10 Amazigh associations have been established between 2011 and early 2017, mostly focusing on cultural activities, language, and advocacy for the recognition of their cultural specificity as the indigenous population of the country. Their publications use a rights-based discourse, call for legal equality, economic development, and demand recognition of their culture and language in educational institutions and curriculums. Meanwhile, the nearly one million dark skinned Tunisians have started to demand equality and fight discrimination after the 2011 revolution, exposing in campaigns and publications how they had been badly treated and discriminated against in daily interactions and in the mass media. They organized sit-ins and established two societies: "Manamti" ('My Dream' in colloquial Tunisian Arabic) and "Adam Society for Equality and Development" to struggle against racial discrimination. Activists are working to enact an anti-discrimination law[67].

[59] Statistics published by the Center for Information, Training, Studies and Documentation on Associations, available at www.ifeda.org.tn/stats/arabe.pdf

[60] Yasin El Attawi, "Elaph National Monitor Presents a Study on Post-revolution Tunisian NGOs", Tunis Arrakmia, 19 April 2013, available in Arabic at bit.ly/2vXXBi3

[61] See AIHR website at www.aihr-iadh.org/

[62] For details on the case, see HRW, "Tunis: LGBT Group Suspended", 16 January 2016, available at bit.ly/1n0KbZi , and for government spokesman statements see (in Arabic) bit.ly/2jnkLbV

[63] See "Shams Vice-president Attempts Suicide", 11 July 2016, available in Arabic at bit.ly/2xy5Fql and Ossama Hamraoui, "After Fleeing to France, a Shams VP Says Everybody Threatened to Kill Him in Tunisia", 27 July 2017, available in Arabic at bit.ly/2h1kqL9. Check Shams FB page at www.facebook.com/lgbtrightstunisia/

[64] HRW, "Tunisia: Men Prosecuted for Homosexuality", 29 March 2016, available at bit.ly/2toBqjx

[65] There have been Bahá›í in Tunisia since the early 1920s. The post-colonial state ignored the group leaving the Bahá›í assembly in Tunis open until 1984 when it was closed after a hostile security and media campaign. The government reversed position in the early 2000s and allowed the community to have some administrative associations but without a legal recognition. A Bahá›í society applied for a licence under the old law that required government permission. See Ahmad Nazif, "The Baha'is of Tunisia: Seeking Recognition", Rasif22, 7 May 2016, available in Arabic at bit.ly/2eW1etX

[66] On 26 June 2011, a group of Salafis attacked a movie theatre that was to show «Neither God, not my Master» (the original title, «Secular if God wills»), raising Islamic slogans and attacking atheism. The documentary was filmed in Ramadan 2010 in Tunisia, including cafes for those who were not fasting. Through this work, the director wanted to show that Tunisia was a country of coexistence and that everyone has the right to choose their beliefs and to practice their freedoms without fear. It seems that opponents of the film and critics of its director understood through the title that it was an invitation to atheism and an assault on Islam. They demanded El Fani be stripped of her Tunisian citizenship. See "Nadia El Fani Comments on the Suspension of her Movie", Sanad, 28 June 2011, available in Arabic at www.sanadfilmfund.com/ar/archive/2011/2011-06-28

[67] On the Amazigh in Tunisia check the UN Commission on Economic, Social and Cultural Rights, "Concluding Remarks on the third periodic report for Tunisia," 14 November 2016, available in French and Arabic at bit.ly/2x3aSmS and see Amal Al-Hilali, "After 1000 Years of Arabization, Has Tunisia Denied its Amazigh Culture?", Huffington Post, 19 October 2016, available in Arabic at bit.ly/2x50Gfh, and on discrimination against dark-skinned Tunisians, see Naila Al-Hami, "Racial Discrimination in Tunisia, the Shameful Secret," Ultra Sawt, 24 March 2016, available in Arabic at bit.ly/2y5DxYI

Advocacy for economic rights has expectedly become much more significant after the 2011 revolution, which was undeniably rooted in grievances related to unemployment, poverty, corruption and inequalities. The unemployed youth, working through many associations, pressed for jobs especially for the educated and university graduates[68]. Formal and loose groups were established to monitor and advocate on socio-economic issues. Among the leading conventional ones is the Forum on Economic and Social Rights or Le Forum Tunisien pour les Droits Economiques et Sociaux (FTDES), which publishes periodic reports on economic and social conditions and monitors and supports labour and social movements and action in various areas, especially the least developed and poorer southern provinces. FTDES is led by Hedhili, a leftist rights advocate for decades who had long worked within the LTDH. Among the leading unconventional organizations is I Watch which focusses on transparency, fighting corruption, observing elections, parliamentary performance, and legislations. The organization uses social media extensively for lobbying, mobilization and advocacy. It played a significant role to block a bill for reconciliation in major pre-2011 corruption cases. Unlike most other Tunisian NGOs, I Watch publishes its budgets and sources of funding in detail regularly on its website[69].

In the various provinces, several human rights associations were formed in different fields to serve children, the disabled and work for the right to development, etc. There is hardly a province in the country that does not have such associations.

Conclusion – The Future of Tunisia's Human Rights Movement: Opportunities and Challenges

The Tunisian human rights movement has achieved multiple gains over 40 years of struggle, not least its survival under many years of dark authoritarian conditions. Joining the ranks of the movement, protected by them and leaving them have been some of the most prominent political figures who contributed to the shaping of the Tunisian state and society after the January 2011 revolution and the fall of the Ben Ali regime. During the post-revolution years, a large number of associations appeared and used a rights discourse in advocacy, mobilization and documentation, working on various social, economic and cultural causes such as unemployment, non-discrimination for sexual and ethnic minorities, development and fighting corruption. Older organizations continued to work while international and regional associations became more active through branches or new offices as Tunisia became probably the only Arab country where foreign and regional rights organization can register relatively quickly and work freely[70].

However, the movement faces a number of old and new challenges:

• The overlap of political and human rights activism (whether directly through vying for power or holding political positions or engaging in conflicts within or between organizations because of political affiliation). This overlap undermines human rights activism and weakens coordination and cooperation among rights organizations. There is an urgent need for clearer and more public positions on the relationship between human rights activism and the engagement in politics, including direct conflicts over power and executive positions. There is also a need to examine the difference between human rights actors engaging in politics for human right to achieve certain public gains for the movement, on the one hand, and politics of human rights where the actors become primarily a part of the ruling regime (as individuals or as organizations)[71]. Finally, there is a need for a clearer articulation or recognition of the inevitable ambiguity of the relationship between human rights actors and other components of civil society and the political community (blue and white collar trade unions, political parties and the media).

• There is something akin to a generational gap, where fewer young people work in the traditional rights organizations, while a majority of them prefer to engage in or create new organizations or networks or work in branches of international organizations in Tunisia.

• Terrorist acts also constitute a major challenge to the human rights movement, especially with the tendency of governments and security agencies around the world, including Tunisia, to invoke security considerations in order to restrict rights in general and the rights of terrorism suspects in particular. This reinstates the argument used by former President Ben Ali for years to suppress Islamists and to restrict political and personal freedoms.

• The Tunisian human rights community faces a set of challenges related to internal governance, decision-making, financing (domestic and foreign), open membership (as opposed to closed professional organizations) and professionalism (for example, developing and stabilizing internal administrative and financial systems). For example, in 2015 and 2016, several organizations began to suffer a dramatic decrease in foreign funding and had to reduce their activities. Although there is often no ideal way to build an exemplary human rights organization, these challenges related to governance, transparency, funding and sustainability call for new approaches to enhance and increase the impact of human rights action[72].

[68] There are several national and provincial organizations as well as social media platforms for the unemployed such as the Union of Unemployed Graduates or Union des Diplômés Chômeurs (UDC) (see bit.ly/2x4k8Y7). Unemployment in Tunisia hit 15.3% or more than 626,000 people according to the National Institute of Statistics (see bit.ly/2y2SPwy for unemployment figures in the second quarter of 2017). Unemployment levels had been almost stable for the previous two years but with dramatic differences between the sexes (more unemployed females), geographically (where unemployment hits 25% in southern provinces and dips to 10% in the northwest), while unemployment among university graduates rises to 28%.

[69] Check FTDES website at ftdes.net/ar/ and I Watch at www.iwatch.tn/ar/

[70] Tunis has regional and country offices for several organizations including Amnesty International, Human Rights Watch, Euro-Mediterranean Human Rights Network, the International Federation for Human Rights, and the Cairo Institute for Human Rights Studies.

[71] The best differentiation between the two approaches is explained by Upendra Baxi in his book, The Future of Human Rights, New Delhi: Oxford University Press, 2002.

[72] Five separate research papers will be released by the Arab Reform Initiative as part of the project on the Future of Human Rights Action in North Africa before the end of 2017. These papers will address some of these internal and external challenges in Tunisia.

The Evolution of Morocco's Human Rights Movement

Mohamed Kadiri

Summary

This paper tackles the evolution of the human rights movement in Morocco through studying the context and conditions under which it appeared and the influences that shaped its development and current challenges and those that could dictate its prospects.

The paper reviews the increasing specialization and professionalization of human rights action, starting with advocacy for political rights, which represented a reaction to grave violations in the first decades after independence until the beginning of the 1990s. It then addresses the expansion of the movement to include advocacy for economic and social rights with the emergence of service-oriented associations, and the consequent interest in cultural and personal rights with the perseverance of women and Amazigh organizations. The protest movements of the Arab Spring in the region in 2010 and 2011, reverberated in Morocco with massive protests on 20 February 2011, overlapped with the human rights movement and expressed many of its demands.

The paper explores the Moroccan state›s strategy of dealing with the human rights movement and addresses the current challenges faced by the movement in terms of its political and legal environment, governance, relationships with the political and civil society and its impact. It also outlines the contentious relationship between human rights organizations, on the one hand, and the state, political parties and the remainder of civil society, on the other hand, for documenting f violations, exposing them and advocating for alternative policies to protect and promote human rights.

The aim of this survey paper is to provide an analytical chronology of the evolution of the Moroccan human rights movement in its political, social, internal and international context[1].

Restrictive domestic political conditions constituted a direct cause for the birth of a group of civil associations to defend rights and freedoms, particularly of detained and abducted activists in the 1970s and 1980s. This birth coincided with a global development in which human rights work became one of the main increasingly professionalized civil society actions after the disintegration of the civil rights movements in Europe and the United States in the 1970s. Jumping ahead, the mass popular protests in the region, including in Morocco, in 2010 and 2011 produced a number of new human rights actors. The new Moroccan constitution was an outcome of this activism and consequently gave rise to more human rights work for legal reform in compliance with the constitution.

For a long time, the Moroccan state had been suspicious of the motivations and actions of human rights advocates. This suspicion shaped the nature and dynamics of the relationship whereby the state imposed its political and security prerogatives on the advocates. This restrictive attitude persisted despite the gradual transformation of the regime in the 1990s away from the unchecked use of violence against political opponents. During the establishment of the post-colonial state and the need to consolidate the grip of the ruling elite in the late 1950s and the two following decades, Morocco was mired in systematic and wide-scale human rights violations in what came to be known the "years of lead". King Hassan II initiated a slow transition in the early 1990s in a gradual «democratization» of the political life and a downsizing the role of security agencies.

This political context was the main factor shaping the relationship between the government and human rights organizations in which the state worked to weaken or contain these actors or to respond to part of their demands.

Under the regime of King Hassan II, for three decades starting in the early 1960s, the monarchy and state bureaucracy (mainly security agencies, their internal differences and coup attempts aside) acted to create a strong post-colonial state, using violence, bargaining and conditional «democratization». Meanwhile, the human rights movement in Morocco evolved, its discourse changed, as well as its challenges, political and social relations, internal governance, and impact. The behaviour of the regime was arguably the main factor behind transformations in this movement, while not denying the role of the movement and its activists, the important role they played in achieving, and gradually deepening, gains and transformations that drove the state to acknowledge and guarantee many rights.

In the structure of this paper, we shall seek to trace the human rights movement in its historical and ideological aspects, following the strategies adopted by the state to curb the movement, as well as strategies of resistance adopted by the movement to achieve its objectives. The paper will address the gradual inclusion of economic, social and cultural rights into the work of human rights actors who had exclusively focused for many years on civil and political rights.
The paper will be divided into the following sections:

I. The birth and evolution of the human rights movement in Morocco
II. Service provision organizations
III. Women associations
IV. Human rights organizations concerned with the performance of justice institutions
V. Amazigh organizations
VI. Social movements and state strategies for dismantling/containment
    a. At the level of official institutions
    b. State and Social Movements: mutual political adaptation
VII. Conclusion: the prospects and challenges of the human rights movement in Morocco

[1] Paola Gandolfi, "La société civile au Maroc, signification et issues des processus de changement sociale et politique", 4th Mediterranean Social and Political Research Meeting, 19-23 March 2003, available at goo.gl/3pFcY9, p. 8.

I. General Civil Society Organizations and the Birth of the Human Rights Movement in Morocco

The Moroccan League for the Defence of Human Rights, LMDDH (Ligue Marocaine pour la Défense des Droits Humains), was founded in 1972 following the years of the emergency rule (1965-1970) and the two failed coups (1971 and 1972). There was a clear absence of any role for civil society organizations in policy-making or the monitoring of government performance and policies. The avenues of participation for political parties were largely blocked and there was an escalation of arbitrary arrests, kidnappings, unfair trials and other grave violations of human rights, especially civil and political rights. These conditions were the hallmark of political contention in Morocco in the first two post-colonial decades, when the royal family and its allies (so-called El Makhzan[2] in Morocco) were singularly focused on asserting their authority and building state institutions and the royal regime.

The LMDDH emerged from the ranks of the Istiqlal Party[3] primarily for practical reasons as a number of political activists were arbitrarily detained or tried without due process. These prisoners included, for example, Anis Belfarij, son of Ahmed Belfarij, a leader of the Istiqlal Party and the king's special adviser[4].

This connection continues to exist as a number of leaders and members of Istiqlal remain members of LMDDH, whose documents and statutes reference Islam as one of the foundations for human rights[5]. This relationship affected the LMDDH and explains why the organization did not strongly criticize some of the severe rights violations that took place during those years when political considerations of Istiqlal might have intervened[6].

The currently leading human rights organization of Morocco is the Moroccan Association for Human Rights, Association Marocaine des Droits Humains (AMDH), which was set up in June 1979. Similarly, the association did not escape the divisions that affected the Socialist Union Party of Popular Forces, some members of which took the initiative to establish the AMDH[7]. The party faced internal political challenges and wanted to enter the field of human rights to strengthen its legitimacy in its competition with the Istiqlal Party[8].

Despite the emergence of those two organizations in the 1970s, they remained constrained by the regime's iron fist policy which extended to human rights defenders. Cases of detentions and enforced disappearance of political actors increased. Morocco came under international criticism as the human rights movement around the world continued to emerge as an independent actor, although it was sometimes used or exploited in international political conflicts especially during the cold war.

Exposing human rights abuses also began in the 1970s by Moroccan migrants and French sympathizers who sought to alert French public opinion to the dire human rights situation in Morocco. Those campaigns, some of which were organized by the Association for the Defence of Human Rights in Morocco after its establishment in 1984, did not result in any significant changes due to the French government's support of the Moroccan regime. However, as time passed, letters and documents were leaked from inside Morocco's terrible detention centres. The escape of the children of former general Mohamed Oufqir in 1987 stirred the interest of the French public and international press in the dismal situation of human rights in Morocco[9].

However, due to the severe repression of all political and human rights opposition activities in Morocco until the late 1980s, neither the LMDDH nor the AMDH were able to undertake any effective, extensive action on the ground until 1988. For example, AMDH activists suffered from a campaign of arrests from May 1983 until January 1984 after a number of demonstrations that led to the arrest of several political activists. These detentions followed the acceptance into AMDH membership of a number of Moroccan leftists but particularly because AMDH had called in 1983, for the first time in Morocco, for revealing the truth about physical abuse, torture and ill-treatment of detainees in Tazmamart centre[10].

Despite these pressures, and perhaps even more so because of them, 1988 witnessed the birth of the third important human rights organization in the Kingdom, the Moroccan Organization for Human Rights, L'Organisation Marocaine des Droits Humains (OMDH). The new organization pushed the LMDDH and the AMDH into more co-ordination as the latter questioned the motivations

[2] El Makhzan is an old Moroccan term that refers to the dominant elite who control the administrative and political institutions under the Sultan (later the king) in his capacity as the Commander of the Faithful (Emir El Mu'mnin) and the head of state after the end of the colonial rule and establishment of the postcolonial modern state. See: José M. González Riera, "Des années de plomb au 20 février: Le rôle des organisations des droits humains dans la transition politique au Maroc", Confluences Méditerranée 2011/3 (N° 78), p. 45.

[3] Istiqlal, one of the oldest parties in Morocco, was well established across the kingdom when it turned in 1954 from demanding a reform of the French colonial administration to calling for independence. After independence, Istiqlal, which has an Islamic Salafist leaning, joined a number of governments. In the "democratic transition" phase in the 1990s, Istiqlal became part of the National Bloc, which was formed in 1992 along with the Socialist Union party of Popular Forces, the National Union of Popular Forces, the Progressive Socialist Party and the Organization for Democratic Action, and then participated in the government of "Consensual Rotation" in 1998. See official website of the party istiqlal.info/a/, and Mohamed Dharif, "Moroccan Political Parties", Moroccan Journal for Political Sociology, 1993, p. 200.

[4] Marguerite Rollinde, "Les associations des droits de l'homme au Maroc : entre adhésion nationale, appartenance politique et engagement citoyen", les cahiers du CRASC, n°5-2002, p. 128.

[5] Chapter 3 of LMDDH bylaws states that it seeks to disseminate and spread the concepts and principles of human rights and fundamental freedoms as stipulated by Islam and affirmed by the Universal Declaration of Human Rights and international and Arab treaties.

[6] González Riera, op. cit., p. 36.

[7] The Socialist Union Party (SUP) was founded in 1975, adopting the ideology of "Scientific Socialism". It advocated a comprehensive strategy "for the construction of a socialist society and civilization that is in harmony with the specificity of our people". See Durif, op. cit., p. 263. The SUP formed the first government under the system of "consensual rotation" (see footnote 19) of political parties in 1998 and its Secretary General Abderrahmane Youssoufi became the prime minister. The influence of the party dwindled in recent years, until it won only 20 out of 395 seats in the last legislative elections of 2016.

[8] Gandolfi, op. cit., p. 10.

[9] Pierre Vermeren, "Histoire du Maroc depuis l'indépendance", Paris : La Découverte, 2002. The Arabic translation was consulted for this paper and is available under
بيير فيرموريين، "تاريخ المغرب منذ الاستقلال"، ترجمة: عبد الرحيم زحل، الرباط: أفريقيا الشرق (2014) ص 173-174

[10] Rollinde, op. cit. p. 127, 167.

behind the formation of a third human rights organization at a time when the existing two big ones were unable to freely function.

Some claimed that OMDH was the result of a political deal and that the state has created it to reduce the influence of AMDH and the LMDDH, and, consequently, the influence of the Istiqlal and the Socialist Union parties, especially as the parties had started to rely more on human rights organizations, in part to get their voices heard in public. The OMDH was founded by a number of independent academics, most prominent of whom was lawyer Omar Azziman and members of leftist parties (Socialist Union, and Progress and Socialism). However, Azziman soon resigned from OMDH because of the parties' efforts to control the organization, which attracted only 150 members at the time, compared to thousands of members of the more radical AMDH[11].

However, the OMDH later joined the rest of the human rights movement and co-signed the National Charter for Human Rights in 1990 with the AMDH, the LMDDH, the Bar Association, and the Association of Moroccan Jurists. It also participated in the National Human Rights Coalition, which included about 22 independent human rights bodies that endorsed the Charter after its amendment on 12 December 12 2013. The Charter called for a common struggle to harmonize the Moroccan Constitution with international human rights laws and covenants, the lifting of all reservations Morocco attached to relevant international treaties, amending national legislation to comply with these treaties while recognizing the primacy of international law over national legislation, consolidating the independence of the judiciary, and guaranteeing the freedoms of belief and expression[12]. However, with the diverse visions among the five bodies that ratified the Charter in 1990, and the different social projects of various members[13], the co-ordination drive within the human rights movement atrophied to a large extent. One of the reasons contributing to that was the divergence of political positions of the political parties, which helped establish the various organizations of the movement to start with[14].

The government began releasing political prisoners in May 1989. The Palace seemed ready for a calculated opening, especially with mounting international pressure with the end of the Cold War, leaks of compromising documents, and the publication of books exposing horrific violations in Moroccan prisons and detention centres during the "Years of Lead"[15]. However, the Gulf War in 1990 derailed this process of political opening and the problem of thousands of victims of repression was turned over to the Consultative Council on Human Rights (CCHD), which was founded the same year.

Subsequent government measures were limited to legislative and administrative measures such as the inclusion of the concept of human rights in the fourth constitution, adopted in 1993, and the establishment of a Ministry for Human Rights the same year, headed by lawyer Omar Azziman (one of the founders of OMDH). The ministry took the first step to redress the past by allocating a monthly stipend of 5,000 dirhams to veteran Tazmamart detainees. The stipend was cancelled in 2000[16].

With the advent of the government of «consensual rotation»[17] in 1998, Moroccans hoped that a parliamentary political system would emerge based on a genuine transitional process. However, the Makhzan's hegemony over the political and economic arena and the failure of political parties to coalesce behind a political programme to broaden participation in this arena prevented the success of a transition that was almost totally controlled from above.

But this "transition" radically changed the nature of the relationship between CSOs and political parties[18]. Many CSOs were relatively disappointed in the parties that used to be in the opposition but had become enmeshed in the political machinations framed by the Palace, their concern moving away from rights and freedoms to issues they considered more important from their "political" point of view. The chasm was widened by incoherent government policies regarding a number of socio-economic issues (such as employment), and the sudden change in the discourse of the Socialist Union Party after assuming power. The yesteryear opposition also dropped the long-held demands for constitutional amendments to enshrine the separation of powers, consolidate the independence of the judiciary, enhance the legislative power of the parliament, and establish measures to ensure fair and free elections. Instead, the opposition-cum-government settled for second degree amendments such as strengthening the parliamentary jurisdiction and increasing the powers of the prime minister[19].

[11] ibid., p. 174.

[12] Yasser Arwin, "Exclusive: Andalus News Network publishes draft for a new national charter for human rights", 20 October 2013 in Maghress, in Arabic available at is.gd/ctzbZx
ياسر أروين، "شبكة أندلس تنفرد بنشر نص مشروع الميثاق الوطني لحقوق الإنسان المحين"، مغرس، 20 أكتوبر 2013

[13] Among the demands which were partly met were the release of a number of political detainees, ratifying a number of international conventions such as the Convention Against Torture, CEDAW, the Convention on Migrants' Rights in addition to inclusion by the state of the concept of human rights in the constitutional amendment of 1992. See Khadija Riadi, "Reading in the draft national charter for human rights", Tangier, 24 November 2013, available at is.gd/ps0H2R in Arabic as "خديجة رياضي "قراءة في مشروع الميثاق الوطني لحقوق الإنسان".

[14] González Riera, op. cit., p. 37.

[15] "Lead years" refer to the period from the early1960s till the mid-1990s, during which security agencies committed massive systematic violations of civil and political rights, deployed brutal techniques of torture, disappeared dissidents and suspects, imprisoned activists without trial, and when trials were held they lacked due process and guarantees of fairness.

[16] Vermeren, op. cit., p. 179-180

[17] The human rights discourse had become more integrated in international relations in the 1980s and early 1990s while international nongovernmental organizations such as Amnesty International and Human Rights Watch gradually came to exercise more influence over the behaviour of state actors. King Hassan II adopted a more rights-conscious political approach, releasing political prisoners, and setting up an advisory human rights council and a ministry of human rights. He then opened up the political space through the "consensual rotation" cabinets where the two major political parties alternated (or rotated) at the head of the cabinet. The first premier under such a system was the leader of the Socialist Union Party Abderrahmane Youssoufi in 1998. Meanwhile, the palace retained the final power and authority as the head of the executive authority, approving cabinet nominations, appointing certain ministers, etc., thus effectively undermining the principle of checks and balances and separation of powers as the monarch continued to be the final arbiter above all powers. See Karim Al-Marzouki, "Is the Power of the King of Morocco above all Powers?", Ultrasawt, 4 November 2016, available at is.gd/N9jS2k in Arabic. Original title: كريم المرزوقي، "هل سلطان ملك المغرب فوق كل السلطات"

[18] González Riera, op. cit., p. 38.

[19] The House of Representatives is the lower chamber of Morocco's bicameral parliament. It is directly elected by Moroccan citizens.

All the above caused the Socialist Union Party to gradually move away from the human rights community. Human rights organizations, especially the AMDH, considered the "democratic bloc" parties to be merely a facade. The strong relationship maintained by the OMDH with the government had cast doubts on its independence from political decisions made by its patron, thus weakening its activities and impact as a number of its members resigned[20].

In general, the human rights movement suffered from the influence of political conflicts among their patron (or friendly) political parties, to the extent that it appeared sometimes that human rights organizations were only mouthpieces for these parties, especially after a wave of arrests that particularly affected Social Union Party members. The party's leader, Youssoufi, had earlier agreed with this analysis, arguing in an interview in 1995 that it was necessary to provide lawyers for political detainees and care for their families. This was a tall order when the number of detainees became high, thus requiring the creation or help of specialized structures, a reference to human rights organizations. Rollinde believes that this statement illustrated the main tasks, that political parties thought human rights organizations should play at that stage. It was a division of labour of sorts between the political actors and the human rights activists, though the latter did not necessarily oblige the political parties.

Options for political activists in the 1970s and 1980s – at least those who escaped prison – were either to disappear, migrate, or join organizations that were not overtly political. A number of them, particularly from the Marxist left, chose the field of human rights, sometimes as a mere back door into political engagement[21]. In other words, the human rights field constituted a waiting room for some of those activists until the formal political arena was reopened. While this combination of human rights work and political projects can be seen as one of the shortcomings of Morocco's human rights movement, some human rights defenders such as Ahmed Haïje, a leader at AMDH, argue that the relationship was not that mechanical, citing, for example, the way quotas were distributed among political parties in the AMDH central bureau in a way that led to political diversity in the leadership, and that the presence or absence of actors belonging to political organizations within AMDH did not undermine its independence, since those organizations did not share the same visions and positions as long as not one single party controlled the organization[22]. This is somewhat true, though AMDH had always been largely influenced by a certain group of leftist parties.

In the late 1990s, those responsible for the serious human rights violations during the "Years of Lead" began to be held accountable, especially after the establishment of the Truth and Equity Forum in 1999 against the backdrop of protests by AMDH and OMDH, in addition to pressures by international organizations such as Amnesty International, the International Federation of Human Rights and the French League for Human Rights throughout the 1990s[23]. The government-appointed Independent Arbitration Panel (IAP) in 1999 and the Equity and Reconciliation Commission, (Instance Equité et Réconciliation, IER) in 2004 came in response to such protests, although the state did not fully implement the IRE's recommendations included in its final report published in 2006. After the release of the report, the human rights community was divided between those working in coordination with the state, and those who preferred to continue to confront the regime, such as AMDH and the Truth and Equity Forum[24].

It seemed that concessions made by the regime after 1998 were a slow and gradual response to social demands while maintaining the Makhzan's authoritarian grip and deploying the usual strategies to control CSOs, whether they are involved in service provision, defending human rights, or advocating for policy reforms[25]. The regime relatively succeeded with human rights organizations, despite the support these entities have long had from political parties. It can be argued that the relationship between the rights movement and political parties was a strength and a source of national legitimation on the one hand but was also a weakness in as far as they were viewed by the government. The regime viewed human rights organizations as a new tool in the hands of opposition political parties, especially since these organizations long focused on civil and political rights. The post-colonial regime dismissed these rights since they clashed with its own strongly-held belief in how the state should be built around a firm central authority.

Human rights activism faced another challenge from Moroccans who suspected that human rights clashed with some tenets of Islam. These critics did not accept the assumed universality of human rights norms, its reliance on international laws and regulations, and rejected rights advocates claims that cultural relativism in as far as rights are concerned is but a tool used by those who benefit from abuses in conservative and patriarchal societies. This was a sensitive clash in a country like Morocco, where the state itself employs a special and specific understanding of religion to bolster its legitimacy and imposes that understanding on political parties seeking to be recognized by the state. Opposition to the self-proclaimed religious roots of the monarchy has long been considered a state security crime under the Moroccan law[26]. This tension between certain traditions and uses/interpretations of Islam and the human rights discourse has continued to affect in some ways the cross-cutting relationships between human rights actors, state and society.

[20] González Riera, op. cit., p. 38.
[21] Rollinde, op. cit., p. 130.
[22] Undated YouTube interview by Mr. Ahmed Elhaij with Mr. Hamid Mahdawy, available at www.youtube.com/watch?v=srmfS7ZvPTc
[23] Malika Hadda, "Lecture le mouvement marocain pour les droits de l'homme entre consensus national et engagement citoyen", Confluences Méditerranée, 2004/4 (N°51), p. 87.
[24] González Riera, op. cit., p. 39.
[25] Gandolfi attributes the delayed impact of the Moroccan civil society until the early 1990s to the Makhzan tactics to tame civil society whose chief actors failed to seize and retain sufficient space and maintain a critical distance from Makhzan to ensure its independence, even if only relatively. Other researchers indicate the absence of a civil society culture in Morocco (Denoeux Gateau, 1995) mentioned by Gandolfi, op. cit., p. 9; while Abdallah Hamoudi argued that Moroccan society has developed faster than the elite resulting in a state of societal maturity not supported by an accomplished institutional backup, or what was called «incomplete institutionalization» (Gandolfi, op. cit., p. 5.)
[26] Hadda, op. cit., p. 84.

In this context, the establishment of Islamist-leaning Al-Karama Forum in June 2005, was a significant act, as it reopened the issues of universality and indivisibility of rights and how this could contradict certain dominant understandings of Islamic rules and regulations in Morocco. The Forum said it wanted to spread the culture of human rights and raise awareness of the importance of human dignity. It also tackled issues that have long beset other human rights organizations such as relations with trade unions, economic and social rights, challenges facing new networks and lack of their legal right to organize, funding, and internal governance. However, Al-Karama Forum did not propose clear solutions to the main contradiction facing most human rights activists with an Islamist background: the contradiction between the specificity of a common understanding of Islam in Morocco and the universality and indivisibility of the universal bill of rights, especially in matters related to gender equality (including in laws and common practices governing marriage, inheritance, etc.) and individual sexual rights.

This socio-political paradox impacted the formation of different human rights organizations such as the Alternative Movement for Individual Freedoms (MALI), Le Mouvement Alternatif pour les Libertés Individuelles. Established in 2009, MALI has advocated the universality and indivisibility of rights, focusing on individual rights such as freedom of belief and religious practices. The two founding women, Zeinab al-Ghazawi and Ibtisam Lashkar, also wanted to amend certain articles in the Moroccan Penal Code on the grounds that they limit individual freedoms of citizen, in particular chapter 222, which criminalizes deliberate and public eating or drinking during the day in Ramadan (when Muslims fast from dawn to sunset)[27].

The group faced strong opposition from religious social media activists, claiming MALI was seeking to «subvert religious beliefs of Moroccan Muslims.» The founder of the group was accused of receiving funds from abroad to influence Morocco›s religious and political life. Islamists severely criticized one of the founders after her public declaration that she was an atheist and that the Moroccan state compels her through the existing laws to behave like a Muslim[28]. However, some Islamists agreed with MALI's call to amend chapter 222, on the grounds that the state should not interfere in people's beliefs and intentions[29].

The political opening that began during the last years of King Hassan II and deepened after King Mohammed VI took office in August 1999[30] deployed various strategies of concessions, co-optation and restrictions in dealing with human rights defenders. This openness was accompanied by social transformations that enabled distinct actors in Moroccan society (associations, trade unions, political parties, prominent individual actors, etc.) to play new roles. However, this did not constitute a clean radical break with many of the administrative practices associated with the postcolonial state, which may be reflected in the slow pace, complexity of procedures and the mistreatment of citizens by state officials and administrators, who probably never viewed people as citizens but rather as subjects. On the other hand, daily social interactions between citizens and government representatives continued to be fraught with tensions and disregard for the authorities and its representatives, whereby the people indicated that they did not take state control over their lives seriously or at face value, nor admitted that the state was responsible for rule of law and has a monopoly over the use of violence for the benefit of the whole society.

Thus, the state and society came to face a dilemma of historical development, in which the first is concerned with its needs for security and order to protect its foundations, while the latter is more concerned with individual and collective rights. State and civil society struggled (together but more often against each other) to reach a compromise between those matrices of conflicting demands. These contentions took place in a context extending beyond normative and pragmatic boundaries (e.g. economic limitations and cultural norms) affecting the options available to all parties. The conflicting ideologies and material interests of the palace, on the one hand, and political parties and civil society, on the other hand, compounded this process in the midst of changing regional and international considerations.

In the late 1950s, the political conflict in Morocco was dominated by the palace which sought to found a "modern state", and national movements, especially leftists, aspiring to create a system of governance that often clashed with the material interests and a certain Islamic ideology espoused by the royal institution. The king was not merely presented as head of this "modern state" but also as the Sultan of the realm and Amir Al Mu'mnin (Commander of the Faithful). In spite of the institutional achievements that characterized the reign of King Hassan II[31], and the conditional democratic opening that he offered during the final years of his term, the state›s political structure itself continued to protect the vast powers of the palace where policy making was rather opaque especially when it came to the treasury, labour relations, and civil and political rights[32].

[27] As part of Kif Kif campaign in May 2014 to abolish Chapter 489 of the Criminal Code, which criminalizes homosexual relations, MALI posted a photo of co-founders Zainab al-Ghazawi and Ibtisam Lashkar, with the caption: «We are not lesbians but we support homosexuals,». The picture was criticized by gay rights activists who refused to be "imitated or stereotyped" even if it was meant in their defense. See: The Andalus News Network, "Mali in Solidarity with Homosexuals in Morocco", 17 May 2014, available in Arabic at bit.ly/2tYduR0

[28] An undated YouTube Arabic language interview with Mali's co-founder Ibtisam Lashkar, "See what Ibtisam Lashkar said about Ramadan, Islam, Sexual Freedom and Abortion – Urgent and Dangerous", available at www.youtube.com/watch?v=DJdJNkRnHc .

[29] Ahmed Al-Rayssoni, "I support Mali in amending Ch 222 of the Penal Code", Al'omk Al-Maghrabi YouTube Channel, 20 June 2016, available in Arabic at www.youtube.com/watch?v=lYV5Q8R8l7I

[30] Some analysts saw the transition as a closely-watched political opening. See Habib Belkouch, "Droit de l'homme et démocratisation au Maroc, bilan et perspective", 2005, p. 35, available at habibbelkouch.wordpress.com/2014/08/31/droits-de-lhomme-et-democratisation-au-maroc-bilan-et-perspectives/

[31] These achievements occurred over two phases: King Mohammed V established the Royal Armed Forces and the National Security Agency in 1956), then enacted several laws such as the general freedoms law in 1958 and the Penal Code and the electoral Law in 1959. King Hassan II, established the Consultative Council for Human Rights in 1990, issued a royal amnesty in 1991 for about 300 abductees and political prisoners, revised the Constitution in 1992 to stress that Morocco adopted human rights as it was internationally recognized, ratified several international human rights treaties in 1993 (on women, anti-torture, children, and migration), created a human rights ministry in 1993, and, finally, launched a political dialogue for the formation of a democratic government which led in 1998 to the "consensual rotation" system.

[32] Gandolfi, op. cit., p. 4.

The political transition and transformations [33] that took place after King Mohammed VI came to power in 1999, were a necessity in view of several factors that heightened aspirations and expectations of the Moroccan people, who hoped that the reign of the new king would bring change after the 38-year rule of his father. As he started his reign, the young king gained general popularity and support from opposition political parties, especially after he quickly dismissed the feared Minister of Interior Driss Basri, who had been responsible for systematic human rights violations, including horrible systematic torture practices for decades. The political power balance was changing fast as the opposition forces became more popular forcing the palace to seriously consider ceding some power or shifting some of it from the ruling so-called pro-palace administrative parties to the genuine political opposition parties [34]. We will return to this issue in detail in section VI of this paper.

II. Service Provision Civil Associations

The state has long encouraged the service-provision sector of civil society organizations at the expense of the human rights sector, especially with the shrinking role of the state in providing social services under economic austerity and structural reform programmes. A large number of new CSOs in the 1980s prioritized social services. The state bias in favour of these CSOs was evident in the funding it provided to them, which reached 80% of the total CSOs government funding at a time when human rights NGOs received only 1.9% of this funding according to 2007 statistics [35]. The state also showed obvious double standards when it facilitated the formation of this type of CSOs as opposed to intransigent and somewhat hostile position regarding human rights NGOs. This strategy became more evident with the launch of the national initiative for human development by King Mohamed VI in 2005. This royal initiative resulted in a 40% increase in the number of development CSOs [36].

Most of the resources of these new CSOs were directed towards poverty reduction, and programmes in excluded and vulnerable communities, especially in densely populated poor neighbourhoods [37]. This led to the creation of relatively smaller community-based associations that benefited from major state contributions but could not have a real policy impact at a national level in what remains a centralized state.

This government policy served the social and economic aspirations of King Mohamed VI, who together with his father's throne, had also inherited 2.8 million poor people and 5.4 million socially or economically vulnerable people [38]. Morocco quickly achieved a significant leap in its social indicators compared to any other comparable period in its history. This relative improvement, in addition to the strength of the palace and its political allies, may have contributed to lessening the vigorousness of protest movements during the "Arab Spring" of 2010 and 2011 compared to Tunisia, Egypt, Yemen, Syria, Bahrain and Libya [39].

III. Women Associations

Human rights organizations in Morocco tended to defend political rights and freedoms, an approach that antagonized the ruling regime, driving it in turn to undermine these organizations. Women's organizations, on the other hand, had faced stronger and more complex resistance, since they were struggling against a whole social system and the state at the same time. These antagonistic forces viewed with suspicion the ideals of gender equality, or at least ceasing the systematically practiced, almost «natural», discrimination against women.

Ignoring efforts by the women's movements on legal, political and social issues, the palace continued to issue laws that undermined women rights in the early years of the post-colonial state, including the personal status law (currently family law) in 1957, the public freedoms law in 1958, and the penal code in 1959. Those laws were influenced by a certain patriarchal view of women, and subsequently the child and the family, within a political system that adopted its own male-dominated understanding of Islam as the main legal reference for personal affairs.

The women's movement fought these laws, especially the personal status code, which assigned women an inferior legal position. Several women's associations and unions were established in this process, such as the Progressive Women's Union in 1962, affiliated to the leftist Moroccan Labour Union. The union led a huge march on the streets of Casablanca on May 1, 1962, raising for the first-time banners calling openly for gender equality.

The women's movement stalled until early 1975, largely due to the increasingly restrictive political environment in Morocco. Moroccan women continued to face more and deeper problems, especially on family-related matters such as the husband unilateral right to divorce, losing rights of residence in marital property, increasing number of homeless children, etc. By the mid-1970s, women's organizations had drafted a list of demands regarding these and other similar issues (including for example the rights of adult women to have full and independent legal status), in preparation for the extraordinary conference of the Socialist Union Party in January 1975.

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[33] There were positive legal and institutional changes in the era of King Mohammed VI, such as amendments between 1999 and 2002 of the Public Freedoms Act, the Code of Criminal Procedures and the Labour Law, in addition to the ratification of four international conventions in 2000 including the Convention on the Rights of the Child, the establishment of the Ombudsman›s Office and the Royal Institute for Amazigh Culture and the Equity and Reconciliation Commission in 2004. See Belkouch, op. cit., p. 42.

[34] Gandolfi, op. cit., p 8.

[35] Mohamed El Hachimi, "Société civile et démocratisation au Maroc. Le grand malentendu", Édition : Institut européen de la Méditerranée, June 2014, p. 15.

[36] ibid., p. 11.

[37] Yucef Suna, «Morocco, human and citizen›s rights», Casablanca: El Nagah El Gadida publications, 2002, p. 264. (Arabic).

[38] A vulnerable person is one who can easily slip into poverty or social exclusion upon a relatively minor disturbance in his or her life conditions.

[39] Myriam Catusse, "Le « social » : une affaire d›Etat dans le Maroc de Mohammed VI", 2011/3 (N° 78), p. 64.

[40] Hadda, op. cit., p. 84.

[41] Yatto institution - Morocco, «History of the Moroccan women›s movement in relation to the Family Code," published in Arabic at Alhiwar Al-Motamden, issue No. 113, available in Arabic at is.gd/bQVokv. Arabic Tittle: مؤسسة يطو- المغرب، «تاريخ الحركة النسائية المغربية في علاقتها بمدونة الأسرة

In the early 1980s as a result of a momentum on the political scene, several official initiatives were proposed to amend the personal status law. However, those efforts failed due to the lack of national consensus among political and religious forces in Morocco, while CSOs were not in a position to play a significant role [42]. The Women's Action Union, L'Union de l'Action Feminine (UAF), which was established in 1987, breathed a new life and energized the women's struggle. The UAF demanded an amendment of the personal status code including gender equality in inheritance, a daring move seen by conservative state and social sectors as contradictory to the dominant Islamic jurisprudence (Fiqh) in Morocco.

Before the 1993 amendments responded to these demands, two women associations had been born and played a major role in further developing advocacy strategies. Those were the Democratic League for Women's Rights, which led a campaign to protect female domestic workers under the labour laws, and the Moroccan Association for the Defence of Women's Rights, which focused on sexual harassment at the workplace. Both demands were widely supported in a campaign advocating women's rights and labour in 1994 [43].

Several women's rights advocacy organization joined hands to create a group entitled, "Spring of Women's Equality" group in 2001 as they believed the 1993 amendments of the personal status code were cosmetic and did not address the fundamental problems [44]. Two years later, the King decreed major amendments to the personal status act.

Regardless of the success of the women's movement in defining its issues, articulating its strategies, and raising awareness of demands that have been opposed by the state or social forces on religious or traditional grounds, the most important result has been the continuity and diversity of this movement in its structure (associations, unions, etc.), and its work, which evolved in parallel to socio-political transformations.

IV. Justice Institutions

Rabitat Al-Koda (The League of Judges) was established in 1961 to represent all Moroccan judges. Among its main objectives were "working to guarantee the rights of its members, their interests and dignity as members in a higher institution in the country, and spreading the … ideals of justice, integrity, selflessness and human dignity." In the 1960s, this association focused on the independence, Morocconization, and Arabization of the judiciary institutions and practices (Arabic becoming the exclusive language of laws and courts and dismissing foreign judges). In parallel, the association worked then and later on to advocate for professional and trade union rights, consolidating the independence of the judiciary, protecting judges from the interference of security agencies, and reforming personnel systems (appointment, secondment, transfer, and remunerations). It also issued 22 editions of a journal until 1987 focusing on professional and corporate issues in the 1960s and on distinguished legal decisions and innovations in the 1980s (no issues were released in the 1970s) [45].

The Rabitat continued until 1989 when it came under pressure by the state and suffered from internal conflicts between northern and southern judges over top leadership positions within the association [46]. The ministry of justice impeded the convening of the Rabitat's General Assembly until 1996, when its statute was amended, its name changed to Al-Widadiya Al-Hassaniya Lil Qodat (Hassaniya Association for Judges) with judge Mohamed Mikko elected as it is chairperson. A large number of Rabitat members left, dissatisfied with the way its structure changed, arguing that the amendments had undermined the organization's independence and integrity, pointing out the new condition that candidates for top leadership positions must have had 30 years of working experience in the judiciary. This condition was meant to keep away young judges and to keep the association in "safe hands" subordinate to the ministry of justice [47].

In 2002, a royal speech called on Al-Widadiya to take part in judicial reform, enable all judges to effectively participate in its work, renew its bylaws to accommodate the changes that have taken place in the judicial arena, and, finally, renew its governance structures to attract new active members who can assume senior positions within the organization [48]. After the speech, members of Al- Widadiya, with the help of a committee of judges belonging to the ministry of justice, amended the bylaws. A new regulation made it more subservience to the palace as the Al-Widadiya now would nominate three judges, from whom the king would chose the president. However, the king did not exercise this right neither in 2004 nor in 2006 when two lists of three names each were submitted to the palace [49]. It is unclear why the king ignored these submissions but this indicated a dissatisfaction by the palace with the way Al-Widadiya was functioning and the credibility of its nomination process.

The failure of Al-Widadiya was mainly due to the electoral procedures for senior office holders, since it produced a group of judges who were more loyal to the Ministry of Justice than the judges who elected them to defend their professional interests. Although the palace declined to select the president of Al-Widadiya twice in a row, thus affecting its performance, a royal speech

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[42] Rachid Zizaoui, "The Historical Evolution of Moroccan Family Code", 14 January 2016, available in Arabic at goo.gl/aPXb4j . Arabic Title: راشد ززاوي، «التطور التاريخي لمدونة الأسرة المغربية»

[43] Yatto institution-Morocco, op. cit.

[44] ibid.

[45] Anas Sadoun, "Rabitat Al-Kodaa: When Judges Won the Battle for the First Constitution in Morocco", and "Rabitat Al-Kodaa in Morocco,", Legal Agenda, 2 July and 12 August 2015 (Arabic), available at www.legal-agenda.com/article.php?id=1165 and www.legal-agenda.com/article.php?id=1175&folder=articles&lang=ar Arabic titles:
أنس سعدون «رابطة القضاة (1): عندما انتصر القضاة في معركة إقرار أول دستور بالمغرب»، «رابطة القضاة في المغرب».

[46] Omar Benaish, «From Rabitat Al-Kodaa to the Club of Moroccan Judges», Hespress, 21 August 2012, available in Arabic at www.hespress.com/writers/60923.html . Arabic title: عمر بنعيش، «من رابطة القضاة إلى نادي قضاة المغرب".

[47] Mohammad Sami, "Moroccan Judges between the Dependency of the Al-Widadiya and the Independence of the Club," Duniya Al-Watan, 31 August 2011, available in Arabic at pulpit.alwatanvoice.com/articles/2011/08/31/236358.html , Arabic title: محمد سامي «القضاة المغاربة بين تبعية الوداية واستقلال النادي»

[48] Benaish, op. cit.

[49] ibid.

in March 2006 criticized Al-Widadiya demanding that it should reform, cease internal disputes and develop bylaws after it became evident that the organization had weakened to the extent that it became unable to perform its representative mission.

However, the problem was that a true representation by Al-Widadiya of its constituency could have most probably led to confrontations with far stronger state institutions, especially since the judiciary did not enjoy real and complete independence. Moreover, Al-Widadiya itself failed to contain a wave of discontent among judges as a result of internal conflicts due to non-competitive elections, where some judges (chief and senior judges, and attorney-generals and their deputies) exploited their moral authority and influence to control Al-Widadiya under the patronage of the ministry of justice. This patronage became stronger, thereby weakening even more the relationship between the higher Al-Widadiya officers and the rank and file of the judiciary body.

Al-Widadiya considered itself to be the sole and legitimate interlocutor of the judges, but its basic bylaws had excluded youth, since the candidacy for its presidency required thirty years of judicial practice [50]. This exclusion, the graduation of a new batch of judges in 2010 and the social explosions during the Arab spring in 2011-2012 played a role in the launch of a new professional association of judge. This association started as a Facebook page, which attracted judges from all over the Kingdom, and led to the foundation of Nadi Qodat Al-Maghreb or Morocco's Judges Club.

About 400 predominantly young judges gathered from across the Kingdom on August 20, 2011 to attend the founding general assembly that was to take place at the lecture hall of the National School of Metallurgy. However, as soon as they arrived at the gate, they were denied entry despite earlier agreement with the school. The organizing committee decided to have the general assembly meeting outdoors. After the vote count, Yassin Makhli, a young judge from Taounate and the founder of the judges Facebook page, won the presidency. After his election, Makhli gave a speech, in which he said that judges had long dreamt of the establishment of a professional association to represent them and contribute to the maturation of the process of independence of the judiciary; and that this was achieved thanks to the initiative by judges to create their page on social media [51].

At the level of civil society, Adalah (Justice) Association was founded in October 2005 to ensure the right to a fair trial through advocating legal and judiciary reforms to guarantee the independence, impartiality and efficiency of law enforcement and judiciary institutions. Adalah sought to achieve its objectives by carrying out studies and compiling reports that monitor the situation of justice in Morocco and to develop books and guidelines to assist relevant practitioners, especially lawyers, judges, justice assistants and human rights defenders. The organization also monitored trials and relevant violations of the right to due process and a fair trial. It has submitted memoranda and proposals for amending laws and for justice sector reform to relevant authorities, organized national and regional training activities and seminars, as well as round tables on the justice system that dealt with relevant national and international laws [52].

I. Amazigh Organizations

When Morocco became independent, Islam was proclaimed as the official religion of the state. An Arab-Islamic identity was reinforced and exploited by the nationalist independent movement against the colonizing French, then used as one of the building blocks of the new post-colonial state. With the spread of an Arab-Islamic identity in Morocco and the fact that the ruling monarchy anchored itself in a religious legitimacy, defenders of human rights had to face multiple obstacles which were often difficult to cross [53]. Advocates of Amazigh rights were accused of having had links with the French colonial administration during years of struggle for national independence. After independence, the Amazigh movement faced a hostile Arab-Islamic ideology seeking hegemony to build a collective Moroccan national identity in service of the post-colonial state in some cases (as the monarchy did) or in opposition to it in other cases as certain Islamist groups did.

The first Amazigh association, the Moroccan Association for Research and Cultural Exchange, was founded in 1967 with a non-descript name. This association sought to indirectly defend Amazigh's language, identity and social/cultural practices. The Amazigh issue as a politically-charged question and a rights problem was publicly avoided in Morocco until the end of the 1970s, when the Association Nouvelle pour la Culture et les Arts Populaires (New Association for Culture and Popular Arts) was founded in 1978 in Rabat. It later came to be known as the Tamaynunt Society. This association was concerned with popular culture in general and the Amazigh culture in particular. This was followed by the foundation of the Amazigh Cultural Association in Rabat in 1979 and the Cultural Society of Souss in Casablanca in 1980.

Amazigh associations signed a memorandum on Amazigh Cultural Rights, which it addressed to the World Conference on Human Rights held in Vienna in the summer of 1993, in addition to signing a letter to political parties, the government and parliament at the same time. The National Coordinating Council of Amazigh Associations in Morocco was established in February 1994 to play a major role in mobilizing national and international public opinion in solidarity with the detainees of the Télély Association, who were arrested for raising banners written in Tifinagh (Amazigh alphabet) on 1 May 1994 demonstration.
The number of associations affiliated with the Amazigh movement proliferated. Coordination efforts largely failed. At present, there are several coordinating bodies which expose the fault lines within the Amazigh communities in Morocco, geographically and somewhat politically in terms of their relationship with the state. There are two coordination councils in northern Morocco;

[50] Karima Massali, «400 judges founded a professional association in open air», Sabah Newspaper, 24 August 2011. (Arabic) available in Arabic at assabah.ma/20531.html , Arabic title:
«400 قاض أسسوا جمعية مهنية بالهواء الطلق»، كريمة مصلي.
[51] ibid.
[52] See Adalah Facebook Page at www.facebook.com/adala.justice/
[53] Hadda, op. cit., p. 82.

the National Federation of Amazigh Associations (established in 1998), known in French as the Fédération Nationale des Associations Amazigh, and the Qadi Qaddour Committee. In the south, there is the Confederation of Amazigh Associations of the Moroccan South, better known as "Tamont in Ifus", while in the centre of the country, the Amyafa Coordination group for Central Morocco (better known in French as Coordination Amyafa des Associations Amazighs du Maroc Central).

The activism of the Amazigh movement was one of the main reasons that led to state changes regarding the acceptance of Amazigh/Berber language, Tamazight, in schools and more openness and support towards Amazigh cultural representation, though not necessarily towards the more politically-oriented Berber activists (those who work for land rights or constitutionally-guaranteed cultural rights). This change has started in 1994 with King Hassan II sounding positive notes about Amazigh language and culture, thus allowing, though not formally, many newspapers and associations to work more freely. In 2001, this policy was strengthened and formalized by King Mohammed IV in a Dahir (Royal Decree) establishing the Royal Institute of Amazigh Culture (L'Institute Royal de la Culture Amazighe or IRCAM) and three years later including Berber language (Tamazight) in schools in areas that are predominantly Amazigh in Morocco. Some critics saw the admission of cultural rights in these changes as a co-optation by the state and part of its attempts to push back the rising transnational political Islam. They also claimed ICRAM with its tens of millions of dollars in annual budget had a corrupting influence that undermined local institutions and co-opted Amazigh activists and intellectuals away from the language of rights and more into political compromises [54].

VI. Protest Movements and the Strategy of Dismantling and Co-optation:

For a long time, the Moroccan state had deployed legal restrictions to control CSOs in general, and human rights organizations in particular, but it has increasingly resorted also to strategies of co-optation and/or undermining the structures of such organizations. This led either to the dilution of human rights demands from the civil society or lesser concessions from the state. The dismantling or co-optation of the human rights movement were meant to help the state absorb (without necessarily reacting positively or negatively in a solid way) the demands of the rights movement and concede as little as possible. The apparent "positive" response from the state often helped dissipate popular feelings of discontent and anger. One of the most important examples is the calculated political opening in the second half of the 1990s when the leading parties were asked to rotate in forming the cabinet and share in executive power. In reality, the Palace continued to reign supreme while these changes were portrayed as a qualitative leap in democratization, despite the persistence of the king's wide powers, while leaving the prime minister with limited powers in devising social and economic policies [55].

However, political actions usually have unintended consequences, as happened with Morocco's conditional political opening and its impact on the human rights situation and movement. The mass media strongly flourished at the beginning of this century, while several books, for the first time, addressed the "years of lead" or the horrors of political repression in detention centres and the cases of enforced disappearance. Ahmed al-Marzouqi's memoirs, "Tazmamart, cell No. 10", was published in 2000, and sold about 25,000 copies. In October 2000, a demonstration of human rights defenders marched to Tazmamart, and put out a list of names of "torturers in the former regime, including some officers who were still in service." The palace soon realized that it had to intervene. Towards the end of 2000, the state security agencies waged a campaign of arrests against journalists, Islamist dissidents and human rights defenders. It also denied Amazigh activists a license to form a political party in June 2001. However, it was not only political opposition figures and civil rights activists who disturbed the palace. Economic conditions were fast deteriorating due to a severe drought, which ignited popular protests and tensions, including almost permanent rallies in front of the parliament building in Rabat, organized by unemployed graduates despite repeated assaults on them by security forces [56].

The Development of Official Institution

King Mohammed VI has attached great importance to creating a symbolic and actual break with the legacy of systematic violence practiced by state institutions for decades. About a year after he was enthroned, a royal commission to compensate former political prisoners was established. It carried an unusually long name: "The Independent Arbitration Panel to compensate for the physical and moral harm to victims or rights holders, who have been subjected to enforced disappearance, arbitrary detention, and their families". The Panel, which commenced on 1 September 1999, received 11,000 compensation requests but declined to consider 6,000 of them as they were submitted after the very short deadline of end of December the same year. It issued 5,844 decisions by the end of its work in 2003, awarding nearly one billion Moroccan Dirhams (about USD100 million) to 3,681 cases.

Despite criticisms, the Panel represented a giant symbolic step and a unique measure in the Middle East and North Africa as a state acknowledgment of wrongs committed and the beginning of a break with former repressive tactics and massive rights violations. However, the Panel's mandate did not allow for real accountability and criminal procedures against the perpetrators of these crimes, nor did it include institutional reforms to ensure that such crimes are not repeated. Several observers criticized the Panel also for lack of transparency and openness, the ambiguity of procedures, the arbitrariness of its deadline that led to the dismissal of more than half the submissions, having a mandate restricted to financial compensations without considering the broader concept of reparation, nor allowing a mechanism of appeal to its decisions [57].

[54] David Crawford and Paul Silverstien, "Amazigh Activism and the Moroccan State", MERIP, Vol. 34 Winter 2004, available at www.merip.org/mer/mer233/amazigh-activism-moroccan-state

[55] Jean-Noël Ferrié, Baudouin Dupret, "La nouvelle architecture constitutionnelle et Les trois désamorçages de la vie politique marocaine ", Confluences Méditerranée 2011/3 (N° 78), p. 27.

[56] Vermeren, op. cit., pp. 201-204.

[57] Abdel Karim Abdellaoui, Tagrobit Al 'Adalah Al-Intiqaliyya fil Maghreb (The Transitional Justice Experiment in Morocco)", (Arabic), Cairo Institute for Human Rights Studies, University Dissertations Series (10), 2013, p. 28. Also see Amnesty International, "Broken Promises: The Equity and Reconciliation Commission and its Follow-Up", 2010, available at www.amnesty.org/en/documents/mde29/001/2010/en/ and Veerle Obgenhaven and Mark Freeman, "Transitional Justice in Morocco: A Progress Report", New York: The International Center for Transitional Justice, November 2005, p. 20, available at www.ictj.org/sites/default/files/ICTJ-Morocco-Progress-Report-2005-English.pdf

The more important step was the establishment of the Equity and Reconciliation Commission (Instance Equité et Réconciliation, IER) in 2004 after King Mohammed VI ratified a recommendation by the Consultative Council on Human Rights to investigate past grave violations, especially those related to enforced disappearance, arbitrary detention, and ensuring that such violations would not be repeated. The IER was also mandated to continue the work of the Independent Arbitration Panel. On 30 November 2005, IER president Driss Benzekri presented his final report to the King with a set of recommendations in order to ensure that serious human rights violations in Morocco are not repeated, to consolidate the necessary institutional reforms, and create a national strategy to combat impunity and strengthen constitutional foundations for human rights. The IER stressed that for rule of law to be entrenched there should be reforms in security and judicial institutions, and enactment of relevant legislations[58].

Although many years had passed after the IER recommendations, many of them have not been implemented, particularly with respect to reparation for collective harm, disclosing the fate of all those who have been forcibly disappeared or the development of a national strategy to combat impunity. Moroccan human rights activists have complained that the main IER objective has not been achieved: to ensure that the decades of systematic repression by the state do not recur. "Instead of the state reviewing its human rights policies, it wasted a historic opportunity to move towards a democratic society in which social justice and citizens' rights prevail," commented Abdel-Salam bin Abdel Salam, an AMDH member, on the fate of the IER recommendations more than 10 years after it submitted its recommendations[59].

Amnesty International agreed with this assessment in its "Broken Promises" report, acknowledging that the IER creation "signalled that there was strong political will at the highest level of the state to improve the human rights situation in Morocco and Western Sahara … However, the IER was born with serious flaws that partially explain its failure to deliver on all the promises of equity and reconciliation. The IER's mandate did not encompass all human rights violations committed between 1956 and 1999, and regrettably, despite outcries by victims and human rights organizations, excluded the identification of perpetrators of grave human rights violations."[60]
Although the IER addressed issues beyond its mandate, it was not able to address two major issues in its recommendations or in the manner in which other institutions attempted to implement those recommendations in the following years: accountability of perpetrators of violations and reform of the legal and institutional framework that allowed those violations to occur. Having said that, the IER was another major milestone in the evolution of the rights movement in Morocco and in how the state acknowledged it and worked with it including with leading activists to uncover parts of the state institutions' bloody and dark history.

The National Council for Human Rights (CNDH) was established as a national institution in March 2011 to replace the CCDH [61]. The CNDH terms of reference included expressing views on issues for which the king seeks consultation, such as those related to protection and respect for human rights, freedom of citizens, groups and institutions as well as their defence and promotion[62]. The CNDH presents annual reports on the situation of human rights in Morocco to the Parliament as well as thematic reports on specific human rights issues. It is a national institution accredited by the International Coordinating Committee of National Human Rights Institutions since 2002, which means commitment to the Paris Principles governing this type of institutions, as adopted by the United Nations in 1993.

In spite of the CNDH's achievements in the promotion of rights and freedoms, it has been criticized by a number of human rights defenders on grounds that it has not brought to a conclusion many of the open files related to enforced disappearances that have been referred to it by the IER. Critics claimed the CNDH never responds to individual complaints against government institutions [63].

State and Social Movements: Mutual Political Accommodation

Accommodation is the political conduct of the state and protest movements (organized and non-organized) in order to overcome or resolve crises through bargaining and compromise. Accordingly, protest movements settle for what they can obtain, while the state makes concessions or carries out reforms responding, often partially, to social demands by these movements. This kind of interaction was characteristic of the way the Moroccan state handled the domestic version of the Arab Spring waves that reverberated through the region. Hirak 20 Febrayer (the 20 February Movement) in Morocco rattled the regime to the extent that it made quick concessions but it did not shake it nor reformed it in any sustainable or major manner.

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[58] Abdellaoui, op. cit., p. 119 and pp. 218-219

[59] Mohammed Al-Ragui, "IER: What Results 10 Years Later?", Hespress, 6 February 2016, available in Arabic at www.hespress.com/societe/293722.html , Arabic Title: «هيئة الإنصاف والمصالحة: ماذا تحقق بعد مضي عشر سنوات؟»

[60] Amnesty International, op. cit., pp. 5-6.

[61] The Consultative Council, set up in 1990, was a partial response by King Hassan II to the growing criticism of the regime›s violations of the rights of political opponents in particular and human rights in general, in an international context, in which human rights principles and issues became doubly important with the fall of the Berlin Wall in late 1989 and the end of the Cold War era. Morocco increasingly found itself in a defensive position with a dismal human rights record. However, the CCDH did not institute a genuine break with systematic rights' violations by state security agencies. The CCDH was severely criticized by Moroccan and international rights organizations regarding its mandate, composition and achievements (or lack thereof), but it remains an important milestone in the evolution of human rights institutions in Morocco and the state slow transition towards acknowledging them. For more details, see Abdellaoui, op. cit., pp. 71-115.

[62] Official website of the National Council for Human Rights bit.ly/2tY9NuP

[63] Al-Maghreb Al-Youm, "A Human Rights Seminar in Morocco Criticizes CNDH's Chair Mohammed Al-Sabbar», 15 December 2014, available in Arabic at www.almaghribtoday.net/326/ندوة-حقوقية-في-المغرب-تهاجم-رئيس-المجلس-الوطني-محمد-الصبار , Arabic title: «ندوة حقوقية في المغرب تهاجم رئيس «المجلس الوطني محمد الصبار»"

The 20 February Movement constituted a major challenge to the Palace pushing it to agree to constitutional reforms in response to a number of demands put forward by this movement. However, at the same time, the political space did not open up to discuss and rationalize those reforms or look into the causes or original conditions that created the need for them. The reforms were packaged to demonstrate the Palace's positive interaction with "the people". Strategically, these constitutional amendments helped Morocco avoid some of the calamitous developments in other Arab countries affected by the hot winds of the Arab Spring [64].

20 February Movement

The motivations of this movement may be similar to those of protest movements that led to the uprisings of the Arab Spring, where millions took to the streets in Tunisia, Egypt, Morocco, Libya and other Arab countries. However, what distinguished Morocco was that the protest movement did not target the ruling regime under the King head on, but demanded reforms of various sectors of the state as well as more effective policies to address unemployment, marginalization and poverty [65].

The initial main demand of the movement was introducing a parliamentary monarchy. However, even this demand did not hold for long due to the diverse ideological backgrounds of the various constituencies of the movement, which finally settled for lesser demands [66]. The top political demand was reduced to calling for a democratic constitution based on the will of the Moroccan people, and not just a "given" constitution based on the sovereignty of the monarch as has always been the case since independence [67].

The momentum created by the 20 February movement constituted a turning point in the political history of Morocco, since it formulated direct demands, including political ones, took them to the street, and called for their realization without passing through formal intermediary institutions (either political or administrative) or through registered civil society organizations, which the state was accustomed to use to address and interact with the people. This meant that the 20 February momentum, which is ultimately a rights movement (in the very broad sense of the term "human rights" including unorganized popular demands to gain political, economic and social rights) had bypassed intermediate institutions in the relation between state and citizens, and came to address its demands directly through a non-institutional framework, creating a new oppositional social space, going beyond the traditional forms of associations and institutionalization, which had always been closely monitored by the state. All of the above makes the 20 February movement a unique experience as the predominantly youthful movement shunned traditional political elites and official civil society organizations and addressed the people at large. A cursory survey of members' Facebook postings would show how they were sceptical of the hegemonic traditional moral foundations of the country, believing in a legitimacy that is drawn from the general principles of human rights. For the first time, Morocco had influential political actors who do not hold to a grand narrative of nationalism or resistance to the possible foreign interventions. Social media, especially Facebook, played an important role, as an alternative social space and communication channel, in coordination and mobilization for the movement, which succeeded in bypassing the state-monitored mainstream media channels [68].

For a while, the movement held to its main demand of a fundamental constitutional amendment. King Mohammed VI, however, appointed a committee to review the constitution that the movement disagreed with in terms of mandate and composition. The movement called for a protest rally on 20 March 2011 in Rabat, against the royal decree. It claimed that the recommended constitutional amendments were meant to silence the movement and deprive it of political legitimacy [69].

However, the position of the movement was undermined by the fact that it failed to present an alternative grand project or even a constitutional project. Meanwhile, the major political parties had agreed to cooperate with the palace and joined the King-appointed committee to draft the constitutional amendments. As a result, the movement, which refused to join the committee, became more isolated, exposing its inability to play a political role through actual participation or to force the regime into another compromise. Instead of becoming an advocacy group pushing alternatives, the movement appeared to be opposing just for the sake of opposition, leading increasing numbers of citizens to lose confidence in it. The movement, which never established hierarchical or permanent structures, continued to exist in spirit but it fizzled away [70].

VI I. Conclusion: The Prospects and Challenges of the Human Rights Movement in Morocco

Despite a period of relative hibernation for human rights associations from the late 1970s until the late 1980s, they rapidly developed since that time in the ways they worked, where they worked, their structures, and their impact.

For example, the AMDH structures expanded with the number of branches reaching 100 with a total of 14,000 members

[64] Jean-Noël Ferrié et Baudouin Dupret, "La nouvelle architecture constitutionnelle et les trois désamorçages de la vie politique marocaine", Confluences Méditerranée, 2011/3 (No. 78), p. 29.
[65] Nadia Hajji, "Mobilisation et démorçage du mouvement du 20 février au Maroc : La théorie des cadres à l'épreuve d'un contexte autoritaire", Master paper in political science, University of Quebec, February 2015, p. 18, available at www.archipel.uqam.ca/7331/1/M13801.pdf
[66] The 20 February movement brought together, for example, the Marxist Leninist leaning «Democratic Path» party and the Islamic «Justice and Charity» movement.
[67] Five constitutions preceded the 2011 constitution, in 1962, 1970, 1972, 1992 and 1996.
[68] Jean-Noël Ferrié et Baudouin Dupret, op. cit., p. 30.
[69] Hajji, op. cit., p. 42.
[70] Ibid, p. 45.

by 2016. It started to submit parallel reports to UN bodies in 2004, when it presented a shadow report to the UN Human Rights Commission, covering the period from 1999 to 2004 and criticizing the official governmental reports. Since its seventh national conference in April 2004, the AMDH sought to strengthen its branches and structures, and prioritized work among women, youth, workers and intellectuals. The AMDH decided since then to focus on advocating for a democratic constitution that complies with the principles and values of universal human rights, and for that constitution to derive its authority from the sovereignty of the people whose representatives should draft it. It finally called for a solid separation of powers and for separating the political and religious realms (which are still somewhat conflated in the person of the monarch) [71].

Organizationally, the AMDH remains one of the largest NGOs in Morocco in terms of membership, hence the significance of its decision to include economic, social and cultural rights in its programmes. Represented by its former chair, Khadija Riadi, the AMDH led the Moroccan coalition for human rights bodies, which included almost all Moroccan human rights organizations including those affiliated to the Islamist Justice and Development party and the Islamist Justice and Charity movement. The AMDH also chaired the Maghreb association for the coordination of human rights organizations (24 organizations from Morocco, Algeria, Mauritania, Tunisia, Libya and France) [72].

The LMDDH supported most of the AMDH positions through a process of continued coordination [73]. The OMDH has been active in the national coalition for human rights, and has a relatively more positive attitude towards the CNDH and its predecessor, the CCDH, arguing that human rights advocates should and could defend rights from inside official institutions [74].

Despite the importance of these three historical organizations and their continuing significance, the human rights movement in Morocco has expanded and diversified way beyond the confines of the founding generations, especially in the last ten years. This paper tried to present the diversity in some of its forms, especially associations, organization or networks concerned with individual rights or working in the fields of personal rights, justice reform, freedom of belief, and sexual rights.

Despite the diversity and richness of the human rights movement in Morocco, most organizations share similar challenges, foremost among which is the need for greater coordination, ensuring funding sustainability in transparent and accountable ways, as well as reaching an effective working relation (despite its contentious nature) with the state, thereby reducing government restrictions and suspicions. There is also still work to be done to build a productive working relation between classical human rights defenders who rely on the international human rights bill and Islamist human rights activists who are more recent to the field and of lesser impact. Last, but by no means least, the human rights movement needs to expand its social support base.
Despite strenuous efforts by rights CSOs to ensure funding, whether through the government or from foreign donors, funding remains limited and is linked to donor and government priorities. This undermines rights NGOs which require sustainability and independence. In this regard, the state has an important role to play, not only regarding direct funding, but also through easing restrictions imposed on human rights organizations and putting together a flexible legal framework that allows a greater freedom of action for human rights defenders under clear and transparent regulatory mechanisms. Clear legal frameworks and their impartial implementation should enhance the credibility of civil society organizations and create a healthy relationship with the state.

Maybe the greatest challenge of all is the expansion of a social base for the human rights movement. In that regard, the movement faces a daunting challenge especially in its relation to the Islamist discourse. Islamists still face a dilemma in "harmonizing" their own certain understanding of Islam, especially in issues related to freedom of belief and women's and sexual right, with the universality, comprehensiveness and indivisibility of human rights principles as adopted by most human rights organizations in Morocco. Despite this crucial disagreement around important issues and rights, joint work has enabled actors from both sides to create common grounds on various aspects. Prominent in these collaborations was the AMDH work to expose violations suffered by Islamists (whether for political reasons or in terrorism-related cases), and defending their rights. Some Islamists acknowledge the honesty and integrity of such secular human rights organizations and defenders. Former minister of justice and freedoms Mostafa Ramid, who is member of the Islamist Justice and Development Party, described Abderrahmane Ben Amro, a former AMDH chair and one of the main founders, as the

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[71] Fayza Waikan, «Effectiveness of civil society in Morocco against the interfering state strategy: the example of the Moroccan Association for Human Rights», in Civil Society and Political Developments in Maghreb, group of researchers, 2012, pp. 172, 175 (Arabic title: ويكن فايزة، « فاعلية المجتمع المدني في المغرب في مواجهة استراتيجية الدولة التدخلية، الجمعية المغربية لحقوق الإنسان نموذجًا»، في: المجتمع المدني والتطور السياسي بالمنطقة المغاربية)

[72] Soliman Alraisouni, «Moroccan Association for Human Rights», Hespress, 3 September 2014, available in Arabic at www.hespress.com/writers/239718.html , Arabic title: سليمان الريسوني، «الجمعية المغربية لحقوق الإنسان»

[73] See official website of the Moroccan League for Human Rights www.lmddh.com /

[74] Nour Eldin Aloush, «Nongovernmental organizations and the bet on human rights: the case of the Moroccan Organization for Human Rights», Nasheri for Electronic Publishing, 2011, p. 31, available in Arabic at goo.gl/Lfxhnt, Arabic Title: نور الدين علوش، «المنظمات غير الحكومية ورهان حقوق الإنسان: نموذج المنظمة المغربية لحقوق الإنسان»، دار ناشري للنشر الإلكتروني.

[75] Ben Amro had defended the late Sheikh Abdel Salam Yassin, the spiritual leader of the Justice and Charity group. They had spent time together in prison and discussed differences in a frank and respectful manner. Ben Amro defended sheikh Yassin when he was in detention or under house arrest. He also took cases for Justice and Charity group and its members and represented and defended other Salafist and Islamist detainees. See examples of testimonies by Islamist activists in: Hassan Al Ashraf, «Abderrahmane Ben Amro: Imam of human rights actors in Morocco», available in Arabic at goo.gl/a3eQ8M, Arabic title: حسن الأشرف، «عبد الرحمن بن عمرو. شيخ الحقوقيين في المغرب and also Abdallah Alammary, « Abderrahmane Ben Amro, jewel of the struggle, icon of justice and pride of free Moroccans», 20 May 2014, available in Arabic at www.aljamaa.net/ar/2014/05/20/عبد-الرحمان-بنعمرو،-جوهرة-النضال،-وأي , Arabic title: عبد الله لعماري، «عبد الرحمان بنعمرو، جوهرة النضال، وأيقونة العدالة ومفخرة المغاربة الأحرار»

"Imam of Moroccan human rights defenders and a great man [75]." The human rights committee of the Justice and Charity group sent a message of congratulation to Khadija Riadi when she was awarded a UN human rights prize [76].

However, there is still a long way to go and a lot that has to be done by all components of the human rights movement in Morocco to reach an effective common ground and act more clearly and credibly on contentious and controversial political, cultural or religious issues. The greater burden therein may fall on the shoulders of the Islamists in view of their greater social strength and impact. Meanwhile, there is also a lot of work to be done to strengthen and enhance state human rights policies and institutions (such as the CNDH) and to deal seriously and constructively with real and formal concessions made by the state in this regard. There is also a need to push organizations such as the CNDH to work more seriously on social and economic rights.

All these hopes and possible developments will not occur without a more solid, rights-based and equitable collaboration between human rights activists on the one hand and political parties, labour groups and other components of civil society on the other hand. Otherwise, the human rights movement in Morocco, or elsewhere for that matter, could turn into professional think tanks which document and analyse violations while the task of reform and change is left in the hands of politicians under the mercy of entrenched social and political systems.

[76] Quote from the letter: «We have known you as a solid, proud fighter on the field and we have worked together on various human rights issues, where you were always an example for commitment, loyalty, and respectable achievement. You were the chair of the Moroccan association for human rights, and have moved human rights activism in Morocco several important steps in the defence of the freedom, rights and dignity of the Moroccan citizen, irrespective of their political affiliations or intellectual or organizational choices. you have struggled for that and you continue to struggle to free human rights activism from any narrow political or ideological confusion … We hope, as we sincerely express those emotions of joy for your award, that you successfully conclude all the just human rights projects for which we work together. You can access the whole letter on the following link: bit.ly/2t8mJ1a

PART II:

The Human Rights Movement and the State

The State and Human Rights Organizations in Egypt: A Problem of Political Culture or a Structural Crisis?

Mohamed El Agati

Summary

The top-down structures of the modern Egyptian state have dictated the relation between successive regimes and civil society formations. The Egyptian state has mostly looked upon civil society as a constellation of the social elements in service of the state within the top-down vision of society, where it is allowed into spaces deserted by the state or to fulfil certain developmental or even political functions as determined by the state. The authoritarian ruling regimes in Egypt have not been conducive to social interactions that could have resulted into a representative political system. The state in Egypt, like many others in the postcolonial third world, has itself been shaped by variables such as international dynamics or circumstances surrounding independence as well as domestic upheavals such as revolutions and military coups. In the absence of a political opposition, which is usually oppressed, regimes clash with civil society organizations (CSOs), whether developmental or human rights, which, although not seeking political power, present a danger to the order which political regimes seek to maintain. The state worked to control organizations and their social impact through laws and security measures restricting their actions. Organizations deployed strategies to ensure a minimal space for action.

This meant the space available for civil society was dictated by how much space the state wanted or was able to occupy. CSOs then greatly retreated during the Nasserite era, not only because of legislative restrictions and security measures, but also because the state believed that it was itself playing their roles. Later change in the structure and nature of the political regime and its relationship with the economy opened wider spaces for civil society, especially in aid and developments sectors, while global political changes and consequent calls for democratization played a role augmented by the struggle of human rights activists in Egypt to open a limited space for a sector of civil society working on human rights.

Due to the ruling structures and the authoritarian political culture established and embraced by the post-colonial Egyptian state, CSOs were doubted and seen as a possible danger for national security. On the other hand, the CSOs, especially human rights organizations, were rarely able to move beyond suspicion and distrust in their relationship with the state, a position which sometimes obstructed human rights struggles and reduced it to mere protest.

A solution to this dilemma does not lie only in enabling legal regulations but more in the political domain itself. Without opening spaces for action and organization to the various societal forces we shall not have the necessary momentum and energy to reformulate the structure of the state to be more representative of its various societal elements from the bottom up.

Against this background, this paper addresses the relationship between human rights organizations and the state in Egypt through three main perspectives: the first is related to structure, both of the state and the organizations, which is essentially affected by the time and conditions under which these organizations emerged. The second addresses how the two sides interacted especially in the field of regulation, and, finally, the existing political culture and its reflection on the performance of both parties.

Introduction

Although political organizations in countries like Egypt in the Third World were supposed to compete for power, they have been in fact weakened due to internal factors related to organization, internal democracy, party affiliation, etc., as well as external factors such as the exploitation of state institutions by ruling regimes to abort any real attempt to create a political rival challenging their authority. Here lies the importance of civil society and its organizations, as they are more dynamic and effective in their relationship with the society while not competing for political power. However, this importance also made them a target of suspicion by authoritarian regimes that fear people's organization or popular movements outside its vision and direct control. In Egypt, like many third world countries, political power evolved from a range of variables, both external such as international changes and conditions surrounding struggles for independence, and internal ones such as revolutions and military coups. The discourse of the resulting ruling regimes is characterized by populism and charismatic leadership that ensures compliance of community organization.

Here, in the absence of political opposition, that is usually oppressed, regimes clash with CSOs, whether developmental or those working on human rights, which although far from political action and do not aim at reaching power, still constitute a threat to the social organization, which political regimes seek to maintain according to balances that secure their interests and position in power. The conflict revolves around regulations that govern associations and influence their social impact. Thus, laws are passed to reduce the space of action for CSOs or the state resorts to restrictive security measures in the face of strategies used by organizations to ensure a minimum operational space.

Modern CSOs evolved in Egypt in the first half of the 20th century. Despite changes occurring in both objectives and mode of action of organizations, on the one hand, and the nature and orientations of the state, on the other hand, the relation between the two sides was rarely complementary and often confrontational, especially for human rights organizations. The Egyptian Division for Human Rights was the first human rights organization in Egypt. Established in 1931 by journalist and writer Mahmoud

Azmi, it took advantage of the provisions of the 1923 Constitution granting freedom of association. Labour strikes and protests increased exponentially in the 1930s and 1940s, sowing the seeds of rights-based socioeconomic action in modern Egypt [1].

In this context, this paper discusses the relationship between human rights organizations and the state in Egypt, through three main approaches: (a) the structure of the state and CSOs, which is linked in the case of the latter to the time and circumstances of their evolution; (b) how the two sides interacted especially on the legal front; and (c) the political culture and its reflections on the practices of both parties. We shall address those issues by examining the following points:
1. How the relationship between the two parties evolved.
2. Has the State acted uniformly or have there been differences among its constituents vis-à-vis human rights organizations?
3. What are the government's most important concerns and objectives?
4. What is the history of the laws and regulations affecting NGOs, and how did the latter react and resist their restrictions? Who are the key players in those conflicts and/or negotiations?
5. The formation of the National Council for Human Rights. What is its role, importance and Impact? And what does it symbolize?
6. What is the scope of control over NGOs and what are the GNGOs in Egypt?
7. How do NGOs deal with various constraints and what are their strategies in dealing with the government? Was organization in exile useful?

The study will review available literature, CSOs' digital presence and media coverage as well as interviews with human rights activists.

I. The State and Human Rights Organizations: A Relationship of Suspicion and Need

In 1923, the state promulgated the first modern constitutional arrangement for the civil society in Egypt, when the country›s first modern Constitution was issued, granting in Article 21the right of association. Civil society activities existed in Egypt long before this measure and were subject to two laws, the Civil Code for mixed courts issued in 1875 and a law issued for domestic courts in 1883. The two laws differed regarding the legal personality by which associations and organizations were represented in courts [2]. Some courts granted the legal personality to associations while others refused it. In 1938, Law No. 17, issued by a royal decree, banned associations or groups, permanent or temporary, which have the form of paramilitary formations serving a particular party or political faction. This was followed by another wave of restrictions with the issuance of Law No. 49 of 1945, which conditioned the formation of an association by the notification of the Ministry of Social Affairs.

Associations remained subject to this Constitution until its cancellation in 1952. In 1953, a constitutional declaration was issued in preparation for the drafting of a new Constitution, but it did not touch upon the organization of associations. The 1971 Constitution enshrined the right of association but added vague restrictions such as the prohibition of antagonizing the social order[3]. The 2012 Constitution then added the principle of formation by notification only [4]. Finally, the 2014 Constitution prohibited government interference in the work of associations [5].

A long series of legislations since the royal decree no. 17 of 1938 included several provisions restricting activities of associations by vague and broad provisions such as violating public morals or harming the safety of the homeland. Those included:

- Law No. 49 of 1945 was issued six years after the establishment of the Ministry of Social Affairs, which was entrusted with the organization of charities. In its first article, the decree establishing the ministry stipulated that it shall be responsible for the affairs and interests it has enumerated, including morality police, prison administration, the various institutions for the rehabilitation and reform of criminals and juveniles, etc. The decree is based on a vision for the role of the ministry built on planning and coordination with CSOs on issues identified by the decree as the scope of work of the ministry. This law required any CSO to notify the ministry before it was legally established. Afterwards, the association is subject to the ministry's monitoring, inspection and supervision of funds and resources. A CSO should notify the ministry in advance before receiving donations. The law granted the ministry the right to invalidate the board elections of an association if not in line with its bylaws and statutes. Some believe that this law was primarily targeting the Muslim Brotherhood, at loggerheads with the Wafd government at the time, since it stipulated that the existing organizations and associations should reformulate their status in accordance with the law in a period not exceeding three months or else they would be dissolved [6].
- Law No. 66 of 1951 was issued with the aim of incorporating organizations, to which the 1945 law did not apply. It further restricted the articles in the various constitutions and even diminished the rights contained therein or at least circumvented

[2] Ahmed Ragab, Legislative Development of Laws Regulating Egyptian nongovernmental organizations from 1938 until 1952, Egyptian Center for studies of public policies, undated, p. 3. (hereafter Ahmed Ragab, Legislative Development)
[3] Article 55 stated that "citizens have the right to form associations as stipulated by the law. It is prohibited to form associations that are hostile to the order of society or of a secret or military nature". Article 56 added that the democratic formation of syndicates and unions is a "right" and that these entities have a legal personality. The law organizes the contribution of syndicates and unions in the implementation of social plans and programs, raising and supporting socialist conduct among their members and in the protection of their funds. They are obligated to hold their members accountable in their exercise of activities according to ethical charters.
[4] Article 51 of the 2012 Constitution confirmed that citizens had the right to form organizations by notification. See full Arabic text at goo.gl/31FNAQ
[5] Under article 75, citizens have the right to form non-governmental organizations and institutions, "which shall acquire legal personality upon notification. They shall be allowed to engage in activities freely. Administrative agencies shall not interfere in the affairs of such organizations, dissolve them, their board of directors, or their board of trustees except by a judicial ruling. The establishment or continuation of non-governmental organizations and institutions whose structure and activities are operated and conducted in secret, or which possess a military or quasi-military character are forbidden, as regulated by law." See Egypt 2014 Constitution at goo.gl/DQTaFE
[6] Ahmed Salah, "15 Amendments throughout the MB History", Vetogate, 26 March 2016, available in Arabic at goo.gl/LnhvG7

them. Security concerns and state suspicion towards CSOs were evident. The law delegated the supervisory and dissolution authorities to the Ministry of Interior, whose decisions could be appealed in the administrative court, but bestowed the final decision of dissolution of an association to the court of first instance. Institutions had to keep their records and photos of their members in their headquarters. Violations were punishable by penalties that include imprisonment [7].

- Law No. 357 of 1952 strengthened the government's grip on CSOs by granting the Ministry of Social Affairs the right to appoint CSO boards in certain cases, thus more fully subjecting CSOs to the conditions and vision of the ruling regime [8]. In 1964, the state
- Law No. 32 of 1964 tightened state control and prohibited CSOs from working on religious and political issues and established an oversight committee to monitor the CSOs' activities and their funding. It gave the state the power to dissolve an organization in case it did not provide certain required information on members to this committee.
- Law No. 153 of 1999 was the outcome of negotiations with CSOs and concluded with a new draft law. However, the organizations were taken by surprise when they found another draft being discussed in the People›s Assembly, reproducing the 1964 law, without guarantees for the independence of civil society action. The Constitutional Court struck the law down on procedural grounds since it was not submitted to the Shura Council (the upper chamber of the parliament then).

Then came Nasser and the Nasserite 1950s and 1960s with massive and almost total state control of public action, leaving the state as the only space for public socio-political action or expression. After the return of multiparty system in the second half of the 1970s under the rule of President Anwar Sadat, young people who joined these parties, mostly members of the student movement in the late 1960s and early 1970s, were disenchanted with Sadat's pluralism. Some of them went on to establish several human rights organizations in Egypt in the 1980s and later.

One of the main landmarks at the time was the Egyptian Organization for Human Rights (EOHR), founded by a group of secular, leftists and Nasserite nationalist intellectuals. Many of those founders later set up other independent human rights organizations in the second half of the 1990s and the beginning of the 2000s following internal disputes over EOHR structures and strategies. Those disputes centred around the opening or closing of the membership of the EOHR However, they were also a public expression of several controversial issues related to representation (who are the right holders represented by EOHR? And how did they delegate the organization to speak on their behalf?) and influence (how to bring about change in society and the state).

Although the period from 1989 to 1993 witnessed great achievements by the EOHR, in terms of professionalizing human rights work and improving the documentation of violations, the challenges were greater. The organization split after 1995 and many of its leaders left to form their own organizations. This fragmentation, however, has had a positive side effect: the birth of a number of national human rights organizations working on different issues with various strategies, although they continued to face the same challenges as in the early 1990s, as well as increasing governmental constraints, leaving several of them in a threatened gray legal zone.

The emergence of human rights organizations in those circumstances gave rise to certain dynamics:

- Political forces, especially in the 1990s, including communists and Nasserites, saw in EOHR and other human rights organizations a platform for political action and representation in a country where political action was dramatically curtailed.
- Caution, exclusion and suspicion towards the state: Since it was an open membership organization, EOHR faced, according to some of its founders, the threat of being seized by one political group or another. Various attempts were made to neutralize rivalry among political factions since the General Assembly of the EOHR in May 1991 [9]. This has severely affected later choices by founders, especially with increased government infiltration or the formation of governmental NGOs [10].
- Weakness of democratic culture within human rights organizations: The individual nature of the governance of most human rights NGOs and the outright leadership monopoly in some of them shaped their trajectory and evolution.

After the end of the Cold War, the world went through the so-called third wave of democracy, as described by Huntington. Within years, this wave swept most of Eastern Europe, Africa and Latin America [11]. After the attacks of 11 September 2011, western pressure for democracy promotion increased, especially on Arab states, where democratization was seen as a means to combat terrorism. However, this effort lost steam after failing to establish a stable democratic rule in Iraq following the US invasion and the electoral victory of Hamas in the 2006 Palestinian elections. The subsequent siege on the Gaza strip confirmed the position of those who believed that US or western support for a democratic transition was nothing but an instrument to serve western interests, and that if a democratic measure threatened these interests, it ceases to support such a transition. Perhaps the American and European positions, which usually ignore human rights violations in Saudi Arabia, are a sufficient proof of such an instrumental position vis-à-vis democracy and rights. The western support for democracy and human rights then becomes subject to several considerations, not limited to questions of moral values and legal standards only but also include and sometimes bow to current and future economic and political interests. No doubt there is a large element of instrumentalization in how Western countries address this issue, notwithstanding that the West is not a single coherent block and that the public opinion in these open democracies sometimes influence foreign policy more to the side of values and rights. Western NGOs, unburdened by the clashing demands on the foreign policy apparatuses, stick to a humanist position couched in the international

[7] Ahmed Ragab, Legislative Development, p. 6.

[8] Egypt Portal for the Judiciary and the Law, "Decreed law no. 357/1952 on the amendment of law 49/1945 of the regulation of charity associations, social institutions and donation to charity", available in Arabic at goo.gl/mw7izG

[9] Yasmeen Shash, "The Formal Birth of the Human Rights Movement in Egypt", Arab Reform Initiative, 4 August 2017, available at www.arab-reform.net/en/node/1095

[10] Al-Sa›eed (Upper Egypt) Association for Education and Development was in turmoil in the late 1990s resulting in a General Assembly which fired the managing board. The disruptions were allegedly the result of manipulations by security agencies.

[11] Samuel P. Huntington, "Democracy's Third Wave", Journal of Democracy, Spring 1991, available at goo.gl/EQTorH

human rights bill, though for advocacy purposes they also sometimes show how realpolitik interests cannot be divorced from democratization and respect for human rights in other countries.

In that context, Egypt underwent several noticeable changes since the early 2000s with calculated moves by the regime to open up politically in a cosmetic manner to cope with international pressures. There was no shortage of domestic pressures as well with hundreds of sit-ins and labour strikes organized every year. The political momentum and protest crystallized in the Egyptian Movement for Change (Kifaya or Enough!)) in 2005. Open hostility dominated the relationship between the regime and human rights organizations after the 25 January 2011 revolution. Politicians, journalists and TV anchors, former officials from the Mubarak regime all supported security services in their confrontation with civil society. In this war of propaganda, a narrative was constructed and carefully disseminated that the revolution was nothing but a conspiracy concocted by civil society organizations, especially human rights groups driven by foreign forces. Security agencies cracked down on foreign and domestic NGOs by the end of 2011, when 43 foreign civil society employees, including 19 Americans and some other nationalities and a number of Egyptians, were referred to trial in case No. 173 of 2011 on charges of establishing NGOs and obtaining foreign funding without state permission [12].

In an attempt by the government to defend its point of view and that it was not against the work of civil society, Judge Muhammad al-Demerdash, deputy chair of the State Council, and the legal adviser to the Ministry of Social Solidarity (MoSS) announced in early October 2012 that the ministry had approved requests by 281 associations for the receipt of 600 million Egyptian pounds in foreign funds in the first seven months of the same year, while rejecting requests for a total of 96 million Egyptian pounds. Former US ambassador, Ann Patterson told Congress in Washington DC that the US government had spent US$40 million in support of civil society organizations since the 25 January revolution. Actually, over the previous 34 years (between 1975 and 2009) the largest recipient of US aid was the Egyptian government itself and not civil society organizations [13]. Compared to about US$27 billion received by the government, Egyptian CSOs as well as programmes for good governance and democracy promotion received only US$1.13 billion[14]. Not all this money went to CSOs as governmental agencies such as the ministries of local development and administrative development also received a portion of these funds for health and education projects, in which some CSOs collaborated [15].

In view of the nature of institutions that have been charged, and their political affiliations to parties or institutions in their home countries, especially the American International Republican Institute and the National Democratic Institute and the German Konrad Adenauer Foundation, we can conclude that the objective of the Egyptian government at the time was to restrict the role of civil society in Egypt by attacking such influential foreign organizations. This also fuelled a narrative for domestic consumption that these institutions served as arms of an international conspiracy aimed at Egypt and its stability.

This narrative was articulated by Minister of Planning and International Cooperation Fayza Abul-Naga, who said that from March to June 2011, CSOs received US$175 million, while their funding in four years (2006 to 2010) did not exceed US$60 million. According to her claims, the objective was to "violate Egyptian laws and carry out political rather than human rights activities to dismantle Egyptian society and provoke sedition." With increasing US and European pressure on E on Egypt, especially by the American side, which repeatedly threatened to cut down aid to Egypt, the foreign organizations' crisis was partly resolved [16]. Charged foreign workers were released on bail and allowed to leave the country, though most were condemned and sentenced in absentia later on [17].

The regime's view of the function of human rights organizations is best illustrated in a report by a fact-finding committee on the January Revolution. The committee was formed in July 2011 and submitted its report a month later. The report, on which the foreign funding case was based, concluded that funding of civil society in 2010 contributed to the "chaos" in 2011. It can be inferred from the perspective of the report that the State was unwilling to experience a repetition of this "chaos". The report recommended that the MoSS should no longer be the only body to supervise foreign funding and that a committee should be formed to consider security and social dimensions of funding permits [18].

Concerns of civil society organizations increased as the regime escalated its hostile rhetoric against them, accusing them of implementing foreign agendas to destabilize the country, or promoting values incompatible with Egyptian society and beliefs. The foreign funding case of civil society organizations (case no.173 of 2011) was flagged both during the rule of the military council (2011-2012) or that of deposed President Mohamed Morsi (2012-2013) in what was seen as a continued pressure on human rights organizations. In 2013, the case was divided into two parts: the first focused on foreign organizations, where defendants were sentenced by the Cairo Criminal Court on 4 June 2013, while the second concerned local organizations, mentioned in the fact-finding report on foreign funding of civil society organizations [19].

[12] CNN in Arabic, "Egypt: Postponement of Associations' case for Absent Foreign Defendants", 27 March 2012, available at goo.gl/u6GbOj
[13] Mohamed Rammah, "US Funds of US$40 million to Civil Society", Al Tahrir, 4 August 2011, available in Arabic at goo.gl/BXZxXQ
[14] Mohamed Elagati, Foreign Funding of Civil Society in Egypt after 25 January Revolution: Reality, Challenges and Criteria, AFA, Cairo, June 2013, p. 20 (hereafter Elagati, Foreign Funding)
[15] Mohamed Elagati, Foreign Funding
[16] Gehad Gamal, "Impact of CSOs on Egyptian National Security after the 25 January Revolution", Arab Democratic Center, 9 January 2016, available in Arabic at goo.gl/ZcMCM6
[17] BBC Arabic Service, "Egypt Cancels Travel Ban on Defendants in Foreign Funding Case", 30 March 2012, available at goo.gl/ecUfHa
[18] Interview with Mohamed Zaree, Cairo Institute for Human Rights Studies, Cairo, September 2016.
[19] Arabia Net, "Egypt: Prison Sentences Against Defendants in the Foreign Funding Case", 4 June 2013, available in Arabic at goo.gl/Ahgf9q

This pressure continued until the overthrow of President Morsi and the forceful removal of the Muslim Brotherhood from the political scene in July 2013. Under the pretext of return to stability, the new regime undertook several measures to narrow and re-nationalize public space, thus paralyzing the revolutionary drive and weakening civil society actors.

The concerns of human rights organizations were exacerbated by successive measures such as the MoSS' announcement in July 2014[20] of the need to register organizations and entities that carry out NGO activities under Law No. 84 of 2002. When asked about those organizations, the Minister of Social Solidarity mentioned law firms and companies working in the field of human rights, which, according to the minister, receive funds and carry out activities without state supervision[21]. On 10 November 2014, a three-month MoSS deadline for organizations working in the field of human rights to reconcile their legal status came to an end. However, no legal measures were taken against those organizations as a result of international pressure. Egypt was also due to react to a Universal Periodic Review of its human rights situation in the Human Rights Council few months later. State hostility towards rights groups did not end there. In December 2014, the first two travel bans were imposed on human rights workers, involving Ahmed Ghoneim and Hussamuddin Ali of the Egyptian Democratic Institute. Many others would face the same ban in the following years[22].

These multiple indicators convinced a few rights organizations that the regime was determined to close them down and not merely restrict their work. Some human rights advocates attributed this to the fears of the post-July 2013 regime that leaving a free space for civil society may encourage more activities and become again a threat to the regime and its stability. The same advocates thought that the only factor that restrained the regime repressive tendency in this regard was the extent of the international reaction to their behaviour[23].

Several government officials articulated the state animosity in 2014 and 2015. The then Minister of Justice Ahmed Al-Zind, in response to a question on civil society, foreign funding and case 173 of 2011, said: "The issue of foreign funding will be re-opened once again; its turn will come. We do not forget[24]." Zind's statement came a few days after a letter by 16 human rights organizations in Egypt to the United Nations High Commissioner for Human Rights expressing deep concern over the increasing frequency of human rights violations committed by the Egyptian authorities in a violent and shocking manner. The organizations said that the authorities were using the war on terror as a pretext for abuses in an undeclared state of emergency[25]. On the same day the letter was sent, the European Parliament issued an urgent statement, in which it recommended to EU countries to withdraw aid to Egypt following the killing of Italian graduate student Julio Regini in Cairo in early 2016. The EU Parliament expressed serious concern that the Regini's case was not an exception and placed it in the context of the significant increase in torture and death reports in Egyptian police detention centres and forced disappearances in Egypt[26].

The foreign funding case became a tool of pressure used by the regime at will to restrict the work of human rights organizations. Although the case was opened in 2011, none of the Egyptian human rights advocates were summoned for interrogation until 2015. Then the state began to detain some rights activists, banned nearly 29 of them from travelling, froze the assets of ten of them in addition to seven rights groups[27], and arrested some after returning from travel[28]. All these measures were imposed without any reasonable legal grounds. Options became limited for many CSOs but primarily for rights groups under this crackdown. The most important strategies were cutting down on their activities or working from outside Egypt.

Finally, we can attribute the persistent government concern regarding freedom of association to the strong belief by successive regimes that a free civil society could help encourage reform, expose failures, change values, all of which may undermine the authoritarian foundations of ruling regimes in Egypt. These regimes also believed in a litany of conspiracy theories that prevailed among the influential security agencies.

- Reform: All constitutional guarantees of civil society's freedom of action had been mere formalities, emptied of all meaning by actual legislations. The root of this concern by the state was the fear of citizenship truly becoming a basis for politics in Egypt. Even constitutional amendments, for example in 2005 and 2006, which stated that citizenship was the basis of governance, were merely ink on paper. Similar to its authoritarian attitude in the political and economic fields to abort any reforms, the state dealt with civil society in a way that prevented it from enacting its role and allowing it the space necessary for its work because this could contribute to leading sectors of society to a real change and its unpredictable consequences, feared by the successive regimes.
- Exposing the regime: in addition to its ability to lead change, an active civil society could expose the failures of the regime, both internally and abroad. Exposing economic, social and political failures, as well as documenting and reporting human

[20] Mada Masr, «MoSS Gives CSOs a One Month Extension of Ultimatum", 31 August 2014, available in Arabic at goo.gl/AujWaJ
[21] Interview with Mohamed Zaree.
[22] The Cairo Institute for Human Rights Studies, "Egypt's Borders have Become a Mass Jail Cell for Activists and Rights Advocates", 8 February 2016, available at www.cihrs.org/?p=18057&lang=en
[23] Interview with Mozn Hassan, Director of Nazra for Feminist Studies, Cairo, September 2016
[24] El Dostour, "Foreign Funding, an Issue for Every Government", 20 March 2016, available in Arabic at goo.gl/zRUUMw
[25] The Egyptian Initiative for Personal Rights, "16 Egyptian Rights Organizations Address High Commissioner for Human Rights on the situation in Egypt, Demanding Adoption of their Recommendations", 10 March 2016, available in Arabic at goo.gl/niUnVe
[26] BBC Arabic, "European Parliament Calls upon Egypt to Promptly Investigate the Torture and Murder of Italian Student Regeni", 10 March 2016, available at goo.gl/lwO8Zg
[27] Cairo Institute for Human Rights Studies, "First Appeal Hearing Tomorrow in case 173/2011for NGO Workers Sentenced in Politically-Motivated Trial Falling Below Minimum Standards of Fairness", 31 January 2018, available at www.cihrs.org/?p=20987&lang=en
[28] Moustafa Abdel Razek, "High State Security Court Renews Detention of Ismail Aleskandarani for 15 Days", Dot Masr, 10 December 2015, goo.gl/h1TTBm

rights violations, would fuel opposition to the regime, both internally and externally, with consequent loss of domestic and international legitimacy.

- Concerns regarding change in values: those are the usual fears that affect conservative regimes, whether religious or chauvinist. They consider that western liberal policies, which promote and value civil society, human rights and citizenship, as a threat to local societal and ideological values, the maintenance of which remains one of the pillars of the legitimacy and survival of the state. Many such regimes, including the Egyptian one, are suspicious towards civil society activism and see it as breach through which anti-authoritarian values could infiltrate the society.
- Conspiracy: closed systems usually believe in conspiracy theories or adopt them to convince their peoples that their remaining in power is inevitable to counter the world's designs against the homeland. Given how rights groups in particular and all CSOs in general work in the areas of development, human rights, and democracy, and the fact that the main funders of their activities are Western governments and foundations, fuels the conspiracy-dependent mentality of decision makers in closed systems[29].
- Interests: the rights movement strongly threatens the interests of various stakeholders in the status quo (within the state organs or among allied social groups). A vibrant organization and defence of economic rights and more equitability, for example, is a direct risk to existing economic arrangements.

II: State Strategies in Dealing with Rights Groups: Legal Control and Security Threats

In the late 1990s, CSOs worked hard to repeal Law 32 of 1964. The government enacted Law No. 84 of 2002, a legislation that was not radically different from the previous one, indicating the state's deep-seated conviction that it should maintain control over CSOs. The law required organizations to register in the MoSS, which several organizations did, based on their wish not to engage in activities considered illegal by the state. Others preferred to continue working under other legal arrangements. At the time, it seemed that the state was exercising a strategy of leaving a narrow and controlled space for movement, subject to interference and harassment according to the wishes and preferences of the regime[30]. This period witnessed a growth in the field of human rights, with an increasing number and diversity of activities and their legal personality. In this section, we review the most important strategies of the Egyptian state in dealing with human rights organizations.

1. Legislations

During the Mubarak era, the security state apparatuses allowed collective public action without a legal umbrella, thus retaining the right to strike at any actor or organization if it crossed the red lines set by the regime. This was manifested in allowing members of the Muslim Brotherhood to run as independent candidates in parliamentary elections, using "Islam is the solution" as their slogan, despite the fact that the group was officially banned. Human rights organizations worked in a similar framework under a restrictive law that left some space for their work, sometimes in coordination with relevant state bureaucracies, especially security agencies.

Law No. 84 of 2002 provided the administrative body, that is the Ministry of Social Affairs (MoSA), with almost absolute authority, beginning with the approval of registration, suspension of activity, as well as approval of foreign funding and joining international networks and alliances. It also imposed severe penalties and stipulated the collective punishment of organizations by dissolution for a breach by one or more of its members, even if they could pinpoint the responsible individual/s. The law, like many Egyptian laws, suffered from vague, arbitrary and ambiguous formulations that cannot be proved or clearly defined, such as "political activity" and "public order"; vagueness became absolute when certain articles or sentences ended the enumeration of categories with the clause "and likewise" which made it possible for the regime to selectively use the law and target any CSO, for any action that can be seen by the ministry or by a court to be similar to an incriminated act included in the law[31]. Most of Mubarak's three decades in power passed with Egypt under emergency rule, which strengthened the grip of the state. CSOs had to obtain permission from the MoSA to receive foreign funding, thus threatening their sustainability, since local funding was almost totally non-existent. The law required organizations to provide accounting records of all donations received as well as expenditures. Breaches by NGO staff were punishable by imprisonment and/or fines[32].

After the January 2011 revolution, public activism spread and took root especially in 2011 and 2012 in the form of youth organizations and initiatives. This rising activism benefited from a destabilized order as various networks of Mubarak regime crumbled after his downfall. A court order also stripped senior members of the hitherto ruling National Democratic Party from their political rights. New elite networks appeared including various public figures who took part in the revolutionary protests and who had been closer to established CSOs for years during public mobilization that intensified from 2005 until the revolution in January 2011. The revolutionary atmosphere foregrounded human rights concepts and values especially economic and social rights, rather than the usual focus on political and civil rights. Campaigns for the rights to housing, education and health care were organized (some of them in Cairo vast slums)[33].

But soon, the security establishment was able to recover to strike back and crack down on NGOs including through a repressive bill for a new law on associations[34].

[29] Sada ElBalad, "Heated Debate between El Makrehi and a Rights Activist on Foreign Funding Case", 21 March 2016, available at goo.gl/MX8CaI
[30] Interview with Ragia Omran, member of the National Council for Human Rights, Cairo, September 2016.
[31] Mohamed Elagati, "Amendment of NGO law, Recommendations for Democratic Transition in Egypt", AFA, 2011, p. 4, available in Arabic at bit.ly/2nTC5nM
[32] Mohamed ElAgati, "Undermining Standards of Good Governance: Egypt's NGO Law and Its Impact on the Transparency and Accountability of CSOs", The International Journal of Not-for-Profit Law, 2 April 2007, available at goo.gl/Clc5cs (hereafter Mohamed ElAgati, "Undermining Standards").
[33] Mohamed ElAgati, "Undermining Standards".
[34] Mohamed Elagati, "Egypt in the Stage of Transforming into New Authoritarianism: The New NGO Law", Shorouk, 21 January 2012, available in Arabic at goo.gl/9eDwbX

The Muslim Brotherhood clashed with the human rights community when it came to power, given the incompatibility between the group›s views of the state and the those of many human rights organizations[35]. The associations' bill was not markedly different from the existing law except only in detailing articles suitable for the Muslim Brotherhood and the creation of the so-called Coordination Committee with a strong representation of security bodies to control certain aspects of the work of civil society, especially foreign funding. Despite some positive changes in the bill, it remained very restrictive with the usual toolbox of controls and ambiguous language in its articles such as "national unity", "public order" and "public morals", that can be invoked as grounds to reject or object to the establishment of associations[36].

After several drafts, many sessions of negotiations and four regimes in six years (the Military Council, the Muslim Brotherhood, the Interim Presidency, and the Sisi regime that took power in mid-2014), the draft law approved by Parliament in November 2016 maintained the same approach. The proposed Coordinating Committee became part of the law with representatives of security agencies to consider the approval of funds to CSOs, especially from foreign sources. The Committee even became an independent body, which must approve some of the MoSS decisions[37].

However, during those six years from 2011 to 2017, there were compromises on the issue of associations, perhaps the most important of which was the outcome of the MoSS work led by former Minister Ahmed Al-Borai. Through consultations with various CSOs in the second half of 2013, Borai had developed a new bill. The ministry had formed a committee, in which a number of CSOs took part in July 2013, and together they drafted that bill which Borai presented to the UN High Commissioner for Human Rights. The bill, which some activists described as the best in the history of Egypt's civil society, never became law though it had relatively and adequately addressed the concerns of both the state and the CSOs[38]. The government replaced it by another draft tabled in the Parliament, which was considered a worse version of the infamous Law No. 32 of 1964. Some argued the Borai bill was only a means for the government to improve its international image after the ousting of former President Morsi. It helped create the impression that the regime was leading Egypt into a democratic transition. The role of the bill ended after international recognition of the new regime was assured[39].

The International Center for Non-Profit Laws in Washington classifies restrictions on CSOs under eight categories, seven of which apply under successive Egyptian laws before and after the January 2011 revolution. Those restrictions are primarily concerned with difficulties in registration and acquisition of a legal personality and the inability to easily obtain foreign financing. The current law requires approval rather than notification, which is the norm in democratic regimes. Restrictions also include the administration›s right to dissolve an NGO. It is legally customary that those who have reasons for the dissolutions of associations to resort to the courts, but the Egyptian law grants the MoSS the right to dissolve an association after consultation with the CSOs' union and listening to counter arguments from the association concerned. The dissolution itself remains within the MoSS remit, and thus constitutes an imminent threat to be used against associations. The MoSS can also delegate this prerogative to dissolve associations to executive bodies in governorates, represented by the governor. In addition, CSOs are not allowed to work in certain fields deemed "political" by the Egyptian law. This is another weapon in the state's arsenal against NGOs. Laws and executive regulations impose a large number of bureaucratic obstacles on associations since it authorizes administrative bodies, i.e. the MoSS and other government agencies, to exercise constant monitoring of organizations. The government also supported the formation of loyal CSOs in an attempt to attract funding. Finally, the law imposes criminal penalties, including imprisonment, against individuals who may join unsanctioned organizations.

1. Security Agencies and Foreign Funding

Although the MoSS is the body entrusted with dealing with NGOs in Egypt in terms of registration and monitoring of activity, it often, especially in the case of human rights organizations, acts as a front for security agencies according to MoSS employees. At the turn of the century, the MoSS still attached letters from security agencies to correspondences it had with CSOs[40].

Critics of NGOs have not challenged foreign funding in absolute terms, but rather focused their criticism and security measures against human rights organizations, especially those which work on raising awareness about violations, exposing government failures, or advocate rights and freedoms in general. These have been all the kind of activities and organizations that Arab governments long wanted to curtail, and this is why they were vilified by governments under the pretext that foreign funding was amounted to interferes in internal affairs[41].

Law No. 84 of 2002 and the current Law allow human rights organizations to receive foreign funds, but it contains many obstacles and restrictions that give the government full control over the flow of such funds. Under both laws, to receive foreign funds, an NGO must have the approval of the MoSS and/or the Coordination Committee, which the laws granted

[35] Interview with Mozn Hassan.

[36] Mohamed Elagati, "Draft NGO Law: A Legislation to Reproduce Despotism", Shorouk, 17 February 2013, available in Arabic at goo.gl/CZlKMy

[37] Article 52 of the government NGO bill stated that "in case of a breach by an organization of any of the provisions of this law or regulations pertaining to activities, the minister concerned, after the approval of the coordination committee, can issue a decision to stop the breaching activity or withdraw the activity license". See Iman Raslan, "We Publish the Draft of the new NGO Bill after Government Approved it", Al Youm Al Sabe'e, 9 September 2016, available in Arabic at goo.gl/SSUOi7

[38] Interview with Mohamed Zaree..

[39] The Egyptian Initiative for Personal Rights, "Draft Law Subjects NGOs to Government and Security Control", 9 July 2014, available in Arabic at goo.gl/3hJAiH

[40] Mohamed ElAgati, "Undermining Standards".

[41] Interview with Mohamed Zaree.

broad discretion in reviewing and approving applications. For example, there is a period of 60 days for the government to reply to permit requests; however, silence or non-response means an effective rejection. The laws distinguished between foreign and domestic funding with the latter not requiring an MoSS approval[42].

In addition to legal and administrative obstacles, illegal government practices have been a greater impediment to the flow and transparency of funding and thus the functioning of organizations. Among those legal practices until the current law was enacted was the implicit control by security bodies over funding decisions. According to human rights advocates, the approval of funding often involved coordination with and taking the opinion of security bodies, which was considered an indispensable green light to MoSS to formally approve the funding, regardless of the law which gave MoSS exclusive jurisdiction. The current law went ahead and formalized this role by security agencies by including their representatives in the Coordination Committee that decides on foreign funding[43].

There are no clear criteria for approving or rejecting requests for foreign funding. Some grants are approved to organizations while they were rejected for others, although the donor and the theme of the project to be implemented may be the same[44].

All in all, the regime and its executive organs determine the relationship between the state and civil society. The law applies to organizations that carry out activities that may encourage opposition to the regime or that may increase demands for accountability and transparency, or those who are managed by individuals who are considered part of the opposition. However, if organizations are working in service provision or work outside the political and human rights field, the executive authorities often become more flexible, and at times cooperative.

When discussing the relationship between the state and human rights organizations, we must bear in mind that state policies result from various interactions among state various institutions, and thus we cannot surmise a coherent state position regarding civil society, which is also heterogeneous. However, we can highlight indicators that best describe the relationship between human rights organizations and state components. For example, the regime does not apply the same criteria to all CSOs. Rights organizations differ from development, aid, or formally non-political organizations. The CSO type of activity is therefore an important determinant of how the regime deals with it. The ministries of environment, youth and sports have provided direct support and cooperated with many CSOs in their relative fields. Such CSOs did not suffer from the heavy-handed interpretations of the governing laws and regulations. The political orientation of CSO members or leaders also influences the relationship with the state. People who run CSOs, but are not in the opposition, may enjoy more flexibility when the regulations are applied to their institutions[45].

No doubt that there is a need to enhance CSO good governance in Egypt in order to augment their capacity to work more effectively and transparently. Transparency is vital to maintain credibility and encourage participation for more support to advocacy campaigns. However, the legal reality imposed by these restrictive laws puts registered CSOs in a diabolic dilemma: either fully comply with all legal rules and regulations that allow very intrusive intervention by MoSS employees and thus become far less effective or circumvent some of these laws and regulations (and consequently fail to follow the rules of transparency and good governance), thus formally also undermining the organization's credibility and puts itself at risk of legal prosecution and penalties. The other option, which has been adopted by a majority of independent human rights organizations, has been to work as law firms or as commercial companies outside the remit and the "benefits" of the law on associations. But these companies are owned by individuals and their governance systems are ultimately voluntary[46].

3. Defamation

During political transitions in Egypt, media organizations almost completely identify with the views of the ruling regime. Depending on the reigning ideology of the ruling regime, mass media platforms accused human rights defenders of being agents for the "Crusading" West in its war on Islam or of being western agents manipulated to weaken Egypt and infiltrate its national security. The security-minded mentality that dominates the state bureaucracy when it comes to civil society probably shapes the views of pro-government media which largely promoted a demagogic discourse against rights advocates. The most important features of that campaign of vilification include:

The ease and impunity with which media spread accusations against human rights organizations and defenders without evidence or proof.

- The spread of a campaign of distortion and intimidation to TV talk shows, which accused human rights defenders and organization of receiving foreign funds, even though the law does not criminalize it.
- The sharp shifts in the attitude of journalists and TV personalities from praising human rights organizations to damning them. For example, they praised them during the rule of the Muslim Brotherhood, describing them as patriots standing against extremism and using their reports to criticize the Morsi presidency. Then some of these very media platforms turned those same activists into foreign agents, traitors and fifth columnists, if they opposed the government after the Muslim Brotherhood rule was brought to an end by force.
- The spread of that hostile rhetoric to social media platforms, where it is repackaged by so-called influencers to their followers[47].

[42] Mohamed ElAgati, "Egypt", The International Journal of Not-for-Profit Law, 12:3, May 2010, available at goo.gl/t6CxCv
[43] Mohamed ElAgati, "Egypt"
[44] Interview with Mohamed Zaree.
[45] Interview with Mohamed Zaree.
[46] Mohamed ElAgati, "Undermining Standards".
[47] Following comments on the accounts of 5 workers in the field of human rights on twitter, we found 16 comments of the same content and almost the same formulation, 10 of whom are anonymous.

4. Hegemony: The National Council of Human Rights

Successive Egyptian regimes used a policy of sticks and carrots with human rights organizations. If they complied with government unwritten rules and demands they can work. If not, they then face a very unbalanced confrontation with the state, whose organs have enough tools to obstruct any organization.

Several years of democracy promotion in the region followed the 9/11 attacks. Democracy promotion and support for human rights had become part of the multi-level war on terrorism. Egypt worked to improve its image internationally. As part of this effort, it set up a National Council for Human Rights (NCHR) in line with the Paris principles, which called for the formation of such councils.

In 2003, Law No. 94 was issued to establish the NCHR stating in Article 1 that the Council aims to «promote and develop the protection of human rights… raise awareness thereof and contribute to ensuring their exercise. The Council has a legal personality, its main office is in the city of Cairo, has the right to open branches and offices in the governorates… and enjoys independence in the exercise of its functions, activities and mandate.» In Article 2, the law stipulated that «the Council shall be composed of a president, a vice president and 25 members of public figures who are well-known for their expertise and concern with human rights, or who are distinguished by their contribution to this field. The formation of the Council is decreed by a Shura council decision for a three-years term[48].» According to the law, the NCHR and its formation were under the Shura Council, one of the two chambers of parliament during the Mubarak era, an arrangement that detracted from the independence of the Council and the scope of its work.

A law was supposed to follow the establishment of the NCHR to facilitate its work, such as to give it the power to visit prisons without a prior notification, but this never occurred. The role of the Council has become advisory and it cannot force the Government or the Council of Ministers to act upon its recommendations or to consult with it, or even provide information required for NCHR to carry out its mandate. Some believe that NCHR's recommendations do not have much influence, especially from the Ministry of the Interior, which had been more responsive when the NCHR was first established, probably to improve the image of the state internationally in the 2000s[49].

Despite the weak influence of national councils for human rights in the region in view of the nature and characteristics of the laws that established them, many believe that they must exist as national mechanisms, and that they must have powers, although the current situation in Egypt has turned this institution into a mere consultative entity without real powers. There is disagreement within the Egyptian human rights movement on the membership of the NCHR. While a number of activists resigned or declined membership offers like Negad Al Borai and Hossam Bahgat, others, who enjoy credibility in the human rights community, accepted on grounds that entering the Council does not mean that the organization or the human rights movement, in which this person is active, would be undermined by the mandate of the council[50].

The composition of the Council always reflected the nature of the ruling political regime and the balance among its constituent factions. Since its establishment in 2003, the composition of the council has changed several times. For example, its members chosen for the first time after the January 25 revolution included several independent human rights defenders, which led the Council to issue unusually powerful reports such as the one on the events of the Maspero protest in Cairo[51]. The NCHR report strongly challenged the official version of the protest[52]. In 2012, there was a conflict within the Council between two main factions: what can be called the «secular» group as opposed to the Islamist trend. The controversy broke out in December 2012 after former President Morsi issued a constitutional declaration that sparked wide controversy and caused the resignation of a number of Council members, including the late rights activist and lawyer Ahmed Saif al-Islam after «the Islamists decided that the Council should play a greater political role than the prescribed human rights role[53].»

However, the Council changed again less than two months after the overthrow of Morsi, when Prime Minister Hazem El Beblawi issued a decree to select new members replacing Islamists with a mixture of rights activists and former Islamists. Some rights advocates refused to join the Council while others decided it was worth trying. Others joined but withdrew a few months later, as was the case with lawyers Negad Al Borai and Ragaie Atteya, for different reasons. The Council was chaired by Mohammed Fayek, former Minister of Information under Nasser, while former Ambassador Mukhles Qutb remained secretary general, a position he had occupied since the formation of the Council. None of the Council members including the President and Vice President- worked full-time, while the daily workload was managed by a general secretariat of staff and researchers appointed and managed by the Secretary General, who is also responsible for funding, issuing statements, organizing events and supervising the production of reports either prepared by Council members or fact-finding missions composed of staff members[54].

The Council faced many criticisms, the most important of which was in 2013 after the killing of hundreds of protesters by secu-

[48] Human Rights Public Library, "Law 94/2003 on the Formation of the National Human Rights Council", available in Arabic at goo.gl/GuWJfb

[49] Interview with Ragia Omran.

[50] Interview with Mozn Hassan.

[51] On 9 October 2011, 27 demonstrators and one soldier were killed when military police and security forces dispersed a peaceful demonstration in support of the rights of the Coptic minority in front of the Egyptian TV and Radio building (aka Maspero). See Egyptian Initiative for Personal Rights, "Maspero Events: The State Incites Factional Violence and Entrenches Extrajudicial Killing", 16 October 2011, available in Arabic at goo.gl/KjADz8

[52] National Council for Human Rights, "Council Report on Maspero Events", 2 November 2011, available in Arabic at goo.gl/s9Y3R4

[53] Mohamed Hammama, "Who Benefits from the National Council for Human Rights", Mada Masr, 3 September 2015, goo.gl/99jSmo (hereafter Mohamed Hammama, "Who Benefits").

[54] Mohamed Hammama, "Who Benefits".

rity forces which forcibly disbanded large sit-ins in Rabaa and Nahdha squares in support of deposed President Morsi. The same period witnessed attacks on dozens of churches and Christian buildings, as well as violent clashes between security forces and Muslim Brotherhood protesters. However, the Council report appeared biased as it justified the practices by the regime and its security forces[55]. A report issued by the Council following a visit by a delegation to the high security Scorpion prison was criticized on the basis of a number of complaints indicating ill-treatment and abuse of prisoners, as well as allegations of forced disappearance of a number of citizens. When it was issued, the Council report concluded that the notorious prison conditions were good[56].

The Council challenged the Government›s decision that human rights organizations must register with the MoSS or else be shut down. It is believed that relevant Council›s efforts contributed to the suspension of the implementation of that MoSS resolution. The Council also addressed the issue of enforced disappearance and issued a report that may have contributed to the Ministry of Interior beginning to disclose the whereabouts of some of the names of those in its custody[57].

5. Control through Government-Organized NGOs (GONGOs)

These Government-Organized NGOs (GONGOs) are the organizations whose management is determined and almost run by the government. They carry out activities similar to voluntary non-governmental CSOs. GONGOs can also be established by individuals who are loyal to the ruling regime, some of whom are former state officials. These GONGOs are compatible with a state that sees civil society as an appendage and its organizations as a tool in service of a state, which engineers society from above.

GONGOs are no longer confined to defensive or advocacy roles. Instead, states rely on them to play a variety of developmental, social service and diplomatic roles, especially considering their ability to penetrate domestic and international domains that government institutions may not be able to reach. GONGOs can network with international NGOs, attract new sources of funding, and communicate directly with the public in other countries. The external role of these organizations has grown around the world, since they are being used by the state as tools for foreign policy implementation within the scope of Public Diplomacy, Second Track Diplomacy and Multiple Diplomacy, all of which depend on informal actors, foremost among which are NGOs, to carry out activities abroad, with the aim of supporting their own country's foreign policy[58].

Most of these organizations lack professionalism, good governance and transparency, which is reflected on their performance and the reaction of their clients. They are mainly composed of former or current officials or persons close to the authorities. All of this undermines the credibility of these institutions as evident when they take part in international events, where their reports and activities receive little to no attention. They often justify human rights violations and defend government decisions in that regard using weak arguments such the security situation prerogatives. GONGOs' lack of credibility is also caused by their ignorance of human rights discursive practices and basic covenants, reflecting more the mentality and culture of an authoritarian regime. It is therefore argued that GONGOs are ineffective on the Egyptian or international scene, especially on issues of human rights, and that they lack the necessary credibility to shape public opinion, for which the state had sought to establish them in the first place. In Egypt›s last Universal Periodic Review at the UN Human Rights Council in 2014, 10 independent CSOs announced that they would not attend for fear of retaliation by the state, while one GONGO went to Geneva and organized a side event, which was attended by only two people[59].

III: Strategies of Human Rights Organizations in Dealing with the State: Between Action and Reaction

The relationship between human rights organizations and the state under Mubarak with his conditional authoritarianism has been characterized by the availability of a restricted space for these CSOs to operate. The authorities sometimes attempted to narrow this margin, while organizations always tried to expand it. In other words, the conflict concerned the available space for work and the ceiling of freedoms related to it. But under the authoritarian regime with its oppressive measures since July 2013[60], rights organizations adopted a survival strategy trying to stay open for as long as possible[61].

The most important five strategies of human rights organizations in dealing with restrictions imposed on its work by the state were:

1.Bypassing State Registration (Working through Companies)

Many organizations did not register as NGOs under the relevant law and chose to operate under other laws that allow human rights advocates a legitimate space to work in an organized manner, without the restrictions imposed under the NGO law. Most independent human rights NGOs became thus registered as private companies or legal firms. Despite the ferocious measures in 2016 and 2017, which included travel bans and freezing assets, those organizations seemed determined to continue working through those alternative organizational forms. On the other hand, some believe that human rights activism no longer needs formal organizational structures that call for legal registration. According to Ragia Omran, who is an NCHR member, human rights activism can be carried out through an email account and social media platforms[62].

[55] National Council for Human Rights, "The Tenth Annual Report: 2013-2014," available in Arabic at goo.gl/Q0RC8T
[56] Mohamed Hammama, "Who Benefits".
[57] Interview with George Ishak.
[58] Regional Center for Strategic Studies, "Why Have the Roles of GONGOs Escalated in the Region?" 12 January 2016, available in Arabic at goo.gl/q6XvcY
[59] Interview with Mohamed Zaree.
[60] Between Mubarak's authoritarianism (1981-2011) and the authoritarianism of the regime in power since July 2013 after forcibly ending the one-year rule of the Muslim Brothers, there were two years of unusual openness (2011-2013), during which state security agencies and anti-civil society institutions within the state were at their weakest, regardless of the trial of foreign NGOs (all of which did not specifically work in the field of rights, but rather in democracy and free media promotion).
[61] Interviews with Mozn Hassa and Mohamed Zaree.
[62] Interview with Ragia Omran.

2. Formation of Alliances and Networking (Joint work)
Networking is an essential function aiming at partnership, collaboration and coordination as a means to reach an end or goal. Therefore, several organizations saw a need to reconsider the importance of networking as a concept and the necessity of establishing networks and alliances, especially in civil society, considering the increasing number of civil society organizations. The Front for the Defence of Egypt's Demonstrators is a model of the feasibility and effectiveness of networking[63].

The Front continued to enjoy dynamic and organizational advantages before and after the January 2011 revolution because of its flexibility in networking. It defines itself as a coalition whose members are willing to volunteer to provide legal and information support to Egyptians who participate in peaceful gatherings such as strikes, sit-ins, protests and demonstrations. It was formed before the January 2011 revolution by human rights advocates and organizations including the Hisham Mubarak Law Center, Al-Nadeem Center, and the Freedom Committees in professional trade unions for journalists and lawyers or in political parties such as Al-Tagammu and Al-Wafd. After the 2011 revolution, it was also joined by supporters from new political parties such as the Popular Alliance, Bread and Freedom, and the Egyptian Social Democratic Party. The Front provided prompt legal support to those subjected to rights violations for exercising their legitimate rights, in particular peaceful assembly, as well as providing information support and documentation of any violations by the state in these cases. The Front welcomed the participation of all lawyers, organizations and individuals who wanted to volunteer and contribute to its work; its membership included individuals from 34 organizations and human rights and legal organizations and institutions in addition to a large number of volunteers and activists.

3. Litigation
Litigation has been one of the most important strategies of human rights and other civil society organizations in their struggle with successive governments even before the January 2011 revolution. It was the judiciary that ruled that the NGO Law No. 153 of 1999 was unconstitutional, and that ruled to release activists and employees who were arrested for their work in such organizations. Despite criticism by several human rights organizations of the judicial decisions in many cases because the proceedings lacked minimum standards of a fair trial, especially after the return of authoritarianism with a new face by the end of 2013, they continued to urge the judiciary to play their role. For example, they asked the state's Supreme Judicial Council to engage in all stages of the investigation of the infamous foreign funding case after certain judges were chosen to investigate the case, and the leaking of false, untrue or out of context confidential information from the judicial files to media platforms known to be close to the ruling regime. Such leaks were used to defame defendants and human rights organizations and to accuse them of plotting to destabilize the country[64].

The judiciary and the law, despite criticism mentioned earlier in this paper, are still a refuge for independent CSOs. Caritas Egypt Charity Association, for example, managed to obtain a ruling against the MoSS in the Administrative Court after the ministry refused to accept or reject a request by Caritas to receive foreign funds from a donor. The Administrative Court rejected the MoSS claims that it had effectively rejected the grant because it was harmful to national security and state higher interests. The court went on to assert that these reasons were "vague rhetoric, with no evidence to back their veracity[65]."

4. International coordination
In the context of globalization, which has rendered nation states' borders sometimes into mere lines on maps, the state can no longer control all acts that extend across borders. As a result, coordination among national organizations and their counterparts abroad increased and strengthened to exchange expertise and access material and non-material support. International organizations have developed several mechanisms for cooperation with NGOs. This cooperation can be formal or informal, operational and focused on field work, or more related to policy formulation and advocacy. This opened several options to interested NGOs including cooperation with various UN organizations, accreditation with the UN Secretariat, or cooperation with international NGOs. Such cooperation is sometimes seen as one of the tactics for local organizations to obtain a degree of protection in view of the international status of their partners[66].

5. Reducing activity or expatriation
The prosecution and persecution of rights NGOs escalated as of mid-2014 including the raiding of offices, the arbitrary illegal detention of activists and employees of these institutions, travel ban and freezing of assets. This led some organizations operating in Egypt to reduce their activity to ensure survival and in the hope of not further provoking security agencies that seemed ready to pounce against any human rights or development work by CSOs in Egypt. A much smaller number of organizations have moved their headquarters or some of their activities abroad, such as the Cairo Institute for Human Rights Studies, which transferred its regional operations to Tunisia.

If working in exile has its advantages, it is certainly not without flaws. The greatest advantage is to work without the pressure of security agencies and their allegations, as well as without interference by executive authorities and their control over activities; in addition to the freedom and ease of movement of funds, which enhances the ability to achieve results. However, a move into exile is a move away from the reality one desires to study and/or change. Working from abroad also provides ground, even if

[63] Heba Abdelsattar, "The Front for Defense of Egypt Demonstrators: The Unknown Soldier of the Revolution", Ahram, 24 February 2011, available in Arabic at goo.gl/FMJE5N
[64] Twenty rights organizations accuse the Egyptian government of besieging organizations and seeking their dissolution. http://goo.gl/fPlfP1
[65] Court ruling grants civil society organizations the right to receive foreign funding contributing to development, Al Hayat website, 11 September 2016, https://goo.gl/cGHmMY
[66] Practical guide for working with international organizations, International Mandate, https://goo.gl/hwqeQ9

contrived, for defamation and accusation of treason. Finally, many rights advocates strongly believe that civil society activists should struggle and stay in the country instead of leaving it[67].
Those five strategies share three basic elements:

- Radicalism in dealing with the state: the NGOs focus more on shaming the state rather than trying to communicate with the reform elements that could exist within it.
- Lack of distinction between the state and the government: this resulted from the conduct of state institutions that did not behave as independent and neutral state organs but rather as part of the ruling regime/government.
- Persistent strategies despite changing circumstances: these strategies have been around for a while and there has been no clear change commensurate with the upheavals and changes brought about by the 2011 revolution.

Conclusion

The structures of the modern Egyptian state have always governed the relationship between successive regimes and civil society organizations. The Egyptian state has often considered civil society as satellite formations in the society to serve the state by playing specific roles determined by the state in a top-down approach. The state grants civil society spaces from which it plans to withdraw or to let them be used in favour of a certain development or even political agendas as laid down by the state. Thus, the space available for civil society action has been inversely proportional to the space occupied by the state and its bureaucratic institutions. Therefore, the role of civil society greatly declined during the Nasserite period, not only because of legislative restrictions or repression by security agencies but also because the state believed it played that role itself and that it was the very voice of the people. During the eras of Sadat and Mubarak, and with the change in the structure and nature of the political system and its relation to the economy, a wider space was opened for civil society, especially in the social services and development sectors. The changing nature of the world order after the end of the cold war and the consequent proliferation of democracy promotion programmes in addition to the struggle by rights activists inside Egypt led to the opening of a limited space for the rights community within civil society.

The historical structure of the state and civil society organizations in Egypt made them easily subject to state control. They were thus subsumed by the state in the Nasserite period. However, with subsequent political transformations, active human rights organizations after their birth in the early 1980s became more radical and professional. Their performance sometimes surpassed that of political parties, a matter which qualified some of them to be a partner, even if in an informal way, in coalitions and alliances in the revolution of January 2011, and thus also one of the targets of the counter revolution in the following years.

Although the various constitutions were mostly enabling for civil society action, the laws have always been rooted in an authoritarian philosophy. The function of relevant laws has not been regulation but rather reinforcing the state's hegemony and control over CSOs and coding the state's ability to monitor and even paralyze whole civil society sectors or specific organizations, if needed. This has resulted in a situation in which a large number of rights CSOs circumvented the NGO law and registered under other laws as law firms or civil companies. In many cases this inevitably contradicted the rules of good governance and transparency within NGOs. Even if some of these organizations (registered under other legal frameworks as companies or firms) implemented voluntary rules of internal governance, they remained subject to the will of the founder/owner who may just ignore these rules if they felt any external threat since they are the legally liable person/s for these institutions. It is almost impossible for rules of good governance to become an integral pillar within such organizations under the existing legislative structure: first because transparency would become a tool for control of organizations by the state and not as a tool for information exchange and accountability to the society; and secondly, because it puts organizations, their founders and workers under constant legal threat.

As a result of the state authoritarian ethos, it has been normal for its officials to consider CSOs, as stated by one official, a "danger". Not adhering to the prescribed role is considered by state institutions to constitute a danger to national security and could even amount to treason. This helps explain the high level of scepticism and suspicion among human rights organizations towards the state in general. This attitude can sometimes reach a level which could impede advocacy for human rights and turn the work of relevant CSOs into mere protest action.

These structural constraints, under the influence of an internal pressure for freedoms and rights and an external pressure for a transition into democracy and more respect for human rights, led Egypt to become a state that tolerates the existence of human rights organizations as long as the state can maintain control over their working environment, contain them when necessary, and crack down on them if needed. In return, human rights organizations enjoyed a lot of cohesion and flexibility, which enabled them to survive and maintain a high degree of independence, although they could not move the struggle to within state institutions, remaining in the opposition instead of being able to cultivate allies within institutions as do Western organizations as well as Asian, African and Latin American organizations in democratic countries.

In the face of these inherent authoritarian state strategies, which consider human rights organizations as a "danger to Egypt", rules and regulations had to be established to protect the state. Many organizations have consequently adopted a somewhat hostile attitude, which sometimes impeded their very objectives. In this context, organizations ignored some state institutions such as the national councils, which, if allies were cultivated, could provide opportunities for organizations. Instead, thee councils were left in the hands of the regime to be fully co-opted and used even sometimes against the organizations themselves.

[67] Interview with George Ishak.

The way out of this cul-de-sac, provided the political conditions were conducive, could be the enactment of an effective law that regulates the CSOs by ensuring a balance between reasonable government oversight and internal governance procedures, starting from the freedom of associations to decide their internal structure and administration without government interference, up to the freedom to receive funding and grants from abroad, and the freedom to use such funds, in exchange for a reasonable government oversight over the associations. Such a legislative change should contribute to strengthening the internal governance of organizations through procedures and structures that would ensure good governance, including transparency and accountability. The existence of a clear law that allows human rights organizations to work freely and drive them to adopt maximum transparency will also be sufficient to refute allegations that have often been directed at civil society in general, including foreign agency, especially the West, or providing a cover for terrorism, to the rest of the list of those tired accusations[67].

However, there is no doubt that the roots of the solution are not only in legal texts, but in the political life itself. Without opening up the space for assembly and association to various societal forces, there will be neither mobility nor the necessary energy to reformulate the state structures to reflect the society its meant to govern from the bottom up. In fact, the danger to Egypt and other similar states lies not in what existing regimes claim about foreign conspiracies and external military threats, but rather in the continuation of the status quo, in which a modern democratic state cannot be built. Human rights organizations, for their part, may have to build a wider network with other civil society organizations on a large scale and work to confront political repression and to build alliances with social and political forces that enable them to influence decision-making within state institutions. These alliances could also enable rights NGOs to have more influence on the ground by representing certain social groups and adopting their causes.

[68] Mohamed ElAgati, “Undermining Standards”.

Tunisia: Human Rights Organizations and the State

Hatem Chakroun

Summary

This paper seeks to describe and analyse in a contextual way how the relationship between human rights organizations and the State in Tunisia has evolved since independence. The establishment and consolidation of national State institutions after independence was the main obsession of the ruling political network in Tunisia. This dictated its antagonistic position and measures against pluralism and inclusion of various political groups, all of which had been once unified in the anticolonial struggle.

After independence, this common objective disappeared and differences materialized regarding which political system and policies to adopt in order to building a modern nation-state in Tunisia. The consolidated regime of President Habib Bourguiba succeeded in imposing an authoritarian single-party political system, whose «legitimacy» rested on the anticolonial struggle, that controlled the state, to which all had to show loyalty. The autocratic political system continued after 1987 with the reign of President Zine El Abidine Ben Ali, who presented a retooled authoritarian political vision.

The human rights community represented by the Tunisian League for the Defence of Human Rights came under pressure as the State attempted to coerce it into adopting a tailored vision of human rights compatible with the logic of a dictatorship. Ben Ali regime had also set up a façade of commitment to human rights as expressed in various laws, about which he boasted on all occasions and political events with total disregard for systematic violations by repressive state bodies.

After the fall of Ben Ali following a popular uprising that rejected repression and authoritarianism and expressed a popular longing for freedom and dignity, a new vision began to form of the relationship between the State and the human rights community in Tunisia. The starting point was very positive with long time human rights activists playing a central role in the process of establishing a vision for the new republic based on respect for the principles of human rights. However, the political contention among various political factions and higher state echelons, fuelled by varying ideologies and interests, has affected this relationship, which oscillated between harmony and dissonance.

Introduction

The slogan, Employment, Freedom and National Dignity, was a pillar of the «revolutionary» demands of the Tunisian people during the uprising of 14 January 2011; it also summarized a constellation of rights that were violated or not guaranteed by the regime, and hence sparked the social upheaval against President Zine El Abidine Ben Ali. The formal legal system granted and guaranteed these rights, a formality that the former regime exploited to beautify a dismal reality of human rights in Tunisia. The revolution was the beginning of a radical change towards a redefinition of the relationship between the state and human rights actors. The democratic transition opened a larger and stronger public space, in which civil society was a principal and determined actor influencing, to some extent, state decisions.

Civil society represents the field in which many actors (political, social, economic, religious, etc.) intersect; it is the space for general social interactions that are not related to the direct struggle for power or pursuit of control over the executive authority. It can be seen as a good field for informing/assisting state structures (through various means and channels that could be confrontational) to change policies, amend laws, modify practices of certain state organs without seeking to undermine the state itself or seize power[1]. Civil society is composed of associations, organizations and networks (open or closed for membership) that are focused on issues or problems of public relevance[2], either through the provision of direct services or advocating different policies in the various political, economic and social fields.

In that sense, human rights actors represent a watchdog that works for democratizing the State institutions and the establishment of constitutional and legal mechanisms to prevent authoritarianism and violations of political and civil rights. They also work to ensure economic and social rights through different state policies and practices. Therefore, those actors find themselves in a continuous relationship (alternating between conflict and partnership) with all state structures as they act like intermediaries who are focused on pushing the state to comply with human rights as a fundamental principle governing its behaviour, thus preventing the state from encroaching on society, in addition to supporting its capacity to implement public policies, in which citizenship and its rights are central.

The nature of the political system prevailing in Tunisia since independence has defined the dynamics of the relationship between the State and human rights actors. The authoritarian postcolonial State determined to a very large extent the outlines of this relationship. The regime presented a single framework, in which everyone should be included, arguing that the postcolonial state-building phase required a unified approach that may be disrupted by pluralism and multiplicity of views.

The politics of the ruling regime represented a continuation of the dynamics of the anticolonial struggle. Most of the Constitutional Socialist Party (PSD) activists saw the anti-colonial struggle as source of symbolic authority which they tended to

[1] Salem El Sahel. 2003. “Views about civil society and the political community”. Journal of Social Sciences, No. 55.

[2] Jürgen Habermas. 1978. l’espace public : archéologie de la publicité comme dimension constitutive de la société bourgeoise. Paris. p.38.

exclusively embody in Bourguiba as a national leader[3]. The internal conflict among the Tunisian political elite ensured in 1955 between two main factions: the first was led by Bourguiba, head of the new Free Constitutional party which defended a political settlement with French colonialism, while the leader of the second faction was Saleh bin Yusuf, the Secretary-General of the party, who was a vigorous opponent to such a settlement. Bourguiba won, and he subsequently liquidated the Ben Youssef wing through the so-called vigilance committees that allowed Bourguiba to dominate the political arena and created the one-party hegemony. The party then aligned itself with state institutions and tightened its grip on them under the control of party members.

Bourguiba's power monopoly dominated the political scene. After a failed coup attempt by a group of military officers, the president decided to abolish political pluralism altogether. National institutions became arms of the ruling regime and the PSD[5]. The Solidarity Initiative[6], led by Ahmed Ben Saleh, who controlled the Tunisian Agriculture Union (currently the Union of Agriculture and Fisheries), then failed while a major split hit the Tunisian General Union of Labour (UGTT). These developments helped Bourguiba consolidate his control over the ruling party and the State in the 1960s. Getting used to exercising power unchallenged as the sole leader made it more difficult for Bourguiba to compromise or make any concessions. Moreover, the exercise of power in that way probably brought about psychological transformations in Bourguiba's personality, increasing his self-confidence and sense of own greatness[7].

The state's deliberate efforts to silence political opponents was itself a major factor in the emergence of an organized human rights movement in Tunisia[8]. The early organized human rights defenders were understandably more interested in the first generation of rights[9], mainly civil and political rights, against systematic violations and harassment of political and human rights activists, which continued in various forms under the rule of the Bourguiba and Ben Ali regimes. The State's relationship with human rights actors was characterized by attempts at domination, control and manipulation to promote a democratic image of a regime that was authoritarian in almost all ways. The State sought to fill the human rights scene with client supporters. This modus operandi continued until the eruption of the 14 January revolution, which was the end point of two authoritarian regimes and the beginning of a shift in the relationship between the State and human rights actors on a path of democratic transition.

The Tunisian revolution re-formulated the parameters of the relationship between the two sides by changing the nature of the regime itself. This had a major impact on increasing the space of freedom of expression and assembly for human rights actors, thus enabling them to press the state even further to introduce more legal and institutional reforms, in which human rights and citizenship were central drivers. The revolution also contributed to the reformulation of the strategy and objectives of human rights actors, thus adding diversity to the human rights scene, and shifting focus from the first-generation rights, which became more or less secured, toward second generation economic, social and cultural rights[10].

The rest of this paper will examine the history of the relationship between the state and various human rights actors since the birth of the human rights movement. On the state side, it will look at laws, institutions and policies in addition to the official human rights narrative. For human rights actors, we will consider strategies which ranged from confrontation to partnership. The review will be based on available literature and a number of interviews with relevant actors.

This history is being reviewed in an attempt to answer several questions: How was the human rights movement affected by (and how did it affect) its relationship with the State? How did the human rights movement evolve as a result of the dynamics of its relationship with the State from the emergence of the movement until the 2011 revolution? Has the human rights movement influenced state institutions in terms of legislations and practices after 2011? And how? And, finally, what is the role of the democratic transition process in reshaping that relationship?

First: A State with a narrow view of human rights

The nature of the political system in Tunisia has had a profound impact on the human rights movement. The Bourguiba regime had long indulged in top down processes to build state institutions including a demarcation of lines and spaces for non-state actors in the civil society (including human rights actors). Though restrictive, this approach by the State allowed for the continued existence of organizations and a space for activities by their members, but it was difficult or even impossible at times to carry out any meaningful or influential work outside certain limits laid out by the state.

After Ben Ali came to power a bloodless coup in 1987, the regime adopted a relatively open approach, especially on the economic front, and built a democratic political façade represented by regime clients. It introduced legislative and institutional changes

[3] The Socialist Dostourian Party (better known with its French acronym PSD) was the name chosen for the for the Neo-Dostourian Party after socialism was adopted by participants in the 7th congress in Bizerte, October 1964.
[4] Taoufik Elmadini. 2001. Al-Mo'areda Altunisia, Nash'atha wa Tatwriha (Tunisian Opposition: Emergence and Evolution), Damascus: Arab publishers' union. p. 26. (Arabic)
[5] Moncef Matri,2014. De Saint-cyr au peloton d'exécution de Bourguiba. Edition Noukouch Arabiya.
[6] The Solidarity Initiative lasted throughout the 1960s as an economic, political, and socialist initiative led by trade unionist Ahmed Ben Saleh and adopted by UGTT and later the new free Destourian Party.
[7] Robert Mitchel. 1988. "Political Parties", In Thomas Bottomore, Elites and Society, (Arabic translation consulted) Alexandria: Dar El Marefa Elgameya. p. 9.
[8] The LTDH was founded as the first Tunisian human rights organization in 1977.
[9] Foremost among which were the freedoms of expression, assembly, fair trial, conscience and the right to combat torture. All these relied on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
[10] The rights included in articles 22-27 of the International Covenant for Economic, Social and Cultural Rights.

that superficially complied with international treaties and used deployed human rights rhetoric, seldom backed by actions. The Ben Ali regime refused to engage in any real partnership with human rights activists who disagreed with the authority or criticized its practices. Soon it began to oppress and constrain them.

1. The State's view of human rights at the level of legislative structure

Authoritarian regimes in Tunisia adopted a monolithic vision that prohibited pluralism and restricted both political and civil spaces. This resulted in policies and laws aimed at silencing dissenting voices, especially in the field of human rights. However, the Bourguiba and Ben Ali regimes did this in the conviction that this field is exclusively the concern of the state and is subject to other internal prerogatives, even if at time it took into account, at least ostensibly, international political exigencies (especially for Western partners) which at times pressured the regime to improve its image or reduce the severity of violations.

After independence, and within the framework of building the nation state in Tunisia, various conflicts emerged, both within the single domineering party or generally on the political scene, especially with regard to the economic and political organization of the state[11]. Opposition groups emerged against the growing authoritarianism of Bourguiba among leftists and Arab nationalists, as well as against the state's liquidation of its opponents, either through political trials or actual physical attacks, as was the case in the trials of the "Aafak" leftist group, known as "Perspective", the Arab nationalist movement, trade unions, the Islamist Tendency, and the Islamic Front[12].

Those repressive practices continued with the Ben Ali regime in the trials of members of the Nahdha movement (formerly the Islamist Tendency) and followers of the Tunisian Communist Workers Party (POCT)[13]. Despite the relative openness during the Ben Ali era, it did not extend beyond liberalization of the economy and mild openness towards a weak multiparty system. The State adopted clear liberal economic policies translated into privatization of state institutions and advocating individual consumerism among Tunisians to expand the middle class. In view of social and political crises by the end of the rule of Bourguiba, Ben Ali introduced small political reforms to move allegedly towards a pluralistic democratic system. The regime claimed it worked for human rights to protect the safety, freedom and dignity of all Tunisians including the banning of torture and corporal punishment and guaranteeing freedom of belief, expression and the press[14]. But soon the regime turned against these principles after it had erected a democratic façade maintained by regime clients, including "opposition" parties, the majority of which were pro-regime, just to complete the trappings of a democratic scene.

A. Human rights structures and State control

- Government structures

After independence in the mid 1950s, the concept of civil society was not firmly rooted in the collective political consciousness. Civil associations which emerged during the anticolonial struggle, later became part of postcolonial state-building under the Isteklal party (Free Destourian Party then the Socialist Destourian Party PSD). After independence, associations became subject to Law 154 of 1959.

Tensions within the PSD in the 1970s after adopting a liberal economic policy led by Prime Minister Hedi Nouira, led to a split by some senior party members who went on to establish the movement of socialist democrats (MDS)[15]. Founders of this movement were the driving force behind the establishment of the Tunisian League for Human Rights (LTDH) in 1977[16]. At the time, the regime sought to control the LTDH through imposing representatives of the ruling party inside the organization board of governance[17].

The human rights movement, represented by LTDH, became a party to the political struggle spearheaded by the UGTT, especially in 1978[18] in response to austerity measures and restrictions on trade unions and political activities. The ruling party took off the gloves, closing down the UGTT headquarters and putting its leaders in prison.

Tunisia witnessed a short political spring after Ben Ali assumed power in 1987[19]. Several laws were amended as an expression

[11] The PSD faced a crisis after the failure of the socialist Solidarity Initiative by the late 1960s. The failure was blamed on Ahmed Ben Saleh, Minister of Planning and Economy. In the 1970s, the State adopted liberal economic policies led by Prime Minister Hedi Nouira, but that too foundered and led the country to the 1978 protests including confrontations between the state and UGTT members.

[12] After the 2011 revolution, it became the Reform Front Party and received a license in March 2012.

[13] A Group of Researchers. 2015. Political trials in Tunis: 1956 – 2011, Tunisia: The Higher Institute for Contemporary History of Tunisia.

[14] A National Charter was signed by civil society organizations, political parties and professional unions on 7 November 1988, which included a political road map for a pluralistic democratic regime (for a copy in Arabic see the High Commission for Human Rights and Fundamental Freedoms at www.droitsdelhomme.org.tn/?page_id=102).

[15] The disagreement began during the 1971 party congress. The internal opposition was led by Ahmed Elmestiri, Mostafa Ben Gaafar, Ismail Bulehya, Hamuda Ben Salama, Eldali Elgazi, and Abdelhay Showeikha. They were expelled from the party during the 1974 congress and organized under the banner of the Socialist Democrats as of 1978, a few months after they started the Raiy newspaper in 1977. The paper was joined by leftist and Islamist writers and was published until forced to stop under government pressures in 1987.

[16] Saad El Din Elzamarly was the first LTSH chair. He was one of the founders of the movement of Socialist Democrats.

[17] Souhayr Belhassen. 2004. "La LTDH ou la gestion des paradoxes". Confluences Méditerranée. Vol. 4:51), pp. 103-125 and p. 104.

[18] Social and political conditions deteriorated in the late 1970s until a crisis pitted the UGTT members against the regime led by prime minister Hedi Nouira. The decades-long alliance between the main labour movement and the ruling PSD dissolved. UGTT secretary-general Habib Ashour resigned from the PSD after the UGTT board concluded that the party was legitimizing a dictatorship based on violence and intimidation. The UGTT declared a general strike on 26 January 1978. Security forces besieged the UGTT headquarters and fired at protesters (400 were killed according to labour activists but only 52 according to the government). For more details see Yacine Nabil. "The events of 26th January 1978: Memories Smuggled from the Registers of the Regime". Nawat .26 January 2016 and available in Arabic at bit.ly/2r2V9la

[19] Former president Ben Ali removed his predecessor Bourguiba, on 7 November 1978, in a bloodless coup on the pretext of the latter's allegedly deteriorated health and inability to rule the country. The claims were supported by a report signed by a number of physicians.

of goodwill, and to comply with some international human rights legal norms. Among the first decisions of the new regime was the abolition of State Security Courts, which served as the main legal institution overseeing violations of human rights. These courts tried most of the politicians who opposed the Bourguiba regime. In 1988, Tunisia ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[20], and introduced new provisions guaranteeing the rights and duties of prisoners according to international standards[21]. In 2001, the supervision of detention institutions was transferred from the Ministry of Interior to the Ministry of Justice, to which was annexed the human rights sector in 2002[22]. To further strengthen the protection of human rights within the bureaucracy, the government appointed a Human Rights Coordinator in the Ministry of Justice in 2004.

In order to further polish the regime's image in terms of its alleged concern for human rights, specialized councils were set up, some of which dealt with rights-based issues. These councils monitored specific situations within their mandates and prepared annual reports. Most of those councils were advisory and the government appointed their supervising bodies, and thus their remit never went beyond the boundaries of monitoring and evaluation. They included:

- The National Council for Women, Family and the Elderly[23].
- The Higher Council for the Promotion of Employment.
- The Higher Council for Social Development and Welfare of Disabled Persons[24].

These councils were headed by the Prime Minister and included various ministers according to the mandates of their ministries, in addition to general secretaries of political parties represented in the House of Representatives and national federations[25]. Most of those were political clients amenable to the manipulations of the ruling regime, while most of the independent civil society actors and organizations, especially those working on human rights were completely absent. Those councils met once a year which was inadequate to the complexity of the tasks entrusted to them.

In the same context, human rights units were introduced in the Ministries of Interior[26], Justice[27], Foreign Affairs and Social Affairs. They were mandated to receive complaints relevant to the remit of each ministry, communicate with various international bodies and foreign NGOs active in the field of human rights, and follow up on issues related to state treaty obligations. Although these units could have played a supervisory role with regard to human rights and report to higher levels of the ministries, they did not. They were ultimately part of the regime, unable to challenge the political authorities or combat violations by security agencies, even in internal reports concerning conditions of political prisoners, their treatment or constrains imposed on them, foremost the alleged members of the Islamist Nahdha Movement and a number of human rights defenders.

The regime also complied with the Paris Principles regarding the creation of national human rights structures, ensuring their independence and granting them powers to ensure effectiveness. The regime amended the legal status of the High Commission for Human Rights and Fundamental Freedoms to make it legally independent from the state[28]. However, its statutes and regulations still subordinated it to the presidency whereby the president enjoyed the power of appointing the chair of the Commission, who enjoyed absolute authority in running the affairs of the institution, and thus ensure its subservient role within the ruling regime and compliance with its directives[29]. The Commission's work did not go beyond preparing consultative reports. Through its silence, it somewhat contributed to whitewashing rights violations by the regime in front of international organization and other relevant actors[30].

In short, Ben Ali's strategy in the field of human rights was based on a ceaseless attempt to fully assimilate and integrate human rights actors and structures within state institutions and to impose restrictions on the remaining independent human rights activists.

2. State interaction with human rights activists (co-optation or repression?)

A. Official discourse

The Ben Ali regime deployed a rhetorical framework highlighting an alleged interest in human rights and contrived achievements in this regard. The former president dedicated part of his speeches on every anniversary of his ascent to power on November 7 to brag about the regime's achievements in the field of human rights. The government also officially marked the international human rights' day or the 10th of December, the anniversary of the Universal Declaration of Human Rights. Most of these speeches focused on alleged rights achievements and continued political openness, pluralism, protection of the rights

[20] Ratification without reservations took place in June 1988.
[21] Law No. 14 in 2001.
[22] Tunisian legislations improved in the area of detention thanks to Law No. 77 of 2000 which established the penal enforcement institution, the powers of which were regulated by Law No. 92 of 2002 granting its judges the power to monitor and enforce freedom-depriving penalties in prisons and detention centres, and to assess the extent to which the rights of the prisoners are respected in these facilities.
[23] Decree no.1702 in 2003 on the formation, structure, function and administration of the council. See the Official Gazette, No. 67 for 2003.
[24] Those councils were established by decree no. 3080 in 2010. See the Official Gazette, No. 98 for 2010.
[25] The UGTT, the Union of Industry and Commerce, and professional unions (doctors, engineers, lawyers, etc.).
[26] Memo No. 32 in 1992 by the Minister of Interior.
[27] Decree no. 1330 in 1992.
[28] The Commission had been affiliated to the presidency by decree no. 1954 of 1991. In compliance with the Paris principles, law 37 for 2008 was passed to regulate the Commission. See Official Gazette, No. 51 for 2008.
[29] The position was held by Rashid Idriss (1991-2000), Mohamed Kamal Sharaf El din (2000-2003), Mohamed Hussein Fantar (2003-2009), Monser El Roueissy (2009-2012), all of whom are known for loyalty to the former regime.
[30] National reports by the Commission from 2003 till 2007 dwelt on 'harmless' subjects such as development of laws on the rights of the child, housing, funding of legal parties, while staying away from sensitive such as torture, conditions of political prisoners, and public freedoms.

of children and women, etc. The elaborate party machinery dominated all public sectors, notably the media organs, marketing a bright picture of the status of human rights in the country, while at the same time attacking and vilifying independent rights activists and political opponents[31]. Likewise, some political parties represented in the House of Representatives contributed to the polishing of the regime's human rights record[32].

B. Dealing/duelling with human rights defenders

In dealing with the human rights scene, foremost independent human rights defenders and political activists, the state focused on containment. It appointed some defenders in political positions[33], while it oppressed others and restricted their ability to work[34]. In other words, the state sought to contain those who were containable and to oppress those who insisted on confronting the state and its negative human rights record.

The LTDH remained the only independent human rights organization for a long time. Regime interventions failed to dissolve the organization because of its deeply rooted position since the anticolonial struggle era but, nevertheless, these measures almost paralyzed the LTDH. Until 2000, the organization was the principal actor exposing human rights violations in the country. It was sought by most of the oppressed in all aspects of life and constituted a refuge for them, where they submitted their complaints regarding violations against by various state structures.

On the other hand, the UGTT constituted a dual space for both containing defenders of economic and social rights as well as a space of confrontation of the regime. The UGTT historical legacy and aura since the anticolonial years and its strong and influential leaders such as Mohamed Ali Al-Hami, Ferhat Hashad and El Habib Ashour protected the union from state full co-optation. These factors, however, did not prevent the ruling regime from confronting the UGTT and restricting its work.

Security forces besieged the offices of human rights organizations such as Freedom and Justice (or Hurriya wa Insaf), which was closely under surveillance and had some of its members arrested[35]. Security agencies went after the LTDH to prevent meetings and impede interaction with complainants, especially political activists. Human rights activists were harassed in their homes, as was the case with human rights defender Ali bin Salem, whose residence in Bizerte had been besieged for years as of 2005[36]. Other activists and defenders were legally persecuted with trumped up charges such as the case against rights defender and journalist Taoufik Ben Brik[37]. Security agencies sought to curtail internet access for activists and monitor it closely, such as the case of the important Tunisia News website[38]. Human rights defenders were obstructed and prevented from documenting abuses, forcing many of them to work underground to communicate with survivors and/or document cases in order to prepare reports on the human rights situation in Tunisia[39].

Human rights actors' strategies almost exclusively focused on documenting state human rights violations in order to expose and shame state actors through collaboration with international organizations concerned with the human rights situation in Tunisia, such as the International Federation of Human Rights (FIDH), the European Commission for Human Rights and the UN Office of the High Commissioner for Human Rights. This collaboration led to various reports and advocacy campaigns[40].

In order for the Ben Ali regime to tighten its grip on the civil society in general and human rights organizations in particular, it amended the law of associations[41], to enable members of the ruling party to join associations, whose statutes until then required that new members be approved by the board of the relevant association[42]. The law states that "associations of a national nature may not deny membership to any person who adheres to its principles and decisions unless this person was stripped of his civil and political rights... In the case of a disagreement regarding membership, the applicant may file a case with the court of first instance in the constituency of the association". The LTDH was the primary target of this amendment law to prevent it from rejecting the authority's attempts to engage and control it through its structures.

As of 2000, public freedoms (freedom of expression, assembly and associations, etc.) were priorities on the agenda of the hu-

[31] See few reports in the Arabic Kol Elnass magazine, issue 1084, 5 December 2009.
[32] During the 2011 uprising, loyal parties issued successive statements in support of Ben Ali. See Turess. "Opposition Parties Deplore Exaggerated Media Coverage of Events in Tunisia". 27 December 2010. Available in Arabic at www.turess.com/tap/32384
[33] For example, El Dali El Jazi, an LTDH founder and a member of the Social Democrats bloc, was appointed minister in several cabinets between 1989 and 2004.
[34] For example, the trial of Khomais El Shamari, an LTDH leader and a member of the Social Democrats, and the trial of human rights activist Radhia Nasrawi in 1999 for "facilitating a meeting for an association that disseminates hatred" in reference to the Communist Party of Tunisia.
[35] Truth and Equity Organization, "Board Members from Arrest and Questioning to Siege and Surveillance", 18 November 2010.
[36] Turess. «Breaking the Siege on the House of Ali ben Salem to Deliver the Award of Mohammed Chakroun for Human Rights". 25 April 2008. Available in Arabic at www.turess.com/alwasat/10891
[37] A joint statement by LTDH, NCLT, National Monitor for Freedom of the Press, the International Association for the Support of Political Prisoners, the Tunisian Association against Torture, and the Truth and Equity Organization. The statement was issued on 26 October 2009 after opposition journalist Taoufik Ben Brik was attacked by a woman in front of his daughter's school; the woman claimed that he hit her car and filed a complaint against him, for which he was sentenced to 3 months in prison.
[38] Tunis news was a central website for human rights activists and opposition groups. It published reports on violations of human rights in Tunisia and was blocked by the government.
[39] LTDH, untitled statement on 2 June 2006.
[40] This collaboration led to several reports by international organizations such as the International Federation for Human Rights (FIDH). The FIDH submitted a report to the UN concerning the situation of freedoms in Tunisia in November 2007. This report addressed restriction on the freedom of organization and assembly, freedom of expression, violations against human rights defenders, lack of independence of the judiciary, and violations committed under the pretext of counterterrorism. The report was posted on FIDH website.
[41] Law 25 in 1992 complementing law 154 issued in 1959 concerning associations.
[42] Chapter I of Law 25 for 1992.

man rights movement in view of the systematic violations by the state, in addition to advocacy efforts against torture of political activists from various factions by security agencies.

In response to the increase in human rights activism and the publication of international reports addressing Tunisia's violations, the state escalated its policies to tighten its grip on the political space in general and the human rights scene in particular. The regime boycotted the annual meeting of the UN human rights committee in 1998 and obstructed the organization of the annual congress of LTDH in 2000 after it dismissed pro-regime board members. Pro-regime members filed a case to invalidate the proceedings of the LTDH congress. They succeeded after eight long years of litigation and in 2009[43], they confirmed their "right" to stay on the LTDH board. The regime used the same tactic to file lawsuits in order to invalidate regional LTDH conferences that had excluded members of the ruling Democratic Constitutional Rally (RCD)[44]. Different measures followed to clamp down on rights activists through the use of various media outlets to distort, defame and disrupt their work[45].

The regime continued to deploy a mix of encouragement and intimidation tactics with human rights activists. During the wide scale protests in the mining basin in 2008[46], human rights activists and journalists were prevented from entering the area by security forces. Activists and non-activists were arrested including Adnan Al-Hajji (spokesman of the protests in the mining basin), who was sentenced to 10 years, of which he served 17 months to be released after a UGTT mediation to help calm down activists in the turbulent area, a role that the UGTT often played as an intermediary between the state and labour protesters[47].

Second: A participatory vision of human rights

Accumulated political and social problems and continuous rights violations by the dictatorial authorities, all compounded by the failure of economic policies with a grave impact on the low-income classes led to a social explosion that began on 17 December 2010 and extended to January 2011. The days of the popular uprising ended with the flight of President Ben Ali, the overthrow of his regime and the participation of the opposition political movement, the human rights movement and other civil society organs in the reformulation of the political system of the state and a process of democratic transition on the basis of citizenship, framed by human rights principles at the levels of legislation, practices and institutions. A partnership between human rights actors and the state bureaucracy evolved, but then eventually began to fray and fluctuate due to economic pressures and political differences.

1. Consensus in vision

The January 2011 revolution created an opportunity for human rights actors to play a central role in building a democratic state. It was an opportunity that was valued by human rights activists, many of whom were also in various ways political or labour activists, through the participation of the LTDH, the Tunisian Association for Democratic Women (ATFD)[48] and the National Council for Liberties (CNLT)[49] in the Higher Authority for the Realization of the Objectives of the Revolution, Political Reform, and Democratic Transition[50]. This body oversaw the early stages of the democratic transition, particularly the measures necessary to dismantle the former repressive regime. Human rights defenders played a key role to insert universal principles of human rights as the minimum standards for the restructuring of state institutions in view of the changing sentiment of the Tunisian people, who broke long entrenched barriers of fear of the oppressive police machinery.

At the level of political and civil rights, the human rights movement and the new regime were in agreement. This contributed to achieving a complete openness in the political arena, especially with respect to the freedom of expression and organization (formation of parties and associations)[51]. The number of human rights organizations rose to nearly 1,000 between by 2016[52]. Human rights activists had an important supervisory role during the democratic transition to ensure the adequate adoption of human rights principles through active participation in liquidating the legacy of the old regime as well as in the vigils (which came to be known as Kasba I)[53] that objected to attempts of whitewashing former regime's symbols. These protests forced the government of Mohamed al-Ghannouchi to fire ministers who belonged to the former regime and then forced him himself to resign and assign Beji Qaid El-Sebsi to head the interim government in March 2011.

[43] Case no. 11692 in 2001 was not adjudicated until 2009. The court annulled the proceedings of the LTDH congress.
[44] LTDH statement issued on 11 June 2009
[45] LTDH statement issued on 20 July 2009
[46] Gafsa and Sidi Buzid areas have Tunisia's richest phosphorus mines. Social protests erupted there against the lack of adequate services and rising unemployment despite the abundant natural resources. Police forces brutally suppressed the protests.
[47] Adanan Haji was charged with a long list of offences including setting a group to plan attacks against people and property, blocking public roads and traffic, possession of incendiary materials and throwing it at properties, assaulting a public servant and taking part in a mutiny after calling for it through public speeches, meetings, advertisement and leaflets. See Turess. "After Serving 17 Months, Abdelsalam Jarad Receives Leaders of the Protest Movement". 4 November 2011. Available in Arabic at www.turess.com/kalima/742
[48] AFTED, which is focused on women's rights, obtained legal license on 6 August 1989.
[49] CNLT was founded on 10 December 1998 but was not recognized by the state to operate legally till after the revolution.
[50] The Higher Authority was founded on 15 March 2011 with representatives of 12 political parties, 18 CSOs, and some public figures, provincial representatives and representatives of families of the martyred during the January revolution.
[51] The number of political parties reached 206 (there were only six state-recognized parties before the revolution). The number of CSOs rose to 1,600 compared to 900 before the revolution, A large number of human rights organizations emerged that defended specific minority rights including sexual, ethnic and cultural minorities (e.g. Amazigh)
[52] Almonther Buseneina, Chef de Cabinet of the Minister of Relations with Constitutional Bodies, Civil Society and Human Rights, "Intervention in a National Seminar Organized by Kawakibi Center for Democratic Transition on Human Rights Governance in Tunisia between Needs and Priorities". 18 October 2016. Tunisia.
[53] The protest broke out on 27 January 2011, with a large number of independent and party-affiliated Tunisian youth, including the Progressive Socialist Party, the Tunisian Communist Party and the Nahdha movement.

The initial consensus between human rights activists and the state institutions resulted in the reconsideration of a number of official structures dealing with human rights through the establishment of independent committees and bodies such as the Truth Commission on Corruption and Bribery[54], the Independent High Electoral Commission, chaired by Kamal Jendoubi, a human rights activist and member of the Euro-Mediterranean Human Rights Network[55], and the National Fact-Finding Commission on abuses documented during the period from 17 December 2010 to the completion of its tasks, headed by human rights defender Taoufik Bouderbala, a former LTDH president[56]. The assumption of veteran human rights activists of leadership positions in such independent bodies reflected the new status of the human rights movement in the reformulation of state institutions as well as an expression of harmony between the transitional state and human rights activists who were looked upon as a driving force leading the state towards establishing a rule of law based on guaranteeing various human rights (political, civil, economic, social and cultural).

Given the state of political repression that the country had experienced since independence in the mid-1950s, political and civil rights have dominated the reforms associated with the transition away from the fallen dictatorial regimes. With the election of members of the Constituent Assembly on 23 October 2011 and the beginning of formation of state institutions, differences emerged regarding constitutional principles which frame economic and social rights.

2. A relationship disturbed

The relationship between human rights actors and the state became complicated during the process of drafting the constitution because of the way public policies were formulated and managed, resulting in confrontations and differences between various political parties, most notably the ideological struggle between nationalists, secularists and Islamists.

These tensions expressed the normal contentious nature of interaction between human rights defenders and a state since such activists should in essence monitor and critique state policies and practices in order to prevent violations of political and civil rights or to ensure economic, social and cultural rights.

Certain human rights organizations focused on countering any attempt by the emerging regime to reproduce the decades-old repressive strategies. Tunisia has since been grappling with a complex and shifting political alliances, an entrenched economic crisis, and a complicated social reality.

A. Impact of human rights principles on the relationship with the state

The drafting of the Constitution was the first milestone to highlight the complexities of the relationship between the state represented by the Constituent Assembly[57] and human rights actors. Ideological diversity created a political diversity reflected in contradictions and differences between the various political parties and NGOs in Tunisia. Despite the existence of other human rights activists who were interested in gender, race and sectoral rights represents by professional unions (journalists, labour, judges, etc.), two fundamental trends prevailed on the rights scene, the modern and the Islamist. Ideological differences constituted a defining point in the relationship, even though they met at certain levels that lacked the ideological component. For example, the Tunisian Association for the Defence of Laicite (secularism), which focused on basic human rights including the right to a fair trial operated in the same sphere as the Tunisian Observatory for Rights and Freedoms, which is primarily concerned with defending terrorism suspects[58]. Both organizations defended the right to a fair trial, but radically differed in their views of the essence of those types of cases because of their ideological differences.

Rights activists are supposed to believe in principles that represent the framework for interaction between them and the state, the latter usually being accused of violating rights or not providing enough guarantees for their protection. In reality, however, the ideological affiliations prevailing within human rights organizations and networks in Tunisia sometimes interfere with this referential framework. This situation even led to conflicts in practice when the ideological underpinnings of a given organization were themselves contradictory. For example, the Observatory of Rights and Freedoms, which was created mainly to defend the rights of terrorism suspects was set up by various Islamist individuals[59]. According to them, modernists in control of the state, to whom the Islamist Nahdha movement had 'acquiesced' were waging a political campaign against 'independent' Islamists in the name of counterterrorism. It is noteworthy that the Observatory did not participate in the defence of any other rights such as sexual rights or equal inheritance for women and men. At times, the observatory even expressed support for radical religious groups, claiming they were victims of violations committed under the guise of the antiterrorism law[60].

Meanwhile, several other organizations were established to monitor government activities such as the I Watch, which is a watchdog organization focused on financial and administrative corruption and issues of transparency. I Watch had a visible impact in the political arena as it closely monitored and campaigned on certain issues. It even filed lawsuits against violators[61].

[54] Decree no. 7 issued in 2011.
[55] Decree no. 27 issued in 2011.
[56] Decree no. 8 issued in 2011 stipulated that the Commission's work would conclude after processing all cases within its jurisdiction.
[57] This assembly was the outcome of the elections of 23 October 2011 when Nahdha movement won a majority of seats.
[58] The Observatory was founded by lawyer Anwar Welad Ali who defends suspects in terrorist cases.
[59] Such as Anwar Welad Ali, a lawyer, Seif El Din Makhlouf, a lawyer, and Marwan Eljadd, who is an Islamist activist.
[60] The Observatory claimed that the Salafist movement and Islamist societies had been exclusively targeted for months. See the Tunisian Observatory for Rights and Freedoms, "The Observatory's Response to a Complaint by the Ministry of Interior". 23 November 2013. Available in Arabic at www.babnet.tn/rttdetail-75252.asp
[61] I Watch was established in 21 March 2011. See its website at www.iwatch.tn. It filed a case against Qarawi & Qarawi, which owns Nesma satellite TV channel for suspected tax evasion.

Human rights actors played a prominent role in shaping the emerging regime, especially when the Islamists dominated it for a while, to include human rights principles in the constitution. For example, the LTDH led a protest in front of the headquarters of the National Constituent Assembly to demand to be heard[62]. Members of the Committee on Rights and Freedoms at the assembly responded to the demand of expanding consultation before the final draft was completed[63]. Other committees in the Assembly followed suit and held various hearings on issues such as the right to work, the right to strike, security unions, etc.

The development that epitomized this mutual and complex interaction was the number of prominent human rights activists who assumed positions of power in political and other state institutions. Kamal Jendoubi presided over the Independent Electoral Commission; Mohamed Al-Moncef Marzouki, the prominent Tunisian rights activist, became the President for a while, to face criticism from human rights defenders, especially when he handed over the last Libyan premier under Gaddafi to the ruling authorities in Libya. Al-Baghdadi Al-Mahmoudi had written to Marzouki few months earlier to seek guarantees for his rights as a prisoner in Tunisia and expressed concern about being handed over to an unstable state that cannot provide full guarantees for a fair trial[64].

But within this tumult, it was clear that the state was bent on creating formal structures, enshrined in the constitution, whose role is to monitor the state itself for rights abuses and play a an ombudsman role in issues in which the state cannot be both a party to the conflict and a judge[65]. Still, some independent human rights actors criticized those structures because most of them were of a consultative nature, and the selection of their members and senior officers not streamlined enough since they were in essence based on ensuring acceptable political quotas. This is what happened, for example, when selecting the members and chair of the Truth and Dignity Commission[66]. The Constituent Assembly which conducted the process went through internal disputes and then reached consensus around nominees, especially the president of the commission, Seham Ben Sedrin[67], herself a prominent human rights activist who had been known for bravely challenging the former regimes.

B. The impact of state choices on the relationship

The relationship between state institutions and rights actors was characterized by consensus, even overlapping and multiple role playing, since the National Constituent Assembly elections in 2011, and later, the legislative and presidential elections of 2014. However, it was gradually subjected to various pressures.

Tensions first rose when debating the principles of the 2014 constitution then dramatically increased as economic, social and international factors complicated the policy formulation arena in Tunisia. The slowdown in economic growth and the popular demands on the state, fuelled the increasing challenges that the state could not meet and led to rights-based popular protests including the right to work and adequate social services in the fields of health and education.

The state adopted harsh measures in response. These measures were criticized by human rights defenders after repeated attacks on journalists and UGTT activists, as well as the use of violence to break up sit-ins, such as happened in the Siliana protests[68], which were severely suppressed by Tunisian security forces in November 2012 resulting in the injuries to more than 100 people[69]. In justifying the repressive reaction, Minister of Interior, Ali Larid, at the time stated that he was not authorized to give detailed orders on how security forces reacted to social protests, and that he had no knowledge of the means used in that respect[70]. In order to appease human rights actors, the government often formed fact-finding team to investigate such incidents, including in Siliana. The latter did not produce any clear conclusions or recommendations, nor was it expected that any disciplinary action would be taken against security officers who caused physical injury to protesters, whom the state at the time provided with health care. The state followed the same conduct after an attack on UGTT activists, denying any ties to the attackers who belonged to the associations for the protection of the revolution. There again, a fact-finding committee was formed with the participation of human rights activists, among them LTDH members[71].

The anti-terrorism law also led to a confrontation between rights actors and the state. Although some rights actors acknowledged the importance of having such a law, they demanded that defendants enjoy all their constitutional rights. Although human rights activists participated in the drafting of the anti-terrorism law, the state, they claimed, did not fully comply with it in practice, particularly with regard to the prevention of torture. The Tunisian judiciary documented repressive and degrading practices of prisoners based on medical reports. Human rights actors criticized reports by the commissions of inquiry, which in-

[62] A protest vigil was organized by LTDH activists together with other human rights organizations on 22 November 2011.
[63] The Committee on Rights and Freedoms at the Constituent Assembly invited LTDH chair Abdelsattar Ben Moussa and the coordinator of the International Association for the Support of Political Prisoners Saida Elakramy to a hearing on rights and freedoms in the draft constitution.
[64] Elboghdadi Elmahmoudi was the last Libyan Premier under Gaddafi. Despite a written plea, he made to the interim president AlMarzouki in May 2012, expressing concerns about the lack of guarantees of a free and fair trial in his home country, he was handed over to transitional Libyan authorities two months later.
[65] Interview with Almonther Buseneina, Chef de Cabinet of the Minister of Relations with Constitutional Bodies, Civil Society and Human Rights.
[66] The Commission was established under law no. 53 in 2013 to identify and investigate human rights violations.
[67] Ben Sedrin was elected on 17 June 2014 by the Commissioners.
[68] The Siliana protests erupted on 28 November 2012 in front of the municipality where a large number of young people demanded the resignation of the Nahdha-appointed governor.
[69] See the coverage of Tunisie24 for Silian's protests at www.tunisie24h.com/2012/11/28/
[70] Interview with Ali Larid, former Premier and former Minister of Interior, 10 October 2016.
[71] These UGTT activists were celebrating the memory of the assassinated labour leader Farhat Hashad on 4 December 2012. The suspects in the attack belonged to the Leagues to Defend the Revolution which were established after January 2011until dissolved by a court order in May 2014. The Leagues were established by leftists to press the first post revolution cabinet led by Mohammed Ghannouchi who had enlisted some ministers from the Ben Ali regime.

cluded members of the House of Representatives, and described them as biased in favour of security agencies[72]. In this context, human rights organizations stressed the continued practice of torture in prisons and detention centres[73], and LTDH announced that more than 400 cases of torture were documented between October 2013 and October 2015. The authorities remained silent regarding these accusations and, in flagrant cases, promised to investigate.

Conclusion

Seven years following the Tunisian revolution, one can document various gains on the human rights front resulting from a radical change in the relationship between the state and the human rights discourse and defenders. Paramount was the transition of the ruling regime away from the autocratic and authoritarian nature that characterized it for almost all the post-colonial era. A solid track has been opened towards a state for its citizens under rule of law with a range of rights and freedoms within the framework of a democratic setup in state institutions, subject to oversight by a human rights community that plays the role of monitor, critic, advisor and sometimes even partner with state institutions.

However, there had also been some failures that resulted from Tunisia's political and economic transformations and threats by terrorist groups. The most negative element lies in the failure of the state and the human rights community to pressure or push towards realistic policies to address the most complex problems of Tunisia, i.e. those of the economy. The increasing unemployment, economic stagnation and the adoption of neoliberal policies (and even attempts at reconciliation with some businessmen of the old regime) have led to a sense of abandonment among large sectors, especially among young people and residents of impoverished marginalized areas, especially in the south. Instead of moving towards a change in economic policies, which may have been difficult in view of regional and international dynamics, the role of the state was largely limited to confronting the consequences of economic failures. This translated into confrontations with successive social protests in ways that violated fundamental rights, and which at times even included arresting bloggers[74]. More alarming was the return of the practice of torture as documented by human rights defenders in detention centres and prisons, not only against detainees in terrorist cases, but also others held for criminal offences[75].

The prospects of human rights work in Tunisia in the future remain full of challenges, perhaps for many years. They are subject to the precarious political and economic situation and its impact on a suffocating social reality. This relatively gloomy picture is further complicated by the danger of terrorism by Jihadist groups, large numbers of whose members, according to claims by the state, have returned to Tunisia from war-torn countries in the region[76].

In the absence of realistic, but quick, solutions for these economic and security challenges and in light of the State's inability to meet various social obligations due to regional and international circumstances and the policies of the ruling regime, human rights in Tunisia will remain under threat. The threat is likely to continue despite the clear political will of the majority of the ruling class, refusing to return the country to the pre-January 2011 regime.

[72] A parliamentary committee was formed to investigate cases of alleged torture of detainees arrested in terrorism cases.

[73] The LTDH 2015 report on the situation of public freedoms in Tunisia, presented by its chair Abdelsattar Ben Moussa during a press conference, 28 September 2016.

[74] For example, the police arrested blogger Hamadi Elkhalify for publishing a photo of president Sebsi, which the judiciary considered to be a call for the assassination of the president. He was later released after a protest rally in front of the Municipal Theatre in Tunis on 23 December 2016.

[75] Mohamed Samieh Albaji Akaz. "Administrative Surveillance from the Detention Room to a Daily Siege". Nawat. 20 December 2016. Available in Arabic at bit.ly/2I2DOAP

[76] Statement by Minister of Interior Alhadi Almaghdoub in a hearing at the House of Representatives on 23 December 2016, where he claimed that 800 Tunisians Jihadis had returned from war-torn areas such as Syria, Iraq, and Libya.

Human Rights and the State in Morocco: Impact of the 20 February Movement

Rachid Chennani

Summary

The relationship between the human rights movement and the state in Morocco has gone through two major stages since the movement appeared in the 1970s. The first phase (1970s–1990s) was antagonistic in the broader ferocious political conflict that lasted from independence till the 1990s. Civil and political rights were routinely violated, and members of the opposition were incarcerated in secret detention centres. The state oppressed or ignored human rights activists or tried to contain them during that stage. This came to a gradual end in the early 1990s. The ruling regime changed the way it viewed the human rights movement and human rights themselves. Political detainees benefited from an amnesty and a process of reconciliation evolved as the state opened up the dark files of repressive practices such as arbitrary arrests, torture and enforced disappearances. The second phase, which began in the mid-1990s, came after the ruling regime had created and stabilized state institutions and the modalities of governance. It was then able to begin a calculated political opening bolstered by various internal and external forces. This, however, did not change the essentially contentious nature of the relationship between the human rights movement and the state. The conflict became subtle and more refined. The state attempted to turn the dark page of human rights' violations within a process of transitional justice. Despite harsh criticism, this process heralded in some way the end of systematic torture, forced disappearance and detentions without fair trials. The scope and spread of human rights organizations and activists expanded in the following two decades, particularly after the movement of 20 February 2011, leading to the adoption of a new constitution that explicitly acknowledged the supremacy of international treaties and human rights laws and legislation.

This paper reviews the history of the state's relationship with the whole paradigm of human rights as it relates to society and politics and with human rights defenders in particular.

Introduction

The human rights movement in Morocco presents a rich and diverse model in North Africa; one that reflects domestic, regional and international influences, starting from its formation as a force in the political and social domains in the 1970s and 1980s, through the 1990s political transformation towards greater participation and the gradual abandonment of systematic repression, violence and violations of political and civil rights by the state. The movement flourished in the late 1990s bolstered by the new consensual alternation system for governments and was part of the 20 February 2011 movement in the context of the Arab Spring, leading to the adoption of a new Moroccan Constitution that clearly recognizes the supremacy of international human rights treaties[1].

Historically, the state›s relationship with the human rights movement was characterized by oppression and systematic disregard mixed with attempts for containment at times. This was the case until the early 1990s when the state began a gradual recognition of the human rights movement and started to deal with past violation through acts of amnesty, reconciliation and settling issues related to detainees, torture and enforced disappearances.

The emergence of the human rights movement with the establishment of the Moroccan League for Human Rights, the Moroccan Association for Human Rights and the Moroccan Organization for Human Rights was characterized by political affiliation, since a large part of the movement was associated with the leftist Marxist movement – although it explicitly adopted the International Bill of Human Rights as a main reference. For many years, this birth was affected by the dynamics of the relationship between the state and the human rights movement, where the state dealt with it in a hostile and suspicious manner, while the movement focused on political and civil rights before expanding in the past two decades, especially after the 20 February 2011 momentum, to advocate for economic, social and cultural rights.

The human rights movement in Morocco developed in close contact with political parties and in defence of detained political activists. In 1972, the Moroccan League for the Defence of Human Rights (Ligue Marocaine pour la Défense des Droits Humains, LMDDH) was established as the first Moroccan human rights NGO. It had a close relationship with the Istiqlal (Independence) party. It was followed by the Moroccan Association for Human Rights (Association Marocaine des Droits Humains, AMDH) in 1979 as a human rights organization born within the Socialist Union of Popular Forces, to be later adopted by the Democratic Socialist Vanguard party and is currently politically close to the Democratic Path Party. In 1988, the Moroccan Organization for Human Rights (L'Organisation Marocaine des Droits Humains, OMDH) was established independently of political parties. In the context of a re-arrangement of the political scene[2], the palace undertook some reforms launching a phase of political détente in the early 1990s. King Hassan II established the Consultative Council for Human Rights in 1990, imitating a French model of a similar institution founded in the 1980s. In 1993, a ministry for human rights was established and, in June of the same year, Morocco ratified the United Nations Convention against Torture. Starting 1998 the Ministry of Justice and Prison Administration

[1] Starting in 1992, Morocco under King Hassn II, started to ponder a political transition away from repressive authoritarianism. But relevant ideas related to political reform, trnasition to genuine democratic practices, releasing political prisoners, inviting the opposition to a national dialogue and participation, and, ultimately amending the constitution. This slow process culminated into the appointment of Abdelrahman Youssefi, the secretayr general of the Socialist Union Part, as primie minister in 1998 in what was known as the alternting government system, under which the prime minister did not have to come from the political party that won the majority in the parliamenaty elections. This experiment ended in 2002.

[2] Mohamed Mouaqit. 1995. "Le Mouvement des droits de l'homme au Maroc: Du Makhzen à l'Etat de droit". Annuaire de l'Afrique du nord. Tome XXXIV. p. 27.

began to apply a law that mandated autopsies of those who die in detention as a routine procedure[3].

Civil society expanded too. The Commission for the Defence of Human Rights was established in 1992 in Marrakesh and had a local focus. The field continued to expand with the birth of other human rights organizations which took a comprehensive approach to human rights and those which specialized in specific fields (women›s rights, children, villages and neighbourhoods). This was considered by some to be a point of strength, since the spread of human rights associations and their diversity lays roots for a movement deeper within society and in relation to the state. However, others saw it as a weakness because it may contribute to the dispersion, fragmentation and infiltration of the field of human rights. The latter view emanated from a concern that the more visible and spread civil society organization are the more tempted the state to encroach on its domain and even create its own civil society organizations (CSOs). This suspicion grew after 2005 with the government/s «National Initiative for Human Development» as some feared CSOs would multiply but their impact would decrease[4].

Human Rights organizations and the State: Conflict or Integration?

The human rights movement in Morocco first appeared in the form of moral and legal demands during colonial times and has continued ever since. The relationship between the state and the human rights community was dominated by the state's desire to preserve and enhance a composite identity that combines traditions and modernity while containing the civil society[5]. For the first two post-colonial decades, the state was absorbed in the mission of establishing and maintaining various institutions. It always sought to contain civil society, leaving no room for CSOs outside its control[6]. In return, various CSOs always tried to ensure their freedom and independence, and to influence state policies and practices.

Despite the spread of human rights CSOs, this proliferation has often been – directly or indirectly – condoned or ignored by the state. The ruling regime especially the palace, has long demonstrated its ability to change the balance, either through containment, deterrence or violence, or by reengineering the political realm through fostering new elites or setting up political parties or civil society actors within what has come to be known as the "democratic margins"[7].

The evolution of the human rights movement in Morocco is generally linked to the multiple effects of domestic and foreign policy prerogatives, as well as the interaction among civil society components and political currents. Important political transformations in the 1990s, particularly those affecting human rights, can be understood through a quick review of relevant internal and regional developments[8].

Morocco emerged from the post-independence decades of social and political tension in the late 1980s. These three decades witnessed the events of March 1965,the declaration of an emergency[9] state three months later[10], two coup attempts in 1971 and 1972[11] and the events of March 1973[12]. With the end of the Cold War, the Moroccan state had stabilized its political institutions but faced serious economic challenges. To face these challenges, it started to include political opposition elites, especially from the left, into the circles of government. This also was meant to help stem the rise of Islamist groups which constituted a greater threat to the regime. Sensitive files, such as political detainees, brutal torture and enforced disappearance in infamous detention centres (e.g. Tazmamart, Agadez, Qal'at Magouna, Moulay Ali El-Sherif, Dar Berisha, etc.) started to appear in newspapers and books.

King Hassan II began his reforms in the field of human rights by establishing the Consultative Council for Human Rights in 1990[13], and then the Ministry of Human Rights in late 1993 to prepare and implement government's human rights and rule of law policies. In addition to those institutions, a comprehensive amnesty was issued in July 1994. Five years later, under the reign of his successor, Mohammed VI, the "Independent Arbitral Tribunal for Compensation Resulting from

[3] Susan Slymovic, The Performance of Human Rights in Morocco, Philadelphia: University of Pennsylvania Press, 2005, p.21.
[4] Interview with Ahmed El Haij, head of the Moroccan Association for Human Rights (AMDH), 28 October 2016.
[5] Mohamed Mouquit, "Le Mounvement".
[6] Mohamed Abded El Gabry, "Democracy and Human Rights", Ketab fi Garida, Issue 29:5195, 2006, (Arabic)
[7] Nour el din Elzahi, "Moroccans and Protest". Weghet Nazar, Issue 19-20, 2003, p. 11. (Arabic).
[8] Mohamed Darif, Human Rights in Morocco, Study of Moroccan General Law, 1994, p. 17. (Arabic).
[9] In March 1965, pupils and students protested in Casablanca after a decision by the Minister of Education Youssef Bel Abbes to expel students from primary and high schools if they had failed to enroll before a specified age, thus depriving them from sitting for the baccalaureate exam.
[10] The emergency rule was declared in June 1965 for many reasons. including an unprecedented political maneuver by the National Union of Popular Forces who went to the ceremonial parliament opening which the king attends without the traditional dress, which was an affront. Then the party started a process for a vote of no confidence to overthrow the government of Ahmad Bahnini. This was followed by the adoption of a bill submitted by the Independence Party to amend the press law to prevent foreigners from issuing newspapers in Morocco. Finally, the House of Representatives tried to ratify bold legislations including a bill on investigating the origins of suspicious wealth. The state of emergency lasted five years.
[11] The two coup attempts of 1971 and 1972 were unsuccessful. The first took place in Skhirat Royal Palace by some generals and soldiers, led by Col. Mohamed Aababou, commander of the Hermomo military school, and General Mohamed Al-Madhbouh. They tried to assassinate King Hassan II on his forty-second birthday. The second failed attempt occurred when air force officers led by General Mohamed Oufkir tried in 1972 to down the Royal Boeing with the king aboard.
[12] The last violent threat against the royal regime was in March 1973 in Moulay Bouazza in the city of Khenifra, where regime forces engaged rebels for about six months. A rebel faction was led by Abdel Rahim Bouabid of the Popular Forces and another revolutionary action was headed by Al-Faqih Al-Basri, Said Bouna›ilat and Abderrahman Al-Youssefi. Morocco had previously witnessed political trials that ended with death penalties (Marrakesh in 1971). This deeply angered a number of leaders of a secret organization, which had sent members to training camps in the Levant, most notably the Zabadani camp in Syria, where dozens of Moroccans prepared for guerrilla operations against Israeli targets while others wanted to return to Morocco in order to get rid of what they saw as a «reactionary regime».
[13] The consultative council was able to promote human rights in the 1990s to an extent by creating a dynamic work culture together with partners within the government, civil society, governmental and nongovernmental international organizations, etc. It collaborated with many actors on various issues including transitional justice and the outcomes and recommendations of the Equity and Reconciliation Commission.

Physical and Moral Damage to Victims and Rights holders of those Subjected to Enforced Disappearance, Arbitrary Detentions and their Families" was established to begin a public process of redress for the victims of long years of repression. The Commission issued 8,000 decisions by the end of its work in 2003. It was criticized for having a mandate limited to financial compensations with little attention to the other aspects of "reparation". There was no mechanism of appeal of its decisions, which compounded the impact of its unclear criteria that led to significant discrepancies in compensations granted to victims of violations.

The most important step was the establishment of the Equity and Reconciliation Commission in 2004 to investigate grave past violations, particularly those related to enforced disappearance and arbitrary detention. Following the end of the Commission's work, its Chairman Driss Benzekri submitted his final report, including recommendations to ensure that serious violations of human rights in Morocco are not repeated, to undertake necessary institutional reforms and to develop a national strategy to combat impunity. The Commission stressed that the consolidation of rule of law requires legal reforms as well as reform in the security and justice sectors.

Many years passed since the Commission issued its recommendations. However, a large part of them has not been implemented, particularly those related to reparation for collective harm, the disclosure of the fate of all those who have been forcibly disappeared or the development of a national strategy to combat impunity. Moroccan human rights defenders argued that the main purpose of the Commission has not been achieved, which was to ensure that the decades of systematic repression by the state, especially with respect to the treatment of political activists, conditions of detention, resort to torture and enforced disappearance, do not recur.

Amnesty International, in its Broken Promises report in 2010, criticized the outcome of the Commission's work years after its conclusion, recognizing that the composition of the Commission itself was a signal "reflecting strong political will at the highest levels of government ... to address the legacy of the past", but its work and outcome "showed serious drawbacks that explain, if only partly, its inability to honour all promises of reconciliation and justice made. The mandate and powers of the Commission, Amnesty International wrote, did not cover all human rights violations committed between 1956 and 1999; also excluded from the Commission's work was the question of determining responsibility and identifying perpetrators of gross violations of human rights." Although the Commission addressed issues that are broader than its mandate, it was not able to address two key issues in its recommendations or the way in which the CCDH has implemented these recommendations in the following years: namely holding those responsible for the violations to account and reforming the legal and institutional framework that allowed those violations in order to guarantee non-repetition.

The establishment of the Consultative Council in 1990 was in part a reaction by King Hassan II to the growing criticism of the regime's record of violations against political opponents in particular and of human rights in general. The international context then pushed the regime to pay more attention to human rights issues. After the fall of the Berlin Wall in late 1989 and the end of the Cold War, Morocco found itself in a defensive position regarding a shameful human rights record.

In the 1990s, the state undertook a political re-arrangement under the slogan of "consecrating the state of rights and law", while it was aware and concerned about Morocco's international image with human rights and democracy promotion becoming a dominant discourse in that decade. In that context, the regime was keen to create the above mentioned institutional mechanisms. On the political front, the left-wing opposition joined the ruling circles with the system of consensual alternation in 1998.

However, this period of calculated openness faltered with the growing threat of terrorism, beginning with the bloody 2003 bombings in Casablanca and subsequent security measures to dismantle cells accused of carrying out or planning acts of violence in a number of Moroccan cities. In 2003, an antiterrorism law was enacted. By the end of the same year, about 2,000 people were arrested, based upon a law that has sometimes been used to curb human rights activism. The law was also used by security institutions to intimidate journalists and activists, some of whom were tried and sentenced to prison terms even after the 2011 uprising, as was the case with commentator Ali Anouzla and his website Lakom (For You)[14/15].

The popular demonstration on 20 February 2011 changed the political equation again and pushed the regime to amend the Constitution in response to protests focusing on demands for social justice, basic services in education and health care, and the independence of the judiciary. The popular movement expressed public anger towards «exploitation», humiliation and marginalization. It also showed the depth of resentment by the majority who have been disenfranchized while watching daily practices of favouritism and how privileges and benefits were awarded to a lucky few while they had to withstand harassment, obstruction and overcome obstacles to secure their very rights[16].

Just as the human rights movement had long contributed to the transitional justice process, helped raise awareness about women›s and children›s rights, worked on rights of detainees and on civil liberties in general, it also played a role in the context of the 2011 movement and consequent constitutional amendments. In this, it was supported by popular calls to include many rights and freedoms in the Constitution and to ensure it is reflected in the laws of the land.

[14] Omar Bendourou, "Les droits de l'homme dans la constitution marocaine de 2011 La Revue des droits de l'homme", Revue du Centre de recherches et d'études sur les droits fondamentaux année, 2014, p. 19.
[15] Béatrice Hibou, "Le mouvement du 20 février, Le Makhzen et l'anti politique: L'impensé des réformes au Maroc", Sciences Po. CERI CNRS, 2011, pp. 1-2.
[16] The years of lead (les années de plomb) (from the mid 1960s till the early 1990s) were distinguished by unchecked state repression starting with bombing raids against insurgent northern areas in Riff, and including arbitrary detention without trials in secret centers, enforced disappearance and torture.

Determinants of the relation between the state and the rights movement

We can classify Moroccan human rights organizations and actors into three generations:

1. The generation of the Moroccan League for Human Rights (LMDDH) and the Moroccan Association for Human Rights (AMDH), which was associated with political opposition movements that used human rights to lobby the state. Most of the activists of these organizations were former political prisoners whose activism became restricted during the years of lead. For some, human rights activism was an entry point to press the state into embracing human rights as a base in the political arena. Some activists, like Driss Ben Zikri, later adopted an exclusive human rights approach not necessarily related to assumed political gains. The Moroccan Organization for Human Rights (OMDH) joined this generation later on.
2. The second generation was made up of professionalized human rights activists committed to the international human rights bill and without any specific political affiliation. Working through organizations such as Adalah, they monitored rights violations and interceded with the state. These associations came together with the first-generation organizations under the umbrella of the Moroccan Coalition for Human Rights Institutions, which includes 22 organizations[17].
3. The third generation was related to Islamist human rights organization. Alkarama Forum, for example, is associated with the Justice and Development Party. Such outfits have reservations on the universality and comprehensiveness of the international human rights bill. They tailor the bill with an Islamist approach, for example, by opposing equality between women and men in inheritance and supporting polygamy. In these two issues, the state sides with these organizations, since it abides by a certain understanding of the dictates of Islamic law.

Among these organizations, the AMDH is the most active in terms of social mobilization because of its dispersed branches and presence in the public space since its inception. This national network makes AMDH more influential and a constant source of irritation to the state, which has often imposed restrictions on its activities and activists to limit its work and credibility[18].

In its overall relationship with the human rights movement, the state first challenged the rise of human rights activism before adopting some of its principles in the context of becoming more open, even if instrumentally, to human rights rhetoric and principles, in the 1990s. However, tensions and fluctuations continued to characterize this relationship.

Human rights organizations in the current social/political context

After 2011, with the increase in societal demands, the human rights movement that usually focused on civil and political rights expanded its scope to the second-generation rights and also diversified the way it spread messages and presented its demands using new platforms, especially social media.

Rights-driven protests expanded. They included organizing against unemployment, protesting rising water and electricity bills, demanding more individual freedoms and challenging conventional morality (dress code, consensual sexual relations, etc.), calling for the truth about past violations in the context of a real transitional justice process, advocating cultural rights (Amazigh), opposing globalization and criticizing economic policies promoted by international financial institutions such as the International Monetary Fund (ATTAC Morocco) documenting and exposing bribery, illegal income and corruption, and calling for accountability (Transparency Morocco Association).

The protest actions spread in scope and broadened in terms of rights defended. By March 2015, the government had granted legal registration to 32 associations and settled the status of 24 others established by migrants residing in Morocco[19]. A new law came into force prohibiting military trials against civilians[20]. For the first time, the government recognized a Sahrawi Human Rights Organization (Sahrawi Society for Victims of Grave Human Rights Violations), led by people who openly criticized the regime. Morocco also granted a temporary legal status to asylum seekers recognized by the United Nations, and thousands of migrants looking for economic opportunities, pending a comprehensive review of its laws on the right of asylum and residence of foreigners on Moroccan soil. The government's refusal to accept legal registration papers of these organizations or their branches in the past (so-called deposit vouchers) had been one of the many techniques used to place the activity of these associations in a gray zone where their applications to register have been neither accepted nor refused.

However, the government sometimes imposed arbitrary administrative obstacles. For example, efforts by journalist Ali Lmrabet to register a satirical weekly were impeded even after he served a 10-year ban on practicing journalism in Morocco. Police in Rabat confiscated the tapes of two French television journalists on 16 February 2015 and expelled them on grounds that they were filming without a license. Some old police practices returned including attacks on rights activists through surveillance and harassment or prosecution for trumped up charges. Thugs were also used as an indirect method of intimidation. Certain restrictions were imposed on national and international human rights organizations. The authorities were often lenient with public protest, but systematically prevented gatherings in certain locations and regions, including the Sahara, especially if the

[17] The coalition included LMDDH, AMDH, the Moroccan Network for the Protection of Public Funds, Riff Association for Human Rights, Moroccan Bar Association, Amazigh Rights and Freedoms Monitor, the Medical Association for Rehabilitation of Victims of Torture, the Moroccan Society for Lawyers' Fora, the Moroccan Forum for Truth and Justice, Amnesty International- Moroccan branch, the Moroccan Monitor for Public Freedoms, the Moroccan Association against Bribery, Adalah, Karama Forum, The Freedoms of Media and Expression Organization, the Moroccan Institution for Human Rights, the Moroccan Prison Monitor, the National Forum for Protection of Public Funds in Morocco, the Moroccan Association for the Defense of the Independence of the Judiciary, the Justice Monitor in Morocco, the Moroccan Center for Human Rights, the Moroccan League for Citizenship and Human Rights.

[18] Abderrahman Rachik, "Nouveaux mouvements sociaux et protestations au Maroc". IRES, 2010, p. 37.

[19] Adalah, "A Shadow Report Presented to the Human Rights Council", 25 October 2016.

[20] According to law no. 13-108 civilians were excluded from the mandate and jurisprudence of military courts, in addition to stipulating the referral of military personnel themselves to ordinary courts in case of crimes related to public rights, in addition to prohibiting military trials for children irrespective of the nature of the committed crime.

protest was to the demand self-determination.

As of 2014, a group of leaders who led the youth movement, especially in the northern regions, was arrested. More than 200 activists were detained in El-Hoceima, Taza, Bani Bouayash, Kasr el-Kebir and Larache, and a leading leftist activist was killed in suspicious conditions[21]. An investigation was opened after the murder of five young men whose bodies were found brunt down and deformed in the Banque Populaire building in El-Hoceima. A vicious attack was launched against some human rights organizations, especially the AMDH; the authorities cancelled 40 events in one month, in violation of the very government regulations in this regard. The AMDH claimed that there were 168 obstructive measures against human rights associations between 2014 and 2016. Activities of some associations were illegally prevented.22 The authorities continued to refuse legal registration to a number of human rights organizations. By the end of 2015, 41 out of AMDH's 97 local branches remained in an ambiguous legal status due to the refusal of local authorities to accept applications for registration or to give them receipts indicating files were submitted. In some cases the authorities demanded documents that are not required under the law and delayed temporary or final receipts of registration. Sometimes, organizations were denied receipts of formation or renewal[22]. There are 14 human rights associations that have not been licensed by the Ministry of the Interior, most notably the Freedom Now association, whose appeal was rejected in court in support of a provincial administration in Rabat that refused to admit the association's registration file[23]. In several cases, no reasons are given for the rejection, since authorities refuse to provide the association concerned with a written decision in order to undermine any possible court appeals. On 15 February 2015, security agents raided the AMDH headquarters without a judicial permission. AMDH leaders, including Abdelhamid Amin, Khadija Riyadi, were attacked or threatened several times[24].

The authorities also prevented human rights defenders from leaving Morocco to attend or participate in events abroad and interrogated some of them. In November 2015, seven civil society activists, including Maati Mounjib, a historian and co-founder of "Freedom Now", were tried on multiple charges, including undermining state security and training people to use smart phones to produce media reports. They face five years in prison, if convicted. The government also banned cultural events, including a play on African immigrants in Morocco. Rap singer, Alhaqed, was banned from performing and jailed for selling football game tickets on the black market, before obtaining political asylum in Belgium. Personal accounts and Facebook pages of journalists and human rights activists were hacked or monitored, which are illegal measures that have not been investigated or punished[25].

Politically, a direct confrontation ran between Islamist conservatives representing the Justice and Development party (PDJ) in government and parliament, on the one hand, and modernists of the Authenticity and Modernity party (PAM), the women›s movement, February 20 activists and some components of the democratic bloc (such as the Socialist Union and Left Federation), on the other. Although they did not constitute a coherent coalition, the modernists were commonly concerned about a perceived deterioration in the human rights situation with growing restrictions on personal freedoms and the PDJ's ignoring calls for violence against human rights activists or labelling nonIslamists as infidels[26]. Rights organizations criticized the PDJ prime minister›s statement calling for burying the violations of the past calling for «letting bygones be bygones,» in reference to the past violations.

The women›s rights movement addressed the phenomenon of child rape and abuse and demanded amendments to the Penal Code which enforced marriage of a minor rape victim to her rapist[27]. The women›s rights movement also expressed frustration at the lack of progress towards full gender equality and ending discrimination and violence against women. In addition, although the Amazigh language has become an official language after the 2011 Constitution was promulgated, the Amazigh continued to complain about exclusion and marginalization.

Human rights organizations resorted to various strategies and techniques. In addition to mobilization and sensitization, they wrote letters, issued statements and submitted policy and legislative proposals to the head of government or lesser officials, agents of the King, heads of courts and relevant bodies. Some associations provided support to victims of human rights abuses, as well as counselling and legal aid through their lawyers, in addition to issuing annual reports on the human rights situation, which concluded recommendations to the State and the international community. Human rights associations, either individually or together with other national and international bodies, prepared reports on the human rights in general or on specific cases and submitted them to the UN Human Rights Council or the UN treaty bodies. Parallel shadow reports often challenged official reports and revealed their inconsistencies with respect to the implementation of international treaties and obligations.

Among the most important reports that cost Morocco dearly was the shadow report that addressed the Tazmamart detention centre, since it exposed the reality of arbitrary arrests and enforced disappearances that the state had long denied[28/29]. However

[21] Leftist leader Kamal Elhassani, who was active in the 20 February upheavals and the movement of the unemployed university graduates, was killed by an unemployed man in October 2011. 22 Interview with Ahmed El Haij.
[22] They included the AMDH's Tangier branch, Cultural Alternative Association in Kenitra, and Attac Maroc.
[23] A Rabat administrative court cancelled a Ministry of Interior decision to reject the registration file of Freedom Now and fined the Ministry 50,000 dirhams.
[24] Droits de L'Homme au Maroc, "Quelles réalités ? Contre rapport dans le cadre de l'Examen Universel Périodique, Conseil des Droits de l'Homme aux Nations Unies", 20 November, 2011, p. 9.
[25] Privacy International, "Les yeux du pouvoir Rencontres avec des citoyens marocains sous-surveillance", 2015, p. 8.
[26] Ahmed 'Aseed, an Amazigh activist and member of the Coalition of Moroccan Human Rights Institutions, faced direct threats and intimidation including through public YouTube announcements by Salafi activist Abdelhamid Abu El Naim.
[27] A rapist can go unpunished according to the penal code, article 475, if he willing to marry the rape victim.
[28] Abdel Samad Elza'ali, "Morocco in the Face of International Reports", Al Misa'a, 29 December 2014.
[29] Interview with Mohamed Zayan, former Human Rights Minister under King Hassan II, 30 October 2016.

government officials such as former Minister of Human Rights, Mohammed Ziyan, argued that some human rights associations and civil society organizations, by virtue of their party affiliations, compiled their reports either to pressure the government to achieve concessions or to maintain the presence of their parties within the government, and therefore did not play their full expected role with impartiality[29].

National Council for Human Rights

The CNDH replaced the Consultative Council in 2011 after the Equity and Reconciliation Commission concluded its work[30]. Compared to its predecessor, the CNDH has a broader mandate as an independent body funded by the state[31]. It has worked on protecting individual and collective freedoms and enjoys a pre-emptory mandate allowing it to intervene before violations occur. With 13 regional office around the country, it works to monitor, receive complaints, mediate, and investigate violations. It issues an annual report in addition to thematic reports that are referred to the King. It can exercise the right to intervene in certain situations if it felt they could lead to rights violations.

As a national institution, the CNDH is entitled to visit places of detention and incarceration and monitor conditions of prisoners. It is also authorized to study the compliance of existing legislations and regulations with international conventions and treaties related to human rights and the international humanitarian law. It has contributed to national reports submitted to UN treaty bodies and encouraged the government to implement their observations.

The CNDH is headed by Driss Yazmi, a former journalist who lived in exile (France) before returning in 2005 to work on transitional justice with other activists including Driss Ben Zikri, former leftist political detainee in 1977-1991 and Ahmed Herzni, an activist and an expert in democratic transition. The National Council has 30 members appointed for a renewable term of four years, taking into account diversity, competence, experience, women and regional representation. Members are chosen from among public figures representing various social sectors such as civil society associations, trade unions, the parliament, the judiciary, university professors and Moroccan experts at the United Nations. Eight members are appointed by the King, while 11 are proposed by NGOs. The rest are proposed or selected by the heads of the two chambers of Parliament, the Speaker of the House of Representatives, the head of House of Councillors, high religious bodies, and a judicial association (The Hassani Judges Wedadiya). A number of politicians and intellectuals have criticized the exclusion of representatives of the Islamist PDJ, the Amazigh Movement and the Union of Moroccan writers from the CNDH membership. Some called for boycotting the Council.

The Council is regulated by a royal decree (Dahir)[32] of 25 articles: 10 articles outlined the mandates of protection, 12 covered the promotion of human rights, and three focused on the enrichment of thought and dialogue on human rights and democracy. The CNDH can petition the legislative body. Under Article 24, CNDH president can submit "a brief summary of the contents" of reports before the two Houses of Parliament in a plenary session after submitting it to their speakers. The Parliament must allow the Council to participate in the work of parliamentary committees concerned, inter alia, with human rights issues. Finally, the CNDH can organize programmes to raise the capacity of parliamentarians and staff on human rights issues.

At times, the CNDH took bold positions when it demanded, for example, equality in inheritance between men and women and the abolition of the death penalty, or when it criticized the work of the government and the two houses of parliament and submitted proposals to speed up the legislative process to render the laws of the land compliant with the 2011 constitution.

The CNDH has faced a lot of criticism [33]. Some alleged the Council was "driven only by instructions and lacked initiative to intervene in emerging issues"[34]. Others thought the CNDH has played an important role in working on bills and proposals and advising the state in a large number of areas. It had the courage to intervene in sensitive political areas such as abortion and inheritance, inviting severe criticism. On inheritance, it was aided by a religious organization, the League of Moroccan Scholars, which sided with the CNDH recommendation for equality in inheritance between men and women. Still rights advocated sometimes blamed the Council for allegedly presenting the state's view as "the truth" on controversial issue[35].

[30] The Equality and Reconciliation Commission was set up in 2004 to establish the truth, provide redress and rehabilitation for victims of human rights abuses. It did not have a judical mandate. It was criticzed because its recommednations were not fully impleneted, accused that it has reinfoced impunity because suspects were not held accountable and because it limited reparations to financial rewards for viticims or their families.

[31] The decision to establish the CNDH strengthened its independence and expanded its mandate especially in terms of diversifying financial resources. It is able to raise funds from national or international private and public sources. It is allowed to have revenues, be endowed, be the benefactor of wills, all of which were in addition to a state-allocated budget.

[32] A Dahir it is issued and signed by the King as a supreme authority and a representative of the nation. Dahirs are then endorsed by the government except for those related to appointing the first minister and ministers, relieving them of their duties, appointing the guardian council, declaring a state of exception, calling a referendum, appointing judges, and dissolving the parliament. An executive Dahir is issued and signed by the king to bestow legitimacy on laws enacted by the parliament.

[33] Council officials defend its independence, while rights activists argue it's too close to the state. Mohamed Essabbar, CNDH Secretary General said: "I challenge anybody to provide manifestations of the lack of independence of the institution … it may be said the CNDH was established by the King, but international practice shows that national councils are established by the head of state or head of government or the spokesperson of the parliament. Morocco chose the first option" without that encroaching upon its independence. Ahmed El Haij, AMDH president, argued: "The CNDH is an intermediary institution and not part of the state, and its mission is to evaluate the situation of human rights in Morocco; its rhetoric simulating that of the state is part of the criticism addressed to the council."

[34] Interview with Mohamed Zayan, former human rights minister, and with Ahmed El Haij, AMDH president. El Haij said: "The state response to rights organizations is weak, but this is the same response received by intermediary institutions … quasi-governmental … for example the CNDH gas the right to correspond with the government and seek redress for victims. Quiet often these correspondences are ignored and if when answered it is almost an answer."

[35] Interview with Ahmed El Haij.

The CNDH reports are of relatively high quality but their recommendations are not binding to the government. The CNDH is not solely responsible for its rather weak impact since the Parliament ignores many of its recommendations [36]. However, the CNDH has continued to work with a relatively high standard of professionalism and contributed to closing some transitional justice files in Morocco. It has also helped raise public awareness about legal mechanisms to fight torture and to develop a discourse of human rights in schools and universities. The CNDH also helped organize, fund or take part in symposiums, workshops, and artistic events related to human rights. Despite its structural fragility and substantive constraints, the CMDH remains an educational force and a major advocate in society and with the State.

Conclusion

The Moroccan state has started to seriously interact with the human rights discourse in the early 1990s due to long domestic struggles by human rights advocates but also under the pressure of global transformations. Meanwhile, most human rights organizations have set aside much of the package related to their political lineage. The human rights movement moved from the ranks of political opposition to the regime in the 1970s and 1980s to a position in which it monitored the state reforms with suspicions in the early 1990s, ending with an active role in policy advocacy and pushing for alternatives to meet the growing social and spatial demands in the past 10 years, especially after the 2011 uprising. There are no clear distinctions among these various stages since some rights organizations still occupy one or more of these varying positions.

Although the state has often lagged behind the aspiration of the growing demand for human rights, the rights movement has been able to carve a bigger space that allowed it to better relay its basic demands. Despite internal and external obstacles, the civil society actors in Morocco have become more influential. The role of human rights organizations is no longer limited to protest, support and litigation, as it branched into policy advocacy and legislative proposals and lobbying.

For its part, the State (specifically the monarchy) has strengthened legal guarantees for the protection of many basic rights and public freedoms in the 2011 Constitution. However, at the level of legislation and implementation of legal provisions, there is still a considerable controversial scope for action to ensure the universality and indivisibility of rights. The Moroccan Penal Code still contains articles such as Article 219 which criminalizes “insulting God, disdaining religions and undermining the loyalty of citizens to the state”, all of which contravene the Constitution and Morocco’s international obligations guaranteeing freedom of belief and opinion.

It is obviously not enough to have a new constitution, even if its second chapter is considered a true charter of rights and freedoms. Nor is it enough for the state to strengthen commitments to relevant international treaties, organize workshops on reform, institute measures to combat torture, and improve living conditions. All of this would not truly instil human rights into the civil society and state institutions unless there is genuine accountability. Such a transformation would also require that human rights organizations and defenders become partners in policy formulation and evolve into a formidable social force that would prevent the recurrence of systematic human rights abuses and to ensure the effective commitment of the state, in law and practice, to human rights standards and culture.

Despite this mixed picture, the 2011 movement has obviously revitalized the human rights paradigm and approach to politics and social problems. The 2011 uprising crowned a struggle that has begun decades ago to peacefully and gradually put an end to the regime logic of dominant authoritarianism in favour of a social contract with the state based on the rights of citizens. And such a state of affairs no longer seems far off.

[36] Interview with Ahmed Aseed, Amazigh Writer and Activist, 26 October 2016.

PART III:

Human Rights and Socio-economic Activism

The Human Rights Movement and Contentious Politics in Egypt (2004-2014)

Amr Adly

Summary

The economic and social rights movement has struck some success in dealing with contentious movements in challenging public policies and institutions. However, no organic relationship developed between the two. The contentious movement did not strategically adopt an economic and social rights framing in a way that would have enabled it to get beyond its local, largely apolitical and un-institutionalized characteristics in favour of a nationwide platform. Meanwhile, the human rights movement was eventually unable to cultivate strong and continuous organizational or discursive links with the broader contentious movement needed against potential authoritarian reversals like the ones that happened after July 2013. The main argument is that gains made by NGOization, civil societization and professionalization (access to resources and recognition) came at a high price of alienation from the aggrieved constituencies undertaking contention and hence hindering the development of organic links between them. The head remained severed from the large leaderless body.

1. Introduction

This paper aims at developing a descriptive, analytical and critical account of the various aspects of interaction between the human rights movement and contentious politics in Egypt through the last decade (2004-2014).

Contentious politics is narrowly defined here in reference to actors and actions of resistance and protest against the implementation of neoliberal-based measures by the state and its allies (e.g. international financial institutions, foreign investors, development banks, local businesses, etc.). Contentious politics has assumed many forms since the intensification of liberalization and privatization drives during Hosni Mubarak's final years in power (2004-2010). These actions of contention expanded following his removal in 2011 and as a result of the waning of the power of the police state between 2011 and 2013 (which later proved to be rather temporary). The contentious movement involved hundreds of thousands of people in industrial sites, government offices, urban neighbourhoods, villages and local communities. It assumed many forms of protest ranging from strikes, sit-ins, road blocking and demonstrations to more violent forms of confrontation with the agents and representatives of the state and of capital. It also hosted a great variety of claims and demands. Some had strictly to do with public sector workers and civil servants calling for higher wages, job security and better working conditions. Others extended into areas of housing, access to public services, land tenure and the environment.

At the other end, there was the human rights movement that is defined loosely to include all actors (e.g. advocacy groups, NGOs, lawyers, professionals, politicians and activists and networks of individuals and organizations working on the public promotion of human rights). The main criterion for the inclusion of these actors within the bounds of this movement (and hence the exclusion of others) is the adoption of a consistent, coherent and comprehensive political and socio-economic agenda that is explicitly based on international human rights principles, covenants and obligations. This paper will focus on the particular branch of the human rights movement that has been working continuously and systematically on social and economic rights during the period of study. These networks, NGOs, research centres besides less- or un-institutionalized groups of professionals, lawyers and activists in addition to grassroots organizations that adopted a rights-based discourse, all are labelled in this paper as the Economic and Social Rights Movement (ESRM).

As the contentious movement expanded in the 2000s and virtually exploded after the 2011 revolution, the human rights movement has been present on the public scene since the early 1980s. Different modes of interaction took place between the two broadly defined movements that assumed a great many forms ranging from strategic litigation, legal aid, technical and organizational services, advocacy, media campaigning, networking and coordination among other activities.

This paper aims at describing and analyzing the patterns of interaction between the ESRM and the broader contentious movement in Egypt. The periodization of the study to cover from 2004 to 2014 rests on two reasons: Firstly, the start date, 2004, is taken as the critical point for the breakout of the most recent cycle of contentious politics and social protest in Egypt. This is the year in which the Ahmed Nazif government came to power with an explicit neoliberal agenda for economic and social transformation. The intensification of the neoliberalization of the economy provided the broader context for increasing contention as in other parts of the developing world[1]. These dynamics remained in place till 2009 when the programme came to a halt because of the global financial crisis and its aftermath. However, another dynamic came to the fore that had to do with challenging the Mubarak regime for being too corrupt and authoritarian. The combination of socio-economic and political protest happened for the first time in Al-Mahallah in April 2008. It reoccurred, albeit on a much larger scale in February 2011, and specifically on 10 February when a nationwide strike was decisive in dealing the final blow to Mubarak and his regime. Mubarak abdicated the following day.

[1] Almeida, P.D. "The Role of Threats in Popular Mobilization in Central America". Social Movement Dynamics: New Perspectives on Theory and Research from Latin America, 2015, p.109.

The second reason behind the periodization is the 2011 revolution, which resulted in a brief and partial political opening till mid-2013. Contentious politics expanded considerably given the relatively low risk of repression and the opening up of political channels for contestation. This period witnessed also a short yet extraordinary phase of expansion and activity for the human rights movement, including those working on social and economic rights. The fact that the ESRM got to function with relatively low risks and limited restrictions in an open political arena provides a thrilling experiment and experience that could be used to compare and contrast with earlier and later years of full-fledged or better functioning authoritarianism.

2. The Research Question

Even though the ESRM has struck some success in dealing with contentious movements, especially in areas of challenging public policies and institutions, no organic relationship developed between the two movements. On the one hand, the contentious movement did not strategically adopt an economic and social rights framing in a way that would have enabled it to get beyond its local, largely apolitical and un-institutionalized characteristics in favour of a nationwide targeting of state policies and institutions. On the other hand, the human rights movement was eventually unable to cultivate strong and continuous organizational or discursive links with the broader contentious movement in a way that could have provided it with the depth and weight needed against potential authoritarian reversals like the ones that happened after July 2013.

The paper addresses two principal questions: what kind of interaction took place between the two movements? And what could have happened instead?

If the objective is to evaluate economic and social rights movement in Egypt in the last decade, what may then serve as a criterion for this assessment? The economic and social rights movement is best evaluated against its self-asserted mission or raison d' être as stated by its very founders, figures and leaders: the forwarding of a set of social and economic rights, usually defined with an explicit reference to the international bill of rights, translated into advocacy for certain public policies, legal reforms and decisions. It is however difficult to draw clear causal links between change in state action and human rights advocacy and activism. This is mainly due to the fact that there are simply too many factors and actors that exert influence on state actions in these policy areas. Some of these emanate from within the state bureaucracy, while others are societal that may have ties with the economic and social rights movement but cannot be conflated or fully identified with it, such as independent unions or even more un-institutionalized forms of protest and popular mobilization.

As a matter of fact, the ESRM is one input amongst many that may help in explaining policy outcomes, especially in tumultuous times like the post-2011 revolution period that were marked by considerable de-institutionalization of state organizations and political regime and a social and political fluidity if not outright chaos. Moreover, the economic and social rights movement could never be decisively considered the most influential in such realms given its relatively short history of existence as a public actor and its restrained access to resources, human and materials, compared to other political state and non-state actors. Moreover, the ability of the ESRM to influence state action has been largely contingent on the opportunities that followed the crippling of the police state after the 2011 revolution. The ability to influence the political process and hence policy outcomes was dependent on powerful factors that emanated from outside the human rights movement and remained beyond its capacity to influence or to shape.

A more feasible and modest alternative is to assess the ESRM in terms of its observed influence over its contemporary and counterpart contentious movement using the very mission set by the human rights movement as the criterion for judging it. In other words, this paper will describe and analyze how and whether the ESRM could influence the popular contentious movement in forwarding basic economic and social rights as public claims over state actions and distributional policies.

In answering the principal research question, this paper combines desk research with fieldwork. It makes use of the bodies of literature on civil society, contentious politics and social movements in an effort to conceptualize and theorize about the patterns and modes of interaction between the human rights movement and contention politics. The research has also depended on semi-structured interviews with human rights professional lawyers and researchers working on economic and social rights together with non-professional human rights activists. It is also informed by the author's personal experience as a former director of the unit on social and economic justice at the Egyptian Initiative for Personal Rights (EIPR)[2] between mid-2011 and 2013. The objective of the paper is to provide a solid and well-informed assessment of this fraction of the human rights movement that worked on social and economic rights with the possibility of developing recommendations.

3. A Tale of Two Movements

3.1- The Contentious Movement

Egypt witnessed a rising trend of contentious action since the mid-2000s. Repeated and widespread acts of protest motivated by perceived socio-economic grievances and addressing state actions (policies, laws, decrees, etc.) could be called a social movement referring to collective contentious actions and shows of solidarity undertaken cyclically by aggrieved groups targeting elites and aiming at changing state policies[3]. This movement was generally a response to intensified neoliberal reforms by the then newly instituted Ahmed Nazif cabinet (2004-2011). The cabinet was made up of businessmen and neoliberally-oriented technocrats with a clear vision and mandate to push for Egypt's economic transformation after long years of reluctant reforms

[2] Egyptian Initiative for Personal Rights (15/9/2008), Statement on the Ruling on the Holding Company for Healthcare, posted on the website: http://qadaya.net/?p=4450

[3] See Tilly, C. "War making and state making as organized crime". Violence: A reader, 1985.
McAdam, D., Tarrow, S. and Tilly, C. "Dynamics of contention". Social Movement Studies, 2001, 2(1).

since the adoption of the Structural Adjustment Programme in 1991.

As of 2004, there was an intensification of privatizing state-owned enterprises as a means to attracting foreign direct investment. Trade liberalization, deregulation and currency devaluation contributed to higher inflation rates that hit hard state employees and public sector workers and decreased their real wages and their standards of living. Together with the earlier measures, the government facilitated access of big business, often politically connected, to state-owned assets mainly in the form of desert land and divested publicly owned enterprises[4]. The redefinition of private property rights involved a heightened risk of dispossessing some marginal social groups, especially in inner cities where land speculation increased private investors' appetite for land plots that lacked secure tenure. Attracting foreign direct investment and encouraging exports depended heavily on energy-intensive and often polluting industries like petrochemicals, cement, iron and steel, ceramics and fertilizers[5]. This trend gave rise to new areas of contention over pollution and the destruction of natural resources. The conflict with Agrium/MOPCO in Damietta was one clear example where local communities mobilized against a multi-national for fear of the destruction of their livelihoods that depended on local seashore tourism and fishing. There was another instance in Idku in Northern Beheira governorate in 2012 and afterwards where local communities challenged British Petroleum over the use of fracking technique in the extraction of natural gas[6].

Even though the contentious movement targeted state policies and institutions, it was local and adopted generally myopic economic demands. Labour strikes and sit-ins between 2004 and 2014 were generally performed on the factory-level. Al Mahallah for instance was the big exception that proved the rule where the whole industrial centre could mobilize[7]. Otherwise, there was a general failure to develop an organizational or ideological framework that could have linked together the hundreds of acts of labour activism during that decade. Most demands were highly economistic in nature and focused on particularistic interests that immediately had to do with factory workers like higher wages, better working conditions, management changes or the reversal of privatization decisions or with the direct concerns of local communities and neighbourhoods. The localism and particularism of the contentious movement weakened the chances of developing a political agenda targeting a generalized change of public policies and institutions in economic and social areas in a way similar to nationwide anti-neoliberal movements in Latin America[8].

Neoliberal reforms were one common thread that provided the general context for the virtual explosion of contentious politics in the 2000s and all the way till the 2011 revolution. Even though neoliberal measures came to a halt after the revolution and the subsequent toppling of Mubarak, the considerable weakening of the state coercive machine led to an unprecedented expansion in contentious protest[9]. The near total collapse of police forces and the reluctance of the military to deploy force to quell social protest, led to an expansion of demonstrations, strikes and road blocking to virtually all areas of the country between 2011 and early 2014. This change was however quantitative rather than qualitative. The contentious movement remained local and economistic with little capacity or interest in developing nationwide claims over public policies and institutional arrangements. The movement remained fragmented, un-institutionalized and with no clear overarching identity that transcended immediate localized ties on the factory level in the case of laborers, and on the neighbourhood or community level in other instances of mobilization.

Indeed, there were attempts at institutionalizing, structuring and politicizing the labour movement of the 2000s. The most significant was that of independent trade unions that started with the real-estate tax collectors upon their successful strike in 2008. This was an instance where the tax collectors could create a permanent organizational structure that was de facto recognized by the government as a negotiation counterpart. The tax collectors' independent union was followed by a number of other white-collar groups, including pensioners and medical service workers[10].

Following the 2011 revolution, the Egyptian Federation of Independent Unions (EFITU) was established. The unions could register at the Ministry of Labour and Manpower challenging officially for the first time the monopoly bestowed upon the government-controlled Egyptian Trade Union Federation (ETUF). There were attempts at issuing a new trade union law that guarantees freedom of association, especially under the first post-revolution Minister Ahmad Hassan El-Borai, who was personally sympathetic to the cause of the independent unions and nominated by the independent labour movement[11]. However, the interim government led by the Supreme Council of the Armed Forces kept the draft law from being issued buying time for the government controlled ETUF. The same strategy was pursued by the Muslim Brotherhood during their brief tenure (July 2012 - July 2013). Following the July 2013 takeoverand the removal of the Brotherhood-backed president Mohamed Morsi, the full authoritarian reversal meant the re-imposition of the monopoly of labour representation by the ETUF, the rolling back of the

[4] See Adly, A., "Mubarak's Egypt: A state of corruption" (In Arabic). Cairo: Egyptian Initiative for Personal Rights, 2012. Sfakianakis, J. "The Whales of the Nile: Networks, Businessmen, and Bureaucrats during the Era of Privatization in Egypt". Networks of Privilege in the Middle East: The Politics of Economic Reform Revisited, 2004, (pp. 77-100). Palgrave Macmillan. Diwan, I., Keefer, P. and Schiffbauer, M., "Pyramid capitalism: Political Connections, Regulation, and Firm Productivity in Egypt". World Bank Policy Research Working Paper, (7354), 2015.

[5] See Adly, A., 2012. "Energy subsidies in the Egyptian budget: A model for social injustice" (In Arabic). Cairo: The Egyptian Initiative for Personal Rights (EIPR). Springborg, R. "Gas and Oil in Egypt›s Development. Handbook of Oil Politics". Looney, R.E. ed, Handbook of Oil Politics. Routledge, 2012, pp.295-311.

[6] Fekri, A., Hamdi, K. and Shemeis, Y. "Ministry of Petroleum: Moving the Idku gas project costs the state 4.3 billion pounds", Almasry Alyoum, 18 February 2012 (In Arabic): www.almasryalyoum.com/news/details/152654

[7] Beinin, J. and Vairel, F. eds, Social Movements, Mobilization, and Contestation in the Middle East and North Africa. Stanford University Press, 2013.

[8] Von Bülow, M. and Rossi, F.M. eds. Social movement dynamics: new perspectives on theory and research from Latin America. Ashgate Publishing, Ltd, 2015.

[9] Almeida, P.D. "The Role of Threats in Popular Mobilization in Central America". Social Movement Dynamics: New Perspectives on Theory and Research from Latin America, 2015, p.111.

[10] Ramadan, F. and Adly, A., 2015. Low-Cost Authoritarianism: The Egyptian Regime and Labor Movement Since 2013.

[11] Personal Interview, Abbas, Kamal (13/12/2016), head of the Center for Trade Union and Workers Service, Cairo, Egypt.

earlier recognition of independent unions and harsher measures against labour action in general.

3.2- The ESRM

The ESRM expanded its presence in the context of heightened social conflict in the 2000s and especially after the revolution in 2011. There is little doubt that the precursors of the movement were there since the inception of the contemporary Egyptian human rights movement in the early 1980s. The group of human rights advocates, activists and lawyers associated with left-wing figures and activists like Youssef Darwish, Nabil El-Hilaly and Ahmed Seif Al-Islam had already a long experience in extending legal support to workers in industrial action well before the relatively recent wave of contention of the 2000s. However, the ESRM started to assume a distinct characteristic of its own in the context of rising social contention where a branch of the human rights movement specialized in addressing socio-economic grievances marking a shift from earlier, and still prevalent, concerns with civil and political rights.

Organizationally, the ESRM is loosely bounded and comprises many institutional and non-institutional components adopting a rights-based approach. It can however be assumed that its core and most vibrant and resourceful component has been made up of professionalized NGOs that have been working as advocacy organizations in a number of fields since the 1990s and especially in the 2000s. "Advocacy organizations are differentiated from other NGOs involved in development and relief work by being single-issue organizations (e.g. Amnesty) and other rights and environment organizations trying to influence public policy"[12].

This is a common feature with the broader human rights movement and especially the earlier generation of organizations that date back to the early 1980s and that could be said to have started the "NGOization" of the human rights movement. These NGOs were registered usually as civil companies so as to avoid the restrictions found in the laws on civil society organizations[13]. This made them liable to taxation but granting them more freedom of operation[14]. Most of these organizations assumed a professional guise with headquarters, permanent staff members of secretaries, researchers and lawyers and basing their edge on their ability to provide legal or research services by trained and well-qualified employees.

NGOs however capture only the most-organized component of the ESRM. Like the broader human rights movements, the economic and social rights faction has depended in its operation, information circulation and resource mobilization, on extended, dense and highly informalized networks based on friendship, previous colleagueship at the university or a similar carriere militante through membership in political organizations (usually underground leftist ones in the 1970s and 1980s). This is why the definition given in this paper tends to be as broad and as dynamic as possible by capturing institutional and un-institutional aspects of the movement, which usually intersect and overlap and are not so easy to separate.

The NGOization and subsequent professionalization of human rights organizations, especially in the direct aftermath of the revolution of 2011, drew career-oriented professional researchers, lawyers and managers into the human rights movement, including its economic and social rights branch. As more professionalization was a result of and as a cause for more access to foreign funding and policy advocacy work and visibility locally as well as internationally, some human rights organizations had the resources to appoint high calibre people with no prior commitment or ideological adhesion to the human rights movement[15]. Although those professionals contributed to the production of rights-based research and availed human and organizational resources to human rights organizations through paid labour, they could hardly be considered part of the "human rights community". The community refers primarily to the informal networks of ideologically committed people to human rights advocacy, usually with a long personal, but also sometimes family, history of interaction through private ties via marriage and/or friendship. The human rights community can be considered the pool from which NGO founders, political activists, independent lawyers and politicians with a human rights agenda were drawn.

Increased professionalization was a logical extension of the earlier NGOization strategy adopted by human rights activists in Egypt but also in many countries in the global south. It however became more visible, at least the strife to professionalize in terms of staff, products and organizational structures, in the 2000s. "Professional is better" cannot be separated from the international context since the 1980s, where Northern governments and Northern NGOs were looking for reliable partners in the South. This set a financial and organizational incentive to push for professional NGOs[16]. Moreover, ideational linkages that existed between human rights organizations in the North and in the South either through job experiences, internships, technical support or working within broad coalitions of NGOs seemed all to have pushed for the prioritization of the professionalization of human rights NGOs.

This will however prove to be a restraint on the human rights movement as well as a source of tension in its interaction with the contentious movement. Firstly, increased professionalized represented an instance of importing the American experience of NGOization in the context of the demobilization of the civil rights movement in the 1980s. This corresponded to categorically different conditions from those under which the human rights movement was operating in Egypt and where "the civil" and "the political" could never be effectively separated. Secondly, and as a by-product of the previous point, increased professionalization led to more alienation between human rights organizations, and especially those working on economic and social rights,

[12] Cleary, E.L. The struggle for Human Rights in Latin America. Greenwood Publishing Group, 1997.
[13] Abdelrahman, M.M., Civil Society Exposed: The Politics of NGOs in Egypt (Vol. 40), IB Tauris, 2004.
[14] Langohr, V. "Too Much Civil Society, Too Little politics: Egypt and Liberalizing Arab Regimes". Comparative politics, 2004.
[15] Edwards, B. and McCarthy, J.D. "Resources and Social Movement Mobilization". The Blackwell Companion to Social Movements, 2004, p. 137.
[16] See Walker, R.B. "On the Spatiotemporal Conditions of Democratic Practice". Alternatives: Global, Local, Political, 16(2), 1991, pp. 243-261. Kriesi, H. ed. New Social Movements in Western Europe: A Comparative Analysis (Vol. 5). University of Minnesota Press, 1995. Minkoff, D.C. "Producing Social Capital National Social Movements and Civil Society", American Behavioral Scientist, 40(5), 1997 pp.606-619.

and the constituencies they claimed to serve as indicated above.

There are cases of contentious groups that coherently and consistently adopted a human rights discourse like Atiba' billa huquq – Arabic for Doctors without rights – and some neighbourhood and local community-based groups that appeared after the 2011 revolution. These groups and networks constituted an overlap between contentious and human rights movements. Their members are usually recruited from amongst the aggrieved groups and their claims are often related to the direct interests of the members, yet framed in a rights language. This sets them apart clearly and decisively from advocacy-oriented activists, organizations and networks where they work for influencing public policies without being particular beneficiaries of such change.

Atiba' billa huquq, started as an informal group of public sector physical doctors who mobilized in the late 2000s calling for better working conditions as well as general reform of the healthcare system invoking right to health obligations enshrined in the Constitution as well as Egypt's international obligations. The invocation of human rights and a claim on public policies (healthcare system reform) was consistent and went beyond the temporary instrumental use of such rhetoric into the creation of the identity of the group internally as well as in relation to the outside world.

This also applies to the Center for Trade Union and Workers Service (CTUWS), established in 1990 as an NGO aiming at providing social and legal services to workers in Helwan. The CTUWS was staffed with workers along left-wing lawyers and politicians[17]. The CTUWS assumed the legal form of an NGO (registered as a civil company) due to the inability to create an independent trade union at that time. It however effectively functioned as such in many aspects calling for strikes and providing legal aid to fired workers. It got for instance shut down by the Mubarak regime in 2007 following the strike in Mahalla.

This model of rights-based contentious groups witnessed some expansion and popularization in the aftermath of the 2011 revolution where neighbourhood-based, and on rarer occasions village-based groups, were mobilized with claims to access public services or housing or land tenure within a rights-based framework. In a number of Cairo poor and low middle-class neighbourhood, groups that were made up of young people who participated in the revolution, organized and lobbied for better public services and sometimes tenure and secured property. The author interviewed an activist with a group at Meet-Okba, which took the form of a loosely organized popular committee – Lagna Sha'abiyya – between 2011 and 2012. The group lobbied for accessing infrastructure with the local authorities including better roads and tapping into natural gas networks[18]. Similar stories happened in near-by Ard-Al-Liwa and Ezbat A'allam. In all of these instances, young activists dedicated time and effort to negotiate with local authorities for narrowly defined goals related to the direct welfare of the neighbourhood. No massive financial resources were needed for these groups where the activists could capitalize on local knowledge of the community and the high trust they enjoyed there upon representing interests before local authorities. According to a source[19], the key factor behind the emergence of such local neighbourhood-based groups was the brief political opening that followed the 2011 revolution. Local authorities were vulnerable during that time to popular demands. They were willing to receive citizens and to positively respond to their demands. These opportunities went away after the July 2013 takeover as the old top-down authoritarian mode of governance came back and it became next-to-impossible to negotiate with local authorities. Together with the deep political divisions that followed the ouster of the Muslim Brotherhood and the intensifying repression of association and popular mobilization, most of these neighbourhood groups died out with their members de-moralized and the authorities less tolerant.

4. A body without a Head and a Head without a Body

Despite the partial successes by the ESRM in tackling contention, no organic relationship developed between the two movements. On the one hand, the contentious movement did not strategically adopt an economic and social rights discourse in any way that would have enabled it to get beyond its local, largely apolitical and un-institutionalized characteristics in favour of a nation-wide targeting of state policies and institutions. On the other hand, the human rights movement was unable to cultivate strong and continuous organizational or discursive links with the broader contentious movement in a way that could have provided it with the depth and weight needed against potential authoritarian reversals like the ones that happened after July 2013.

The large contentious movement since the mid-2000s could best to described as a body without a head. It was a movement that involved hundreds of thousands of people and engulfed tens of sights including factories, industrial centres, rural communities and neighbourhoods but had no nationwide organizational structure, a common political discourse or a clear leadership[20]. Contrastingly, the human rights movement in general and the one working on social and economic rights in particular was like a head that had no body. Made up of an inner core of politically committed leaders and activists with a strong ideological leftist background and an agenda for social and economic change based on an international rights reference, the economic and social rights movement had big claims on state actions that nevertheless involved disenfranchized and aggrieved constituencies other than its direct members[21].

The ESRM hence was the head that sought a body. Its central role has been as a broker: coordinator and translator but also leader to the broad local and largely apolitical contentious movement. The ESRM was in charge of articulating, producing and communicating a political discourse that could capture and transform local grievances into coherent rights-based claims on the public, defined as state actions. Yet, despite partial successes in areas like strategic litigation and legal service provision,

[17] See footnote 11.
[18] Personal interview, De'bes, Mohamed, a former member of a local neighborhood-based grassroots organization in Meet-Oqba, Cairo, Egypt, (7 September 2016).
[19] Personal interview, De'bes, Mohamed (7 September 2016).
[20] Ramadan, F. and Adly, A. Low-Cost Authoritarianism: The Egyptian Regime and Labor Movement Since 2013, Carnegie Middle East Center, 2015.
[21] See footnote 14.

networking and media campaigning, the head-body detachment proved persisted and could not be altered even with the brief political opening between 2011 and mid-2013.

The main argument this paper forwards is that alienation between the two movements captures in a nutshell the reasons behind the failure to develop organic relations between the ESRM and contentious movements. Alienation here can be defined as a mutual consciousness of the lack of a common identity among the components of the two movements and hence the potential or actual divergence in interests, goals, outlooks and rhetoric in a way that undermines or at least limits their interaction as components of a single movement aiming at social and economic change. This alienation resulted from various factors, some of which belonged to the broader socio-political context such as extended authoritarian rule and a consistent de-politicization and weakening of the Egyptian society as a whole. However, many actually have to do with the incoherent and self-contradictory strategies adopted by the human rights movement in the face of such restraints in a manner that led to perpetuating instead of overcoming them. The main contradiction lied in the resort for NGOization and civil societization as the means for the resumption of leftist political struggle.

The economic and social rights movements kept no virtual separation between its functioning within the civil and political societies and hence between what is political and what is rights-based contention. Rights-based advocacy organizations and networks were the functional substitute and the extension in time of left-wing organizations and networks that had clear ideological stances towards class conflict in the 1970s and 1980s with a special targeting of the labour – and to a lesser extent peasant – constituencies[22].

In the 1980s and 1990s, human rights advocacy and the seeming professionalization of these groups was more of a strategic choice made in order to better overcome the legal and institutional constraints imposed by an authoritarian regime with little tolerance for political activism, be it along party or non-party lines. The economic and social rights movement has hence inherited the challenge that the leftist movement had to contend with historically in Egypt (as well as in other developing countries) in their continuous attempt to link social with political conflict by primarily developing class-based organizations, discourses and policy agendas. This however proved to be a hindrance to the achievement of the original goals of political activism as it exacerbated actual and perceived alienation between the ESRM and its aggrieved constituencies. The sources of alienation were twofold: the conflict over the distribution of resources and over representation, and especially with regards to external brokerage functions like media coverage, campaigning and policy advocacy as stated earlier.

4.1- Conflict over Resource Distribution

Uneven access to resources has been one major source of alienation between the ESRM and contentious movements in Egypt. Human rights groups and organizations have always had far better access to financial, physical, human, social and cultural capital thanks to the middle class-background of their founders, members and adherents. The process of resource allocation from the ESRM to groups and individuals undertaking contention has usually been tension-ridden and bore the risk of developing a clientelistic relations and/or an opportunistic behaviour, potentially from both sides.

The source of funding of advocacy groups and organizations is also very critical for their credibility in the eyes of those whom they are supposed to be supporting, especially where most of the funding was foreign, hence a source of political (and possibly legal) liability[23]. The risk of clientelism is twofold. First ,it has to do with foreign funding where human rights groups and organizations depend in the financing of their operations on money emanating from abroad. This bears the risk of making them clients in a way that undermines their genuine commitment to the forwarding of a human rights agenda. The main concern here was that dependency on foreign funding would make these NGOs develop structures, agendas and programmes that fit the interests of their patrons, be they foreign governments or private foundations, rather than addressing real problems in their proper contexts. Foreign funding is a trait that human rights organizations shared with development and purely service-oriented NGOs, which makes the literature on the latter of relevance in critiquing the former.

Many scholars in the 1980s and 1990s stressed the unequal interaction between southern NGOs and donor and sponsors in the North, be they governments or Northern NGOs. NGOs, especially those operating in the fields of service delivery and development, were the hardest criticized. Green and Mattias (1996) called them comprador NGOs. Marcussen (1996) and Kothari (1988) before held them as agents of key global agencies pushing for a neoliberal agenda and as tools for the reshaping of third world societies. They were also criticized for treating the symptoms of the illness rather than its causes where they deliver services to the poor but do not tackle the reasons for their poverty. This went hand in hand with the attempt at depoliticizing issues of poverty, marginalization and unemployment by treating them as technical or individual issues.

Even though this classical critique of the role of foreign-funded NGOs in the South may apply to some cases or even segments of human rights NGOs, it does not seem to apply to the ones working on social and economic rights. As a matter of fact, the exact opposite could also be said. These NGOs were among the most politicized and that bore a clear ideological stance, be it liberal or social democratic. Economic and social rights organizations were moreover of a generally strong anti-neoliberal stance and most of their activities had to do with fighting neoliberal reforms or reversing earlier policies. They were hence closer to being counterhegemonic be it to the Egyptian government or to its neoliberal patrons like the International Monetary Fund, the World Bank or the USAID[24].

[22] See footnote 14.
[23] See footnote 14.
[24] See Nelson, P. and Dorsey, E. "New Rights Advocacy in a Global Public Domain", European Journal of International Relations, 13(2), 2007, pp. 187-216. Pratt, N., 2005. "Hegemony and Counter Hegemony in Egypt: Advocacy NGOs, Civil Society, and the State". NGOs and Governance in the Arab World, pp.123-50.

ESRM organizations worked moreover on politicizing popular economic and social demands by coordinating them and advancing their causes through policy advocacy, media and strategic litigation. Some of these human rights organizations drew financial and organizational support on many instances from anti-neoliberal and anti-globalization movements and organizations in the 1990s and 2000s. However, others still dealt with mainstream Northern NGO donors and sponsors without undermining their autonomy and their pursuit of an anti-neoliberal agenda. Overall, it could be said that foreign funding did not undermine the development and pursuit of genuine and homegrown agendas of social and economic rights.

We also have instances in which the interaction between the two movements was marked by cooperation where the ESRM would extend legal, logistical and organizational support to the contentious movement and where the latter would strategize on the resources made available by the former. In Al-Qursaya case for example, the local community made use of the legal service provided by a consortium of human rights organizations (primarily the Egyptian Center for Economic and Social Rights and the Egyptian Initiative for Personal Rights) and networks along access to media and appeal to the broader public. Al-Qursaya is a Nile Island in the heart of Cairo with a local community of farmers and fishermen. The island was claimed by the armed forces to be a military zone to the detriment of the livelihood and land tenure of the local community. There were earlier attempts under the Nazif government (2004-2011) at dispossessing the locals of their land by allocating the island to Arab investors. There was talk in 2012 that the military claim over the island had to do with some partnership with the same Arab investors. The local community mobilized in protest and received legal service from a number of human rights organizations and lawyers and other less institutionalized groups of activists that had a stance against trying civilians before military courts. The Supreme Administrative Court issued a verdict confirming the rights of the local community in their land but without denying the military its presence over the island as a military zone.

Similarly, Al-Dabaa community in the north-western coast of Egypt had an experience with the EIPR in 2011/2012. The local community of the northern coast, reached out to the human rights movement in support of their claim over land plots that were sequestrated in the early 1980s by the government for the establishment of a nuclear plant. Following the revolution of 2011, the local community stormed into the expropriated plots that were officially given for the establishment of the reactor and took over the land by force. They then reached out to the EIPR for advocacy, media coverage and potential legal service. The local mobilization was put to an end with the coming back of the military to power and the revival of the Al-Dabaa nuclear reactor project.

Even before the revolution, the Hisham Mubarak Law Center used to extend legal and logistical services to protestors, namely workers, who staged sit-ins in front of the parliament bearing economic demands.

In most of these instances, the ESRM played a strictly supportive role to the contentious movement. No clientelism, manipulation or competition over interest representation prevailed over cooperation. The interventions were generally professional – rather than clientelistic or political – and were also enabling by supplying the contenders with resources that otherwise they lacked. Overall, there was no undermining of the independence or genuineness of contention in these cases.

A caveat of this study would be the need for an extensive and comprehensive exploration of the impact of foreign factors on the operation, structure and agenda development of human rights NGOs. Foreign funding is one central feature, however, it is by no means the only one at work where most human rights networks and organizations have strong ideational linkages with Northern NGOs (e.g. Amnesty International or Human Rights Watch) through previous working experience or internships or training courses etc. Many have been members of global coalitions like the anti-globalization movement or ATTAC (Association pour la Taxation des Transactions Financières et pour l'Action Citoyenne). It would be interesting to understand the complex dynamics of how these different factors interact with each other and shape the human rights movement and its environment. For instance, how was it possible for the ECESR to keep its foreign funding despite its pronounced anti-neoliberal agenda and its central role in barring or reserving neoliberal measures?

4.2- Professionalization and Class-based Alienation

The other powerful factor behind alienation is the differential class backgrounds of the members of the two movements in a way that may provide varying and sometimes contradictory outlooks and interests. This class-based alienation could be bridged by the credible expression of ideological commitment to the cause of the contenders. However, this itself becomes problematic with the NGOization and increasing professionalization of human rights organizations.

Most Southern NGOs, including human rights advocacy ones, were usually founded and staffed by aspiring middle class professionals and entrepreneurs who spoke for the marginalized without sharing much with them in social, economic or cultural terms. Like development NGOs that claimed to empower the poor and the marginalized, human rights NGOs claimed to forward the interests of the poor, the abused or the marginalized. This contradiction has usually led to the rise of alienation and clientalism with the poor and sometimes even of purely opportunistic relations where NGO managers would make use of the poor beneficiaries so as to secure routinized funding.

This has been clearly a source of alienation and a restraint on the ability of the ESRM to develop genuine cooperation with those directly engaged in contentious action. A source talked about the lack of long-term commitment from human rights activists towards the groups they support and service[25]. The sustainability of cooperation is usually contingent on continued funding or even the continued presence of certain persons who are interested or ideologically committed or who are promoting their

[25] Personal interview, Fatma Ramadan, Unionist and human rights activist, Cairo, Egypt (24 August 2016).

professional career. A personal experience the author had was with a street vendors' group in downtown that established ties with the EIPR in 2012. Cooperation was discontinued upon the author's resignation and travelling abroad as a result of a career shift from human rights research to academia in 2013. Two other interviewed sources expressed the same concern upon their work with local communities or neighbourhoods or workers involved in contention. There was a general mistrust from the members of the contentious movement in having reliable, continued and long-term cooperation with human rights lawyers and researchers.

4.3- Representation and Impersonation

It has already been mentioned that the ability to perform external brokerage required the assumption of the ESRM of a representative character of contentious groups vis-à-vis the outside (namely the state but also society at large through media exposure). Representation is a contentious matter by nature, especially given the potential or actual tension over the access to resources and differential class backgrounds.

There is the example of CTUWS, which was established in the 1990s by a labour activist as a human rights NGO specializing in delivering services to workers. The organization according to a source developed into a source of competition or even rivalry with the workers' movement after the revolution of 2011[26]. As white-collar employees attempted to establish a federation of independent unions (the Egyptian Federation of Independent Unions: EFITU), CTUWS leader Kamal Abbas rushed to establish a rival federation[27]. This move weakened the still organizationally fragile independent union movements. According to Ramadan, this revealed an old tension over who represents workers and whether human rights activists and leaders of NGOs could actually do this job given the absence of a strong class of trade unionists and labour politicians. The CTUWS however never considered themselves as essentially an NGO, despite the legal form they had to take due to the restraints imposed on the independent labour union. According to Abbas, the CTUWS has always been a workers' organization that managed to instil a strong presence in different industrial centres since the 1990s including Mahalla, Helwan and Shubra. It has always been staffed with workers and leftist activists with a strong communist background[28]. They were hence part and parcel of the workers' movement from the very beginning.

The problem could be even traced to the 1990s and 2000s where members of the ESRM would represent the demands of workers (and peasants) in conferences abroad. Not only was this driven by a self-interested agenda for the sake of better funding and more visibility abroad, but it also had to do with a deficiency in trade unionists that could speak of general demands and claims of the workers' movement that go beyond the interests of their immediate local constituency.

It is fair to say that many limitations hinder the ESRM from taking a political representative character of the contentious movement. Human Rights activists, lawyers and most definitely NGO professionals can by no means replace or substitute for the lack of the long-absent class of politicians and unionists. Moreover, unlike leftist politicians and political party activists and candidates, members of the human rights movement do not have the incentive of reaching out to aggrieved groups in pursuit of votes. The ESRM can only perform representative tasks on certain narrowly defined issues (e.g. the ones that require the experience or resources of the ESRM) and in cooperation with organic representatives of groups and communities undertaking contention.

The absence of such class of politicized leaders with a nationwide view is a result of a long and continuing legacy of authoritarianism and the systematic de-politicization, localization and fragmentation of socio-economic contention in Egypt. The break of such restraint can only happen in a broader context of democratization, which may allow the politicization of contention and the emergence of nationwide movements demanding policy change. The brief opening between 2011 and 2013 did allow the beginning of such processes that were halted by late 2013. Figures from the human rights movement could explicitly play a political role, and hence seek to represent their constituencies. This was most apparent in Khaled Ali's running for presidency in 2012. This could be seen as an attempt at initiating a political career for the leftist lawyer and former head of ECSER.

However, the context of intensive politicization and popular mobilization allowed the emergence of organic politicians, who combined dense local knowledge of their direct constituencies with a national outlook. This was mostly the case in middle-class contentious movements, like the ones amongst skilled civil servants (e.g. doctors, pilots, teachers) and impoverished traditional middle-class neighbourhoods that mobilized for public service on the local level. The revolutionary experience led to the creation of local activists who were usually young and with university education and who could frame immediate, economistic and often particularistic demands in a national agenda. They were also members of wider networks of youth activists and political party members. These activists (or aspiring politicians) reported fluid interaction with human rights activists given the similar background and the less need for financial support from NGOs[29]. They moreover proved capable of framing demands and claims in a human rights language. This may have provided a new arena for the influence of the human rights movement on society as a whole in a way that goes beyond the narrow circles of professional NGOs or even the human rights community. These venues however were soon closed with the re-imposition of authoritarian rule as of mid-2013 and the intensive de-politicization process to which the military subjected society amidst the crackdown on the Muslim Brotherhood and more generally on popular protest.

[26] See footnote 25.
[27] See footnote 25.
[28] See footnote 11.
[29] See footnote 18.

5. Describing and Conceptualizing the Interaction between the Two Movements

This section aims at thoroughly studying the patterns of interaction and overlap between the ESRM and the broader contentious movement in Egypt through the last decade. It will describe and conceptualize different forms of interaction. The following section will seek to analyze and problematizing such interaction in the build-up towards a big argument.

To start with, the interaction between the ESRM and the contentious movement has not been uniform. In general, it assumed a cooperative form but it also had instances of discord and even competition and rivalry. Overall, the ESRM would perform two overarching functions in its interaction with contentious movement: The first is that of service-provider (legal, logistical and less frequently financial) to the usually less-equipped and resource-poor contentious movement and; the second is that of a broker, i.e. coordinator of action, resource dispensing and framing of demands and claims between the various components of the contentious movement and between it and the rest of world. There were also instances of competition and rivalry within the human rights movement itself along personal lines as well as over access to economic resources from foreign donors. According to an interviewed source from the human rights movement, this internal rivalry led to many instances of uncoordinated use of limited resources where the same activity for example would be held twice serving the same constituency or locality[30]. The adverse sides of the interaction between the two movements will be covered more extensively in the next section, which tends to problematize the interaction between the two movements. Now, light will be shed more on interaction in terms of cooperation, coordination and exchange.

5.1- Service-provision

The first function of a service provider indicates straightforward interaction where ESRM organizations and networks would deliver various kinds of service to groups and individuals undergoing acts of contention. In these instances, human rights entities remain in the background providing assistance and support to the main protagonists of the contentious movement.

Legal service has been one of the most frequently offered. It entails the defence of protestors or strikers upon detention or prosecution together with legal advice by professional lawyers to individuals and groups involved in contentious action. Legal service has been one traditional area of expertise and activism for human rights groups and since the inception of the movement in the early 1980s. What applied first to cases of human rights violation (like torture and police brutality) extended later to defending striking workers upon arrest, or when employees and workers were fired for union activism or any other arbitrary measures taken against them[31]. Legal services were also proactive in certain instances like enabling workers to establish their own independent unions or legally contesting allegedly rigged elections in the state-controlled trade union federation: the Egyptian Trade Union Federation[32]. This happened with Dar Al-khadamat Al-niqabiyya (Center for Trade Union Services) and the Center for Human Rights Legal Aid (CHRLA) in the 1990s and with the ECESR immediately before the 2011 revolution.

Legal service was however not the only kind furnished by the ESRM organizations and networks; there were also logistical, networking and educational and organizational services. An example of logistical service is hosting meetings or providing in-kind support to contentious activities like blankets, shelter and food for strikes and sit-ins (e.g. Hisham Mubarak Law Center's support of sit-ins before the parliament in 2009 and 2010). Logistical services had also to do with coordinating action among different components of the contentious movement given its localized and highly fragmented nature. In a similar vein, the ECESR played a central role in coordinating the labour movement since its inception in 2009 and especially after the 2011 revolution.

Networking has been a third kind of service where human rights groups and organizations would expand the outreach of contentious movement groups by introducing them into other relevant actors, be they within the state (including members of parliament) or in the political and civil societies like unions, syndicates and political parties together with mass media.

For instance, in 2012 a street vendors' association in Cairo approached EIPR[33] requiring legal and advocacy help with a view to amending the street vendors' law[34]. The EIPR provided legal advice but its principal contribution was in the networking domain by contributing to the efforts of linking various street vendors' unions in a number of governorates together with other supporting groups. A number of these meetings took place in the EIPR headquarters in Cairo coordinating movement and deliberating about the draft law in 2012. The EIPR also introduced the vendors to an engineering office in downtown Cairo that was developing an economic model for street vending in harmony with other social uses of the public space. Street vendors' activism in downtown continued for some time till the takeover of July 2013 where again local authorities became less open to entertain popular demands. Moreover, authorities became less tolerant to forms of public protest or grassroots mobilization in the context of the crackdown on the Muslim Brotherhood and its affiliated Islamist groups. Once again, the structure of political opportunity seems to explain best instances of local mobilization.

Service delivery, even though usually confined to non-material and non-monetary forms, has been one of the most tension-ridden areas of interaction between the two movements. Service delivery sprang in the first place out of clear unevenness in the distribution of resources between the human rights groups and organizations on the one hand and those directly involved in contention on the other hand. This has on many instances created an element of alienation among components of the two movements and has also created a risk of clientelism and opportunism that went against genuine cooperation for policy change.

[30] Personal interview, Mohamed Adel, member of the Egyptian Center for Economic and Social Rights (ECESR), Cairo, Egypt (10 August 2016).
[31] It should be borne in mind that defending workers involved in contentious action most probably stretches back to the 1940s when lawyers with communist and socialist leanings would perform such service.
[32] See footnote 11.
[33] See footnote 2.
[34] Adly, A, (forthcoming) «Street vendors in Cairo after the January revolution: A social movement perspective», in Protestors and Protest Forms in Egypt after the January Revolution, Arab Reform Initiative, 2018.

The tension over resource distribution within social movements has been treated dully by the literature. Emphasis was put on the fact that the asymmetry of resource allocation is the source of potential cooperation as well as tension[35]. There has also been emphasis on what seems to be a global trend within social movements where resources (material as well as human, social and cultural capital that can be transferred through training or expressing solidarity or political support by powerful actors) are almost always skewed in favour of middle-class-based groups and organizations in relatively rich urban centres compared to non-middle class and peripheral groups that are usually the protagonists of contentious action. This unevenness stresses the alienation and class heterogeneity within the movement and is likely to increase with the advancing professionalization of human rights organizations as well-educated career-oriented researchers and officers are more likely to face credibility problems with the aggrieved groups they are supposed to be serving and empowering[36]. This observation will be treated more thoroughly in the next section.

5.2- Brokerage

Beyond direct service delivery, other venues of interaction between the two movements are better captured under the concept of brokerage, developed in the social movements literature[37], and defined as the "linking of two or more currently unconnected social sites by a unit that mediated their relations with each other and/or with yet another site". Playing the role of brokers means that the ESRM becomes central in linking different actors within the contentious movement together as well as with other actors outside of it, be they in civil or political societies or in the state apparatus. Internal brokerage implies that the economic and social rights movement becomes the centre for the coordination of joint actions, pooling and resources allocation, and "the negotiation of common frames"[38]. Conversely, external brokerage entails the translation and vocalization of the members' claims and communicating them outside of the boundaries of the contentious movement.

The other function is more of a constructive one, which is that of translating and vocalizing the members' claims. Here the ESRM used tactics through which local, particularistic, myopic and apolitical demands raised by popular contentious groups could be translated into nationwide and more generalized claims over state public actions. This is an internal process where ESRM organizations, networks and individual activists would serve as articulators and mediators for the creation and negotiation of a supra-identity for the contentious movement. It also has an external dimension where ESRM serves in communicating and representing the claims of the contentious movement to the broader public opinion as well as other actors that lie outside of the contentious movement.

The brokerage function of the ESRM appeared in a number of tactics employed during the period of study including strategic litigation, policy advocacy and media campaigning.

5.2.1- Strategic litigation

refers to legal action before courts so as to change the rules of the game forwarding human rights obligations. Strategic litigation was one powerful tool in performing the translation function within the contentious movement as well as outside of it. Strategic litigation has been based on invoking the contradictions between the Egyptian state's constitutional and international obligations in areas of economic and social rights on the one hand and actual policies on the other hand. It proved to be a potential area for the production or undoing of some state public policies and actions. It also served as an important channel through which particularistic and local demands held by various components of the contentious movement could be translated into national claims over state actions.

One of the most expressive examples of strategic litigation was in the successful intervention by the ECSER, which secured a Supreme Administrative Court ruling obliging the state to set a minimum wage for public and private-sector workers. This was an example where professional – and ideologically motivated – lawyers could win a national gain for a movement that had been on the rise in the public sector calling for better wages. The ECESR could capitalize on its dense ties with the independent labour union movement and the broader circles of labour and leftist activists in order to come up with a generalized demand over minimum wages that could address in a comprehensive way the demands of the whole labour force, primarily those in the public sector including civil servants. The minimum wage served as a political agenda on the national level for the independent labour union movement before the 2011 revolution. The success achieved could be interpreted in the clear division of tasks between the ECESR as a professional legal human rights organization and a powerful organization springing from within the labour movement: independent unions.

Another case of strategic litigation before the revolution was the EIPR's intervention in the right to health areas in 2007-2008. The EIPR challenged the government's decision then to establish a holding company in charge of healthcare. The decision was perceived as a prelude to privatizing the state-owned agency in charge of healthcare insurance. The EIPR issued a lawsuit before the Administrative Court calling for annulling the Prime Minister decree. The EIPR won the case in 2008 (EIPR 2008) halting the privatization drive in the healthcare realm. This instance of strategic litigation happened in close cooperation with groups working on the right to health in Egypt. The cause however was not as popular as the minimum wage, which involved a direct benefit for the labour movement at large.

Strategic litigation was mastered by the ECESR towards the end of the 2000s. Its roots however seem to extend back to Ahmad Seif Al-Islam, who used to call it "constitutional litigation"[39]. Litigation, unlike direct legal service, involves the direct interaction between human rights lawyers and legal firms on the one hand and the court system on the other hand with the aim of changing or challenging laws and regulations in certain areas restricting social and economic rights.

[35] Edwards, B. and McCarthy, J.D. "Resources and Social Movement Mobilization". The Blackwell Companion to Social Movements, 2004.
[36] Abdelrahman, M.M., Civil Society Exposed: The Politics of NGOs in Egypt (Vol. 40), IB Tauris, 2004, p68.
[37] McAdam, D., Tarrow, S. and Tilly, C. "Dynamics of contention". Social Movement Studies, 2(1), P26, 2001.
[38] Lavalle, A.G. and von Bülow, M. "Institutionalized Brokers and Collective Actors: Different Types, Similar Challenges", Social Movement Dynamics: New Perspectives on Theory and Research from Latin America, 2015, p.164.
[39] See footnote 30.

Strategic litigation was used in two primary areas in the last several years. The first was the institutionalization or legalization of material gains for the labour movement, namely the case of 2009 obliging the state to set a minimum wage for workers according to the labour code no.12/2003. The verdict was one successful case of translating nationwide, yet particularistic and uncoordinated, strikes since 2004 calling for better wages and working conditions. The other area for strategic litigation was targeting the reversal of earlier neoliberal policies, primarily in areas of privatization of state-owned enterprises (SOEs). This was most successful following the 2011 revolution and cannot be understood away from its general context. In these cases, the Supreme Administrative Court annulled a number of governmental contracts according to which SOEs were originally privatized and ordered the government to retrieve divested assets[40].

Strategic litigation was one influential tool with far reaching impact not only on how the state was to relate to the market but also on the politicization and translation of the demands of the popular contentious movement into consolidated claims on the public policy level. It also included policy reversals by targeting the annulment of privatization deals. A series of verdicts were won by the same centre causing a de facto reversal of earlier pre-revolution privatization deals. In a number of cases, the court even obliged the state to recover the privatized state-owned assets, as was the cases with Tanta Lil Kittan and Al-Maragel Al-bukhariyya.

It could therefore be said that in these instances that the imprint of the ESRM was translating scattered and apolitical demands into claims over public policies. This was the historical role played by leftist parties and organizations, which were perceived to play the role of the vanguard in leading (and actually creating the collective identity) of the working class. The ESRM was ideologically linked and organizationally indebted to the efforts of an earlier generation of communist activists who had clear stances and strong ties with the working (and peasant) classes. It appears then that the goal in the 2000s was to reach out to the popular movement that included hundreds of thousands of workers as well as marginalized communities protesting state policies and to work on the creation of a political project out of this.

Beside strategic litigation, coordination and translation took place through policy advocacy and media campaigning, which were two tactics employed by the ESRM, especially in the aftermath of the 2011 revolution.

5.2.2- Policy advocacy
refers to instances where human rights groups, individual activists and organizations would embark directly on the effort of advocating policy changes through influencing the legislature, the executive and other relevant political actors like political parties.

Before the 2011 revolution, there was limited space for policy advocacy given the closed structures of policy-making, the over-concentration of power in the executive and security restrictions on the media. This changed dramatically following the revolution. Media, private newspapers and TV channels but also social media became more politicized and more open for deliberation about public policies. Moreover, the authorities became more receptive to popular demands. The entry channels into the political system increased relatively, especially with the short-lived parliament of 2011/2012, many human rights groups intensified their advocacy work asking for legislative changes in areas of basic social and economic rights like labour laws and regulations, including labour union law. These attempts were however of a limited nature given the fact that power soon got concentrated into the hands of the executive again after the disbanding of the parliament in June 2012. Policy advocacy happened through political allies after the revolution especially left and centre-left parties (e.g. the Egyptian Social Democratic Party and the Popular Alliance Socialist Party) and MPs who shared convictions, members and sometimes even leaders with the ESRM, as has been the case with the two aforementioned political parties. The lack of strong political allies proved to be a serious point of weakness that put the social and economic rights movement in a vulnerable position towards any authoritarian reversal.

Even after the July 2013 takeover, ESRM organizations tried to play a role in advocating basic social and economic rights. There were resumed attempts by the independent labour union movement and their human rights allies to push for a new trade union law trying to take advantage of having Kamal Abu-eita, the historical leader of the independent union movement and the founder of the first independent union in 2008, as minister of labour and manpower in 2013. There were negotiations around reviving the old draft once developed in 2011. This was to little avail given the concentration of real power in the hands of the military and the predominance of security agencies/concerns on the work of the government. A similar development happened with the constituent assembly in charge of setting a new constitution in 2014. Human rights organizations tried to pull some strings and to use the presence of sympathetic figures and politicians in the assembly. Some advocacy in areas of healthcare and education were successful, at least partly. However, the overall process was quite top-down with the constituent assembly having limited real power over the drafting of the constitution in favour of the military, which wielded most of the influence.

It is however important to consider the problematic nature of advocacy and the translation and vocalization functions in general in that they require a minimum level of representativeness. Whether human rights groups and organizations represented the aggrieved constituencies or groups they wanted to reach out to is something that could not be taken for granted. In many instances, the two movements shared neither the same interests nor common outlooks. Moreover, representativeness presumes the presence of well-developed channels of communication and coordination so as one party could play the role of advocate. It is not clear whether this was present all the time. This point will be tackled in more detail below in the section problematizing the interaction between the two movements.

5.2.3- Media campaigning
is an effort whereby human rights activists and organizations could contribute to the formulation, representation and communication of contentious politics in a coherent discourse that holds claims on the public policy and institutions. Media cam-

[40] Adly, A. "Mubarak's Egypt: A state of corruption" (In Arabic). Cairo: Egyptian Initiative for Personal Rights, 2012.

paigning was closely related, and access to it was almost conditioned, by the political opening of the post-2011 revolution in Egypt. The issue of media campaigning is quite important not just given its potential impact on achieving the goals of the two movements but also for examining the interaction between them. This can be an element of cooperation where human rights lawyers, activists or researchers use their better-developed cultural capital in order to publicly represent local issues of contention. Yet, like advocacy, media campaigning can itself be a source of tension with regards to how representative is the ESRM of the direct member groups and individuals undertaking contention.

6.Conclusion: a Hand Rather Than a Head

Social conflict in Egypt over the distribution of economic resources has been cantered on the state and its policies and institutional arrangements. It was invigorated in the 2000s as the pace and scope of neoliberal reforms became quicker and broader. The expressions of social conflict and contention however remained local, economistic and largely apolitical. This was the result of the long legacy of authoritarianism since the 1950s, which undermined and crippled the society's associative capacity, whether in the political society with regards to parties and other organizations or within the civil society including labour unions. A weak associative capacity disabled the development of a politicized discourse with claims over the public on the one hand. It also kept contentious politics within the confines of the Nasserist moral economy, which was historically based on the de-politicization of society and the exchange of political rights for economic entitlements as part of a broader process of state-led authoritative modernization.

De-politicization and weak associative capacity led to the absence of political entrepreneurs, be they party leaders, local politicians or union activists, who could have contributed to the weaving of local and particular grievances into claims over state actions and policies. These structural restraints, which resulted from past human actions under resilient authoritarianism, enabled the contentious movement in the 2000s to expand quantitatively rather than to develop qualitatively. The 2011 revolution did not change these long-lasting features, possibly given the very brief political opening between 2011 and 2013. Yet, even after the revolution, there was a remarkable inability of political actors, both party leaders and revolutionary figures as well as activists, to reach out to the body of contentious politics by appealing to these constituencies with political rhetoric and programmes either for electoral support or to stabilize the economy. Major political forces were too socially conservative to develop such discourse. This was made clear by the condemnation of social and economic protest after the toppling of Mubarak as particularistic or even as a plot by the ancient regime networks. Other political forces were simply too opportunistic to give credibility to their rhetoric. Either way, the brief political opening witnessed virtually no reaching out by political parties to the body of social and economic protestors either on the discourse level or through sustainable organizational ties.

The economic and social rights movement has reacted to the expansion in contentious movement even before the 2011 revolution (and in a way, that led to its irruption in one way or another) by filling this vacuum of absent organic politicians. It used strategic litigation, advocacy, media campaigning, coalition building, coordination and a myriad of other services given to those who are contending state policies in an effort to transform local and economistic demands into a political discourse with claims over the public. Some successes were struck in doing so, but the movement also faced many limitations that sprang from its internal structure and culture, or of that of the contentious movement or had to do with the broader political context in Egypt. Overall, the gains made by NGOization, civil societization and professionalization (access to resources and recognition) came at a high price of alienation from the aggrieved constituencies undertaking contention and hence hindering the development of organic links between them. The head remained severed from the large leaderless body. Civil society cannot do the job of political society and NGOs; professional lawyers and even activists cannot substitute for politicians. The most successful cases of intervention happened in areas of internal brokerage where the ESRM would perform the role of an assisting hand rather than a head. This of course requires that contentious groups themselves have organic leaders from within their own ranks that can do both tasks of knowing and feeling local grievances while being able to express them in broader political terms. However, one cannot condition successful functioning of the ESRM on the presence of a deus ex machine contentious movement that has leaders and is politicized and organized on a sectorial or national basis.

The production of a political class is something that definitely goes beyond the capacity and the mission and responsibility of the human rights movement. Its absence is rather a restraint that has to do with decades of authoritarianism and deliberate weakening of associative life and collective political action in Egypt since the 1950s. Yet, it is important to know that the professionalization and NGOization strategy pursued by leftists as a backdoor to politics has met little success. "Groups seeking to challenge authoritarian rule require widespread popular support, and NGO advocacy organizations, which are typically single issue groups with small local constituencies dependent entirely on foreign largesse are ill equipped to lead the change"[41]. Trying to "impersonate" contentious groups has also proven to only increase alienation and conflict between the two movements. Meanwhile, the production of a political class that can be allied to human rights is something that depends on macro-social and political changes. This process takes time and is by no means simple or straightforward. The question here is whether the human rights movement can actually contribute to the development of such a class in their interaction with contentious groups, at least those that belong to the middle class.

[41] See footnote 14, p200.

Rights and Politics: Human Rights Action and Socioeconomic Struggles in Tunisia

Hatem Chakroun

Summary

This paper seeks to examine the dynamics of the relationship between human rights organizations and protest movements struggling for economic and social rights in Tunisia before and after 14 January 2011, the day Tunisia's long serving dictator and former President Zine El Abidine Ben Ali lost power and escaped the country. The paper deals mainly with protest movements advocating for better employment policies and opportunities and social movements working to secure economic development rights.

The paper focuses on three major movements in three different regions of Tunisia in order to shed light on the nature of relations between civil society activists and other civil society components, especially protest movements, and how human rights actors attempted to mediate between movements, which often lacked a political structure, on the one hand, and a ruling regime lacking stable negotiation and conflict resolution mechanisms in disputes over the distribution of wealth and power, on the other hand.

The paper also examines the extent to which human rights actors were able to play a useful role as brokers or defenders of these rights and representing them and their bearers in political and economic contention. Together, the three examples addressed in the paper reflect the complexity of relations within civil society on the one hand, and between the latter and the State in the economic and social spheres, on the other hand.

Introduction

This paper examines the changing position of human rights actors in Tunisian civil society with regard to economic and social rights, especially after the fall of the regime of former President Zine El Abidine Ben Ali in 2011. The paper addresses the relationship of these organizations to protest movements demanding economic development and employment opportunities, namely the Union of Unemployed Graduates (UDC)[1], the mining basin protest movement and the Jemna oasis and Al Kamour protests[2].

The period following the January 2011 revolution in Tunisia was marked by the prominent role played by civil society organizations, some of which became main actors on the political front, obliging and pressuring the state to commit to rebuilding political life and economic policies on a democratic basis, in which human rights constitute fundamental principles. Human rights activists contributed to the process of building democracy, especially through the Higher Authority for Realization of the Objectives of the Revolution, Political Reform and Democratic Transition, during the first transitional stage, which lasted until 23 October 2011, the date of the elections of the National Constituent Assembly. The role of civil society continued during the drafting of the Constitution through public debate over the various rights and freedoms to be included in the document[3].

Civil society represents a space of contention for social forces over the system of governance and distribution of resources and values[4]. These forces include numerous and interconnected networks of various actors in the form of non-governmental and non-profit groups that represent the essence of civil action to find and advocate solutions to problems of public interest[5]. Civil society is not a homogenous assembly that can be represented in a unified voice and, at the same time, it is not a group of citizens who defend their personal interests in an isolated way from each other[6].

In view of the evisceration of political life that Tunisia had suffered almost often since independence until the 2011 revolution, human rights activism of associations and groups focused on defending political and civil rights systematically violated by state repression and domination and the crackdown on political and human rights activists alike. Economic and social rights were less represented in the struggles of these actors in view of the state's adoption of cautious social policies, in which the Tunisian General Labor Union (UGTT) was an important partner of the ruling elite of the State.

After the revolution, civil society witnessed several changes, foremost the change in the legal organization of associations by issuing the 24 September 2011 law[7], which granted in its first chapter the "freedom of forming, joining and action

[1] An independent organization open to every Tunisian with a graduation certificate but deprived of the right to work

[2] Located in the south west of Tunisia, the mining basin is a rich phosphate site that has had wide protests since 2008 because of pubic domestic objections to the mines' employment policy. Jemna oases lie in the Kibli state in the south west of Tunisia and includes state-owned agricultural lands known for its date palm trees, which were seized and farmed by residents after 2011despite government opposition. Alkamour, an area rich in oil and gas fields, lies in Tataouine state in southeastern Tunisia, was the scene of large sit-ins because of unemployment.

[3] Hamadi Redissi and Rihab Boukhayatia, "The National Constituent Assembly of Tunisia and Civil Society Dynamics", Euspring Citizenship Report, No. 1, July 2015, available at bit.ly/2CZwP89

[4] Nasser Etamadi, «Limites et Actualité du Concept de Société Civile», Revue L'Homme et la Société, 136 :2, 2000, p.98.

[5] Jürgen Habermas, Droit et Démocratie, entre Faits et Normes, Paris : Gallimard, 1997, p.394.

[6] Nina Cvetek and Fridel Daiber, "Qu'est-ce que la société civile ?", Antananarivo : KMF-CNOE, 2009, available at library.fes.de/pdf-files/bueros/madagaskar/06890.pdf

[7] Law no. 88 issued on 24 September 2011 on the formation of associations, published in the official gazette, issue no. 74, 30 September 2011, pp. 1996.

within associations... supporting the role and development of civil society organizations, and protection of their independence." Associations were able to register according to a much easier system, based on the right to organize[8]. In 2016, the number of associations exceeded 18,000 according to the minister in charge of the relationship with constitutional bodies, civil society and human rights, and almost reached 20 thousand in 2017[9]. Those included developmental, women, charitable, religious, scientific, cultural and human rights organizations. The number of human rights organizations exceeded 400 organizations[10].

The issue of economic and social rights emerged with the mining basin movement beginning in 2008 under the UGTT auspices. This uprising took place in an area living on the margins of power and wealth in Tunisia, in an attempt to rebalance the distribution of Tunisia's natural wealth; however, its success was more political than economic and social. After the 2011 revolution, the Alkamour protests and the issue of management of the Jemna oases reinstated economic and social rights high on the national agenda after becoming a focus of sustained and high-profile social public struggle. There was a clear change in strategy in managing political contention without the patronage of human rights organizations, as happened to varying degrees in the mining basin movement. The UDC became a backbone in the struggle for the right to work in light of the burgeoning unemployment rates before and after the 2011 revolution.

I. Protest movements around economic and social rights

After decades of stressing civil and political rights, it seemed that economic and social rights started to occupy a significant space in civil society through a social protest movement that was mainly centered on unemployment. The decreasing number of available jobs was clearly the result of failed economic and educational policies associated with repeated crises in the global economic system. The rate of unemployment rose from 13% in 2010 (491,000 unemployed) to 15.3% in 2017 (625,000 unemployed)[11].

The mining basin events, which broke out on 5 January 2008, drew the attention of civil society to a deteriorating social and economic reality in marginalized areas. At the same time, it revealed neglect by civil society (e.g. labor unions, student unions and human rights organizations), which had been absorbed in the struggle for civil and political rights[12]. The protests exposed the huge gap between union leaders and their constituencies, and the fact that those leaders and upper echelons neglected the rights of the marginalized, subjecting them to its own delicate balancing act with the authorities[13].

The unequitable and failing development policy was not one of the concerns of civil society organizations and institutions. Those organizations were structurally and procedurally unable of predicting or framing social movements and protest actions. In addition, these organization suffered from a parochial view of public interests when they approached state social policies. The UGTT, for example, preferred reformist and short term solutions. In a way, several CSOs were involved in «besieging» the mining basin protests, especially since they erupted shortly before the 2009 presidential elections.

In the context of this failure, the success of the protest movements for employment and development stands out, led by the UDC. This movement was on the frontline of the wider movement that began in the marginalized and poor areas on 17 December 2010.

1. The UDC

a. Beginnings

The policies of the Ben Ali regime produced political crises in the 1990s as the ruling regime moved towards a more liberal economy while attempting to maintain a relatively stable middle class. The high rate of unemployment, and the right-to-work issue as a whole, was among those crises, where the state failed to achieve progress and could not even reform the educational system to better serve development and job creation requirements. While the economic structure and the labor market changed for various reasons, including government policy choices, educational institutions did not evolve. Graduates became one of the largest sectors among the unemployed, because their diplomas did not provide them with the skills demanded in the labor market or because the market was unable, in view of regime policies, to create enough jobs in certain fields[14]. According to official data, more than 30% of degree holders were unemployed despite the fact the general unemployment rate was only 15.3%.

The country›s conflicted economic policies failed to provide the required minimum number of jobs. The state continued protectionist policies while trying to open up the economy to the private sector; the development gap deepened between

[8] An association is formed after mailing a file to the government chief of cabinet with all necessary documents, which had been reviewed by a judicial officer to ensure it is duly complete. The association is considered formed since the date of mailing the file. However, it does not enjoy legal status except after being announced in the official gazette.

[9] "Kamal Jendoubi: Number of associations in Tunisia has exceeded 18 thousand associations», Express FM, 5 February 2016, available at www.radioexpressfm.com/ar/regarder/18-5636

[10] Ben Lamine Mariem, «le rôle de la société civile dans un Etat en transition: cas de la Tunisie", Institute Européen de Recherche, 24 July 2013, www.medea.be/2013/07/le-role-de-la-societe-civile-dans-un-etat-en-transition-cas-de-la-tunisie/

[11] See employment figures regularly issued by the National institute for statistics, for the period under discussion check www.ins.tn/ar/themes/emploi

[12] Winston Smith, "Interview with a leader of the protest movement in Radeef, 2008," Nawaat, 24 December 2012, www.nawaat.org/portail/2012/12/24//-حوار-مع-أحد-قادة-الحركة-الإحتجاجية-بال

[13] Ammar Amrouseya, "Uprising of the Mining Basin", Elhewar Almotamaden, 4 June 2008, available in Arabic at www.ahewar.org/debat/show.art.asp?aid=136771

[14] Aljazeera net, "Unemployment in Tunisia continues at high levels",21 November 2014, available at is.gd/y1nJeO

the different regions, and protectionism as well as administrative and political corruption constrained the private sector[15]. Adding insult to injury was the spread of nepotism and favoritism, and the state capture by the president›s family and cronies[16]. These conditions drove young Tunisian university graduates to protest in the streets in defense of their rights as citizens to employment, being the essential means for a dignified living.

The unemployed graduates had honed their political struggle skills and tactics in active Tunisian campuses. These skills enabled them to engage with several governments which resorted to procrastination and/or repression. Unemployed graduates networked with other actors in the community and established local and regional coordination committees starting in 2006 in order to raise awareness of their cause, contextualize their struggles and organize their ranks.

b. Origins

Despite the continued struggle of committees and coordination structures, and with the increasing number of unemployed graduates and the inability of the state to provide effective solutions, the work of the committees did not achieve an important breakthrough. Internal problems resulting from differing political loyalties within the UDC, and the shift of the struggle from a socioeconomic to a political one, where opposition parties took advantage of the opportunity to challenge Ben Ali's repressive regime. All these conditions and practices contributed to weaken the committees of the unemployed graduates.

A need for organization emerged at the national level to structure decision-making, better frame the movement and build a front that would be able to achieve some of its demands or, at the very least, raise awareness of the issue of unemployment, which have become a nightmare for young Tunisians graduating from university. In 2006, the committees and coordinating bodies announced the formation of a National Union (UDC) whose primary purpose was to address the inability of the system to provide solutions to the problem of unemployment it has caused[17]. The UDC networked with organizations concerned with economic and social rights, including the General Union of Tunisian Students (UGET), the UGTT and the Tunisian League for the Defense of Human Rights (LTDH).

c. Mechanisms of struggle on the ground

The UDC structure at the national level contributed to increasing the impact of its struggle. Regional structures adapted their working methods according to their regional particularities, which resulted in the deployment of various tactics in remote areas as well as on the national level. The existence of a national entity with regional branches deepened and enriched the formulation of economic and social demands, where branches contributed, for example, to challenging the misleading use by the ruling regime of statistics and programs. Also, members of regional branches contributed to a lot of research that highlighted the shortcomings of the state economic plan to create job[18].

Before the revolution, it was politically useful, and even inevitable, that UDC members in some constituencies engage in alliances with various components of civil society, whether political parties or associations, to spread information about their cause, despite their full awareness that they might be used as a tool of pressure on authorities by those allies. Supporters of this kind of networking in and outside Tunisia believed that they would, at least, be able to raise public awareness of the issue of gradate unemployment. These alliances and relations suffered from the clashing priorities and different fields of expertise between the UDC members, particularly those from the marginalized interior regions of Tunisia, who are focused on economic and social rights on the one hand, and the urban-based human rights organizations that are more concerned with civil and political rights, on the other. This also meant that UDC members were engaged in street confrontations with repressive security forces, while urban human rights defenders were primarily involved in areas of support, advocacy, framing, and representation.

For example, the UGET played an important role in raising the awareness of university students who went on to form the main UDC foundations after graduation. Also, networking with UGET provided a common vision for the disagreements with the educational system (Ministry of Education and Ministry of Higher Education and Scientific Research), which were incapable of reform in order to reduce unemployment rates. Finally, UGET made its offices available for UDC, after the government refused to register the latte.

The LTDH provided legal support to UDC, but the differing political currents within the human rights organization were a major factor in shaping its position and relationship with the union. The League was a stage for political conflict among its founding factions that belonged to various political ideologies[19], the most important of which were a group of Social Democrats, which split from the ruling party in 1978, and a number of independent leftists, Arab nationalists and members of the Constitutional Socialist Party. Later, in the early eighties, affiliates of the Islamic Trend movement joined LTDH. This conflict became apparent during the drafting of the LTDH charter and, later, during election of its governing board. But in the end, it was Social Democrats who dominated the board and worked to establish regional branches for LTDH.

LTDH became a fundamental supporter of the UDC movement. It adopted their causes and helped in the formulation and articulation of economic and social demands through their branches. It also contributed to shining a light on their cause through public statements, as it did when it publicized the action of unemployed activists in the state of Sidi Bouzid, who went on a

[15] Aljazeera net, "Unemployment in Tunisia (see footnote 14).
[16] Bob Rijkers, Caroline Freund, and Antonio Nucifora, "All in the Family: State Capture in Tunisia", The World Bank: Policy Research Working Paper, 2014, p. 42.
[17] "Common Grounds Document", UDC, May 2006.
[18] Interview with Hatem Tlili, a UDC researcher and a former UGET activist, 16 May 2017.
[19] Souhayr Belhassen, "La LTDH ou la gestion des paradoxes", Confluences Méditerranée, Vol. 4 No.51, 2004, p. 105) Souhayr Belhassen: La LTDH)

hunger strike to protest their deteriorating socioeconomic conditions. A number of other human rights actors, notably recently, the Tunisian Forum on Economic and Social Rights (FTDES), cooperated[20].

On the other hand, for decades, the UGTT has been the only space to defend economic and social rights by virtue of its structure, functions and ability to confront the regime, based in part on its historical legacy of nationalist activism for the independence of Tunisia. The UGTT helped build the post-independence state in Tunisia and actively intervened in opposition or in support during major economic policy transformations such as abandoning of cooperative socialism in the late 1960s and moving towards economic liberalism in the early 1970s.

The fact that the UGTT had offices and infrastructure throughout the country helped support the UDC work and activities. The majority of UGTT leaders belonged to the Socialist Constitutional Party until 1978, when they took a distance from the regime and relatively opposed government economic policies that negatively affected the working class[21]. In the era of Ben Ali, and with the economic open door policy of the regime, the UGTT entered into a semi-partnership with the regime under which it periodically negotiated on behalf of workers. The UGTT had finally embraced a contradictory position but seemed to defend its clashing parts. Since it has supported the National Charter signed by the various political and civil forces in the country in November 1988, it stood for an equitable distribution of wealth among the various regions and social groups, and improving the living standard of wage laborers and employees in the public service sector. On the other hand, it supported the neoliberal regime of Ben Ali. Seen from another angle, the UGTT became a partner of the regime in order to move forward with the unavoidable trade liberalization while maintain social stability[22].

The UGTT worked to contain and calm down disgruntled parties, trying to find compromises, which made its relationship with the UDC stronger in the regional and sectoral offices which enjoy a relative margin of independence compared to the central leadership, which played the role of the only negotiator between protest movements and the regime[23]. This explains why UGTT positions and actions regarding economic and social rights issues had a negative impact and were probably useless in marginalized areas, such as the mining basin, where protests broke out in 2008.

The movement of the unemployed graduates did not seek bilateral links with each different association but rather networked among them, leading to collective actions such as issuing statements supporting the movement and collecting signatures from all associations and other actors who are in solidarity with them.

2. The Mining Basin Movement

a. Did UGTT fail?

The mining basin movement reflected the failure of state employment policies and the corruption of a number of trade union leaders, who played the role of mediator with the state as well as supervised the implementation of the state's employment policy in the basin mining area[24] to ensure respect of their employment quota in the phosphate mines, a quota system that was marred by favoritism and corruption[25]. Some of those close to the authority, including Ammara Al-Abbasi, a member of Parliament and the General Secretary of UGTT branch of Gafsa at the time, controlled those appointments under the protection of regional and national authorities and the central trade union leadership[26].

The announcement of the appointment results in the Gafsa phosphate company on 4 January 2008, which UGTT insisted on approving despite demands for reconsideration by the candidates for those jobs, was the last straw for residents of the mining basin who suffered previous grievances, foremost among which the continuous elimination of jobs in the phosphate complex that brought the work force down from 14,000 in the late 1980s to 5,300 workers in 2008. People took to the streets[27].

A political class at the national level benefited from these protests, but the effort did not lead to significant results in terms of economic and social rights in the mining basin itself. Employment procedures at the phosphate complex remained subject to quotas divided between the ruling party and the regional UGTT branch, with the latter quota further dependent on family and clan affiliations. Demands by tribal minorities to increase their share of the UGTT branch's quota were a major reason for the escalation of the protest, especially since the dominant majority of the Gafsa UGTT branch refused those demands[28]. Did UGTT fail to manage this crisis? Or was it successful in defending its narrow interests and continuing its client role of managing the crisis in favor of the upper echelons of the ruling elite as well as in favor of containing expectations of marginalized groups and allocating resources (jobs) based on favoritism and tribal affiliations?

[20] "A Solidarity Statement with the Social Movements and Feminist Struggle in Sidi Bouzid", issued by nine Tunisian human rights organizations in 2010 (undated but available at is.gd/KuZzuz). The hunger strike took place in various municipalities of the central province in April and May 2010, and was later seen as precursor for the 2011 uprising. See: Assim Ghabry, "Sidi Bouzeid: A wave of Hunger Strikes Hits Several Municipalities", Elsabah, 16 May 2010, available at is.gd/GSjlDK

[21] Toumi Mohsen, «Le courant ouvrieriste et populaire en Tunisie face au pouvoir de l'Etat», Revue française d'études politiques africaines, Vol. 13:149, 1978, pp. 79-102, and Yousfi Hèla, "L'UGTT une passion tunisienne enquête sur les syndicalistes en révolution 2011-2014", Institut de recherche sur le Maghreb contemporain (IRMC), Med Ali Editions 2015, p. 49 (Yousfi Hèlla: L'UGTT).

[22] Yousfi Hèla: L'UGTT, p. 49.

[23] Interview with Alsagheer Alshamekh, former UGET member and mining basin activist, 13 May 2017.

[24] The mining basin is situated in southwestern Tunisia, between the municipalities of Bouzid and Gafsa, and is known for its phosphate complex which is considered an important state resource.

[25] Salah Eldin Elghourchi, "Tunisia: Mutiny of the Mining Basin Residents Strongly Foregrounds Social Issue", Swissinfo, 18 April 2008, available at is.gd/fZUPQV

[26] Ammar Amrouseya, The mining basin uprising.

[27] Ammar Amrouseya, The mining basin uprising.

[28] Interview with Alsagheer Alshamekh.

b. State and society: Conflict between center and periphery, tribe and citizenship

At face value, the right to work was the essence of the protest in the mining basin. However, the main conflict was about how vacancies are filled up or, in other words, how the state distributed gifts to the people of the region with the mediation of the UGTT. These «gifts» or this «favoritism» was the state mechanism to absorb and divert the course of any protest movement that might trigger a real debate over economic and employment policies, which resulted in a recurrent crises and subsequent conflicts, including tribal squabbling, in which the state rallied behind its supporters represented by the controlling majority within the UGTT and the ruling party. These latter actors relied on and fueled larger tribes to suppress the protest movement of the minority (whether a minority within modern institutions such as unions or parties, or traditional minorities that were greatly affected by modernity, such as marginal tribes).

The mining basin marginal minorities defended themselves and blocked the railway[29] in a sit-in led by Adnan al-Haaji[30] to stop the shipment of phosphates, thus disrupting production and forcing the state to consider their demands. The UDC formed a cell in Radeef, west of Gafsa, and added their demands to those of the people of the region and decided to defend members of the minority tribes[31].

For its part, the tribal majority organized a sit-in at the UGTT Gafsa branch demanding an increase in their job quota, and rejecting the principle of equality with tribal minorities. They demanded that the ruling party lift its hand off party and union quotas[32].

The state repressive machine targeted both parties after the favoritism mechanism of the ruling elite appeared to be collapsing in Gafsa, a situation that could have required the deployment of violent means to impose the elite's solutions to the controversial issue of employment. However, the UGTT, without entirely leaving the scene to the tools of stark repression, managed to impose a solution that did not affect the general economic policies. One aspect of the solution was to revive the region's agriculture and environment state enterprise to accommodate a number of job seekers without going into the core of the crisis, which is the inability of the state-run system to create jobs and implement effective development plans. Thus, the whole employment issue remained subject to clientelism and favoritism between the ruling elite and citizens, in which the latter stayed the weaker party especially those belonging to marginalized groups.

3. How the revolution affect the protest movements of UDC and the Mining Basin:

The 2011 revolution opened new paths for several political and social forces to formulate and translate their demands to reform the state's political system. Political forces were able to enshrine and protect political and civil rights, while economic and social rights received lesser attention. The most influential political forces got involved in a struggle over power, as well as securing the rules of pluralism and power-sharing. Some of those forces were in favor of neoliberalism, inherited from the authoritarian regime, as an option also supported by international actors and the global neoliberal system.

The UDC was able to bypass tribal and political obstacles and focus more on its struggle using several approaches, including the establishment of a research center on economic and social rights and restructuring itself through the convening of a founding conference in 2013, when it was possible to overcome political differences, especially among various leftist factions, and network with various civil society actors, as well as negotiate with the state without a mediator imposing its demands and priorities[33].

The situation in the Mining Basin did not change much. The new system-in-the-making failed to provide economic and social solutions. The anniversary of the Mining Basin uprising continued to be a reminder of issues of fair development and equitable employment[34]. The Basin movement in 2008 was one of the sparks of the 2011 revolution that erupted from within the same region.

The country has not seen an improvement in the management of unemployment, almost stabilizing at a high rate since 2011, and exacerbated by the absence of even cosmetic and palliative solutions, which were the normal course of the authoritarian regime before the revolution. Frustration in the Mining Basin remains subject to tribal dynamics affecting mobilization and organization[35]. The only difference in that scene is the remarkable presence of FTDES activists, who continue to work and network in the region, defending the protest movement and its activists[36].

The FTDES formally joined the rights community in 2011 when the freedom of association became really protected and respected[37]. The Forum played a key role in framing protest movements but at the same time it strongly competed with the UGTT over who would play the mediation role with the authorities, a competition which compounded the ineffectiveness and fragmentation of protest movements in the Mining Basin in particular and the protest momentum in the country in general. Several political movements and activists saw in UGTT and FTDES two political mediators, rather than allies, where the former was

[29] Obstructing the railway in Radeef blocked transport of phosphate to the chemical factory in Qabes (southeast Tunisia).
[30] Haaji was a member of UGTT office in Radeef, which is affiliated to the regional UGTT branch in Gafsa.
[31] Interview with coordinators of the Radeef railway strike, Omar Alsharaity and Gamal Alsharaity, 18 May 2017.
[32] with Alsagheer Alshamekh.
[33] Interview with Salem Alayary, national coordinator of UDC, 16 May 2017.
[34] Ramzi Afdal, "Movements in Tunisia: Gafsa Rises in the Anniversary of the Mining Basin Protest", Alaraby AlJadid, 26 January 2016, available in Arabic at is.gd/cJqY8O
[35] Interview with Alsagheer Alshamekh.
[36] "Interview with Masoud Romdani, Chair of FTDES", Alsabah,11 October 2017, available in Arabic at is.gd/xqmXSM
[37] From approximately 9,000 associations before the January 2011 revolution, the number of CSOs rose to 16,187 in 2014, then to 19,915 in February 2017. For numbers and more information see: www.ifeda.org.tn/stats/francais.pdf

preoccupied with political reaction towards recurrent crises in Tunisia, and the latter attempting to undermine the former's status in social and economic circles.

The FTDES tried to organize protest movements through a single network called the Coordinating Body of Social Movements, but the project did not achieve much success during its first conference in March 2017[38]. Some conference participants claimed that one of its objectives was to transform social protest movements in most Tunisian regions into party branches later on[39].

I I. Reshaping protest consciousness and methods of struggle

The 2011 revolution enshrined political and civil rights in state institutions and in the public space, which allowed a number of human rights activists to focus their efforts more on defending economic and social rights, while enjoying their rights to organize, protest and assemble. Protest and social mobility in Elkamour and the Jemna oases were an expression of this transformation. In other words, the 2011 revolution opened the way for social forces in Tunisia to struggle openly and collectively for economic and social rights and to act on the ground without turning every action into a central political conflict.

1. Jemna Oases movement

Jemna is a village in the Kebli province in southern Tunisia with a population of 7,194 people[40]. The Jemna agricultural project extends over an area of approximately 400 hectares which the state appropriated after independence. After the revolution, residents of the area occupied and farmed the land, especially since only 200 hectares[41] were used for palm trees[42]. They succeeded in managing those lands through the formation of an association to protect the oases of Jemna.

a. Bypassing political and ideological logic

The experience of the Jemna association provided an example of the success of a participatory economic cooperative that transcended political and ideological dimensions, which were the cause of failure of other forms of economic and social rights protest movements in Tunisia. Despite the diversity and even antagonistic political affiliations of members[43], they were able to reach consensus on objectives that enabled them to establish a new and successful model according to the results achieved by the project.

The association succeeded in reclaiming land, cultivating it and investing the proceeds of sale of crop in the development of the area, both in terms of infrastructure and job creation for residents. However, the state did not remain absent for long, and after relative 'stability' returned following the 2014 elections, the state demanded control over the land, driving managers of the association to organize general and public protests.

b. Mechanisms of struggle

The state warning that it would use force in order to claim its "rights" from citizens "encroaching" on its property constituted a threat for the new project. Despite political connections of members of the project, they adopted defensive mechanisms, mainly using the media and networking with various CSOs.

The association prepared a file of research documents on the project and organized press conferences to highlight the difference between the misconduct of the state and the success of the association in managing the land, with the aim to gain social solidarity and refute state «fallacious propaganda". It also provided information to local and Arab researchers, who raised public awareness about the success of the project in national and regional forums[44], especially among those interested in cooperative social economy[45].

The project leaders relied on networking and on securing the support of important CSOs and political parties. The political composition of the group helped them resist the threat by the authorities to seize the land back. The political diversity of the group enabled them to use several channels of communication and pressure, including working with the LTDH, the FTDES and various political parties including Nahda[46]. The group utilized occasions such as contracting for the sale of the crop to organize events of solidarity attended by CSOs and national and foreign media. In October 2016, solidarity trips were organized from the capital and various regions in the country to attend the sale and to express solidarity of political and rights groups with the project. A project support committee was established and helped protect and support the struggle on the ground and the state partial withdrawal away from a position that claimed to be in the interest of public property. In one of the stages of that struggle, and after the state stubbornly insisted on claim the proceeds of selling the crop, residents organ-

[38] Euromed Tunisia, "First National Conference of Social Movements", 29 March 2017, available at bit.ly/2peCbKO
[39] Interview with Alsagheer Alshamekh (he also took part in the conference).
[40] «Kebli in the General Population and Housing Census of 2017", National Institute of statistics, available at census.ins.tn/sites/default/files/24_KEBILI.pdf
[41] There had been a debate regarding the land ownership in Jemna oases. The land was initially settled by local tribes and there are claims about old deeds, but French settlers supported by the colonial administration occupied the land under false legal contracts. The postcolonial state took control of the land and turned into state property by law in 1964.
[42] Fatma Allafi and Mohamed Alafif Algeidy, "Popular Solidarity: Jemna Oasis, an Example of Agricultural Reform", Legal Agenda, 18 January 2017, available in Arabic at legal-agenda.com/article.php?id=3386
[43] Members of the association are affiliated to the following political parties and currents: Nahda, Nidaa Tunis, People's Movement, and the Popular Front.
[44] Laila Alraiahy, "Beginnings of cultural, economic and organizational alternatives in Tunisia", In Alternative Economy in the Arab Region: Concepts and Issues, Cairo: The Arab Forum for Alternatives, 2016, available at bit.ly/2D03Pgx
[45] Nasr Eldin Ben Hadid, "Returning to Jemna", Jadal, 8 October 2016, available in Arabic at bit.ly/2BzOh73
https://goo.gl/eoeasr
[46] "Jemna Oases Association Appeals to Rachid Ghannouchi to Return Lands", Babnet Tunisia, 24 September 2016, available in Arabic at www.babnet.net/rttdetail-131403.asp

ized a collective move to withdraw their money from banks in the region, expressing their rejection of the state›s attempt to freeze the association funds[47].

Some commentators dismissed the Jemna experience as an attempt to act as a state within the state. However, the experience itself established and supported the value of the struggle for economic, social and cultural rights (since belonging to the land is a strong cultural trait in these communities deeply rooted in the collective consciousness in Jemna). The working methods within the association itself were characterized by democracy, integration and activism of members, as well as the development of a consciousness that values coexistence in the region. When the situation became complicated in the middle of 2017, the management of the association decided to consult with the residents to undertake whatever steps they deemed appropriate, either by re-electing a new board or by continuing the struggle[48] against the state and the official position insisting on an economic model that does not represent them, but rather works to expel them and to empower investors, whose main purpose, through state structures, was to make profits, without a clear development vision that takes into account the area, its residents and their needs and views[49].

The Jemna association entered into an agreement with the Tunisian "I Watch" organization, granting it access to financial documents to demonstrate its efficiency and transparency and to refute any misconduct allegations[50]. The association developed various techniques of struggle including the use of the Jemna cultural festival, which became a gathering to express the plight of the region and how to fix it through various artistic and cultural performances[51].

2. Elkamour movement

Elkamour movement was another example of success of the struggles for economic and social rights by a localized social movement. It clearly differed from other protests, both organizationally and functionally, with regard to the distribution of roles and the consideration of political balances of power as well as specific tribal affiliations within the community.

The reasons for the protest movement in Tataouine were similar to other protests in Tunisia. Residents wanted more development projects in the region and more jobs for its people. However, it mainly stemmed from an awareness of the importance of struggle to seize economic, social and cultural rights from a political authority that has long procrastinated and had been always obsessed with national political challenges while ignoring vertical relationships to the peripheries (geographically and in terms of access to economic resources). This lack of development and these growing inequalities were the most important drivers of the revolutionary movement in Tunisia since 17 December 2010.

This awareness in Elkamour evolved through a painstaking diagnosis of the reality of the region and the richness of its resources, as well as the extent to which it benefitted its residents after several years of the revolution in Tunisia. Protests initially took place in front of the office of the municipality as the highest authority representing the state. However, protesters soon realized the irrelevance of these protest mechanisms[52]. Local officials resorted to procrastination and security solutions, and provoked protesters to drive them to the use of physical violence[53], which could have resulted in the loss of sympathy of human rights organizations and the Tunisian society in general. Spontaneous protests developed into well-organized events through the development of organizational mechanisms capable of leaving the authorities with lesser options. They also helped secure a certain kind of support of human rights organizations, some of which sought to frame the movement as a rights-based protest, and to keep away other groups which sought to politically exploit the protests.

The choice of the sit-in area blocking the railways had an important significance since Elkamour lies along the path used by oil companies to transport their products. To block that strategic transport route was a warning shot from the protesters that they were gradually and peacefully escalating their struggle by zeroing in on the source of the region's wealth. The territorial specificity of the region, both socially and politically, constituted the backbone of the structure through which protestors worked. The coordination body of the protest included members who took into consideration the political[54] and tribal[55] balances in the area. The protesters were also divided over tents, each representing one of the area delegations[56].

In order to make the sit-in more effective, CSOs from outside the region took part. Most political parties organized periodic visits to the coordination committee, attended press conferences held at the sit-in, issued statements and organized vigils in the capital[57] and abroad[58], as well as provided financial support for the protesters.

[47] Haifaa Mansoury, "Jemna : a Successful Development experience", Jameiyati, 11 October 2016, available in Arabic at bit.ly/2l35Ote
[48] Karem Yehia, "A new Tunisia. Jemna , An Experience of Solidarity at a Crossroads", Alhewar Almotamaden, 8 April 2017, available in Arabic at www.ahewar.org/debat/show.art.asp?aid=554344
[49] Alsabah, "Consultative Meeting in Jemna Concerning the Date Harvest in the Still Farm between the Supervising Committee and Residents", 16 June 2017, available in Arabic at bit.ly/2zg7tRl
[50] See announcement of the signing of the agreement on the website of the association iwatch.tn/ar/article/106
[51] Video are available of some of these performances at bit.ly/2kFAh18
[52] Interview with Alaa Alwanesi, member of the coordinating committee of Alkamour sit-in, 14 May 2017.
[53] Interview with Alsagheer Alshamekh.
[54] Political parties and groups present in the sit-in included Nahda, People's movement (Arab nationalists), and Tunisia Project (leftist).
[55] The chosen official spokesperson of the sit-in was born to parents who belonged to the largest two tribes in the region.
[56] Interview with Alaa Alwanesi.
[57] "Press coverage of Solidarity Vigils with Alkamour Sit-in", Mosaic FM, 22 May 2017, available at bit.ly/2BYsyoA
[58] "Protest Vigil in Support of Alkamour Sit-in", Anbaa Tunis Kapitalis, 8 April 2017, available at bit.ly/2CYheFM

Conclusion

Despite the support given to the protest movements in Tunisia by human rights organizations, it did not amount to the level of networking and positive interaction that are necessary to achieve practical outcomes. Cooperation was limited to solidarity with the protests through the release of statements, solidarity vigils, and visits to the protesters.

Protest movements largely relied on their own capacities, conscious of the inability of human rights organizations to provide effective support, either because of their limited capabilities and/or their political affiliations. The UGTT and FTDES entered an intense struggle on the social and trade union scene over who was to be the main mediator with the state. The LTDH maintained a rather distant position limited to public support through statements.

The protest movements demanding economic, social and cultural rights in Tunisia have evolved and developed greatly and became more aware of the huge structural changes that affect mechanisms and ways of struggle and the choice of allies.

All this created a need to review options of mobilization, organization and protest tactics in order to ensure acceptable gains without falling into the traps of mediators whose agenda could overlap but are rarely identical to those struggling for their rights. Alkamour and Jemna represented a stage for training on gaining rights without mediation, after similar social movements in the past had relied on intermediaries to express their demands and tailor them to the existing political and social institutions. This raises important challenges for human rights actors about their mechanisms of work on economic and social rights issues, and the nature of their relationships and cooperation with social movements and whether they would remain at a fast eroding mediation level or could explore other avenues that can finally address the complex issues of representation and brokerage between human rights actors and the bearers of these very rights themselves who are busy developing new ways of defending their own rights.

Human Rights Action and Social Movements in Morocco

Youssef Monsif

Summary

The Moroccan human rights movement has evolved in stages since the country became an independent state in 1956. This paper focuses on three important relationships between the human rights movement on the one hand and the student movement, trade unions, and then the field of economic and social rights on the other hand.

Moroccan students had started to organize abroad two decades before the French protectorate system dissolved in the mid-1950s. While initially organizing as an anti-colonial group, the student movement later focussed on corporatist demands and rights. The National Union of Moroccan Students, Union National des Etudiants du Maroc (UNEM), operated for decade until internal political and ideological divisions fractured the organization in 1981. The adoption of university reform laws in the early 2000s led to new relations between student activists and human rights actors in Moroccan universities as mobilization became more attuned to ethnic and regional dimensions rather than ideological frameworks.
Since their emergence, Moroccan trade unions have always advocated from within a human rights discourse - even before the emergence of national human rights organizations and before labour activists became involved in the human rights movement alongside their trade union struggle.

The third section of this paper focuses on the right to work as part of economic and social rights, attention to which was refocussed with the launch of the National Initiative for Human Development or Initiative Nationale pour le Développement Humain (INDH) in 2006 to combat poverty and social vulnerability among broad social groups.

Introduction

The human rights movement in Morocco started even before the foreign protectorate system crumbled as national movement strengthened and as urban youth rose against colonialism to demand an end to foreign rule[1]. After independence in 1956, the Moroccan human rights movement, guided by the 1948 Universal Declaration of Human Rights, worked to promulgate the public freedoms law in 1958, four years before Morocco's first constitution was enacted.

Since independence, the human rights movement has undergone several transformations. This paper focuses on three pivotal relations that shaped this evolution. These are the relationships and networks of interactions that human rights actors engaged in with the student movement, trade unions and, finally, civil society actors in the field of social and economic rights.

Moroccan students started to organize and agitate in France for an end to foreign rule in the last two decades of the French protectorate. After independence in 1956, the student movement established the National Union for Moroccan students or Union National des Etudiants du Marco (UNEM), which focused on students' academic and social conditions and their demands before it fractured under the weight of its political and ideological differences culminating into the failure of its 16th Congress in 1981. The resulting climate of extreme tension and violence divided the student movement into warring factions along ideological lines. In the early 2000s and after the introduction of university reform laws, the rights-based student activists started to adopt regional and ethnic causes rather than the ideologically motivated (largely leftist) positions they had theretofore championed. Saharawi and Amazigh student organizations were established, whereby regional and ethnic dimensions started to shape the Moroccan student movement and deploy a human rights' discourse much more than their leftist and Islamist peers and predecessors on campuses.

Since its inception, the labour movement in Morocco has been influenced by the human rights discourse even before rights organizations were set up in the 1970s, at which time several trade union cadres joined them as well. One of the most prominent figures of this trend was Abdel Hamid Amine who led the Moroccan Association for Human Rights, Association Marocaine des Droits Humains (AMDH), in parallel with his work at the Moroccan Workers' Union, Union Marocain de Travail (UMT). Below we will explore how labour leaders reconciled their trade-union work and their rights activism when the two clashed or overlapped. We will use the relationship between UMT and advocacy groups to support the unemployed, especially in Rabat and Casablanca, where the headquarters of the UMT and the Democratic Confederation of Labour, Confederation Democratique du Travail (CDT), hosted meetings and conferences of the budding movement against unemployment.

The third and final section of this paper focuses on actors in the field of economic and social rights, specifically the right to work. It will look at the overlapping of social movements or actors supporting these rights and human rights organizations advocating them especially after the launch of the National Initiative for Human Development or Initiative Nationale pour le Developement Humain (INDH) in 2006, which was designed to combat poverty and social vulnerability among social groups such as widows, people with disabilities, and young school dropouts, and to fund income-generating projects.

Section 1: Human rights and the students' movement

The students' movement has always been a breeding ground for the Moroccan political class, especially for the left that dom-

[1] Early signs of Morocco's human rights movement can be detected in constitutional drafts before the French and Spanish protection agreements of 1912 such as the reform memorandum of Hajj Ali Zniber in 1906 and the draft constitution of 1908. For more information see EzzEdine Shamlal, "First Signs of Morocco Constitutional Movement", Uloum Qanonniya, 24 October 2012, available in Arabic at bit.ly/2C3YsOh

inated opposition politics and controlled UNEM. During the 1960s, Moroccan students clashed repeatedly with security forces and fought amongst themselves. Student activism, however, declined by the 1990s and so did its rights-based drive and its political influence. However, the new educational reform laws in the early 2000s allowed student representation in college and university presidential councils. This section explores the context within which student action evolved in Morocco? How did it intersect with social and political action? And how did it relate to the human rights approach and actors?

Smoldering Years in Moroccan Universities

A group of radical student movements which organized several strikes in universities and high schools around Morocco emerged in the early 1970s. Many students were arrested and detained by the government including UNEM president Mohammad Lakhasasi[2].

The 15th UNEM congress was held on 11 August 1972 in a tense atmosphere as relations with the government were rapidly deteriorating. The organization was banned on 24 January 1973, a ban that lasted for five years and severely diminished UNEM's influence and exposed its supporters to divisions and conflicts that continued until the 16th congress, which was followed by deeper rifts among various leftist factions ending with the withdrawals of a number of members. The first to leave were students affiliated with the leftist National Union of Popular Forces (NUPF) in what seemed like a repetition of the 1959 split of the NUPF from the Independence party that was, to an extent, UNEM's god father.

The Domination of the Radical Left

For UNEM, human rights were deployed as the umbrella of student rights such as housing, scholarships, transportation subsidies and employment opportunities after graduation. These corporatist demands, however, were also shaped by the politics of various student factions that belonged to the opposition or those who supported the democratic transition under the auspices of the Royal regime such as the Socialist Union of Popular Forces party.

The 17th national congress scheduled for 1981 was to be held in the midst of political and social turmoil due to a severe economic crisis that triggered public protests and strikes (port workers in Casablanca, Ahouali copper miners, railroad workers, student sit-ins and the farmers' uprising in Tamara and Tassaltante). The regime responded with an iron hand leading to thousands of victims and detainees. UNEM's internal ideological contradictions among various leftist factions exploded, ending with various withdrawals and leaving a radical leftist group known as Annahj Al Qaidi or Voie Democratique Basiste (VDB) in charge of UNEM, but not for long as Islamist students came into the scene in force[3].

Newcomers: A New Cycle of Violence

Until the mid-1980s, Moroccan universities witnessed daily confrontations between security forces and radical leftist students, especially from the VDB. The ensuing political and security tension led to a crackdown on university students during which a large number of students were detained especially after the 1981 strike. By 1986, Moroccan universities had become significantly policed and 'university guards' became a permanent fixture on campuses. Meanwhile, radical leftists had to confront a new adversary, the Islamists, who, in turn, engaged in violent tactics.

Human rights and corporatist interests for students had receded from the agendas of these warring factions, especially given the wide intellectual and ideological chasm between leftists and Islamists regarding human rights. The politics of violence and exclusion dominated the relations among factions. Even more, accusations of treason and of serving external agendas reverberated even within factions. "University Trials" spread dramatically undermining the freedom of thought and belief among university students[4].

Regional and Ethnic Dimensions in Student Action (2000-2015)

Starting with the academic year 1998-1999, the presence of security forces and their raids quickly declined. The regular pursuits by university guards, who became increasingly useless, of the Justice and Charity group student members ceased. The university government-appointed guards were replaced by a private security firm in order to guarantee a minimum level of peace on campus. The activism of the Justice and Charity students declined after they developed their organizational structures and their preaching councils. The primary role of student activism lost its relative importance given the national political developments, nicknamed at the time as the Spring of Rights as the socialist opposition was called upon to form a cabinet in a new political deal called Consensual Rotation whereby political parties alternated in power[5].

In Agadir, Marrakesh and, to a lesser extent, Rabat, Sahrawi students who come from southern provinces founded their own student organizations. They established weekly cultural events and called for more rights and entitlements related to transportation, financial assistance and housing. Sahrawi students reacted aggressively when they felt their freedom of assembly was

[2] Abdel Rahim Al-Sharqawi, "UNEM: Bright History and Dim Present", Hespress, 8 December 2015, available in Arabic at bit.ly/2lFO2fZ

[3] Interview with professor Mohamed Hamza, a former student activist and a member of the political office of Unified Socialist Left Party, 5 April 2017. UNEM internal division were largely among leftist factions led by the Democratic Faction (controlled by Annahj Al Qaidi or Voie Democratique Basiste (VDB) comprising activists from the March 23 movement and the Forward (Ila al-Amam) organization. SUPF students withdrew in rejection of the leadership positions of the Martyrs' current while the Popular Democratic Action Organization and the Party of Progress and Socialism both withdrew, probably due to their failure to wrestle control over the congress from the democratic faction (led by VDB). Hamza thinks that the withdrawal of these factions, which he called "the bureaucratic wing", was presaged by the June 1981 uprising and the desire not to support it as this wing had reached a deal with the regime that required "social peace".

[4] Two radical left university students were killed after a "university trials" that charged them with "atheism and heresy" in Fez and Oujda. A third student, affiliated with the Justice and Charity group, was killed in the same period by the Rapid Intervention Forces at the Faculty of Medicine in Casablanca. For more information, see: Shohdaa wa Shaheedat blog, 28 November 2015, available in Arabic at bit.ly/2Ct0KJY and Nidalalt Al Haraka At-Tollabiyya, "An Introductory Note of Martyer Mohammad Ait-Algeed Beneissa", 28 February 2013, available in Arabic at bit.ly/2qa9Y8l

[5] Youssef Monsif, The Struggle Culture of Moroccan Islamists: Justice and Charity Group as a Model 1974-2015, a Ph.D. thesis defended on 20 May 2016 at the Social, Economic and Legal Sciences College in Ain Chock, Casablanca, p. 332 and onwards.

curtailed. Violent confrontations between Sahrawi students and security forces occurred almost annually over their activities in support of the secessionist Polisario front.

In the early 2000s, radical leftist student re-organized in the northern cities of Tangier and Tetouan. Their new framework, the "Basist Path", introduced a platform for dialogue with all progressive and leftist factions, but they all got mired in a new cycle of bloody violence later on.

The Justice and Charity faction, that had by then monopolized UNEM structures, had distanced itself from violent tactics. They organized "welcome weeks for new students" on campuses, especially in Casablanca, Safi and Oujda, and tutoring sessions to assist and guide students in their education. They also acted as a channel with the administration on collective student demands, especially regarding the repercussions of university reform laws[6]. They organized regular protests against the privatization of some specializations (as they did at the higher school of technology in Tangier in 2013-2014)[7].

Section 2: trade unions and human rights

There is no evidence that there was a specific plan to establish a wider political democratic current within the UMT central organs. However, progressive activists within the UMT engaged in both trade union and human rights activism at the same time after years of experience showed the overlapping of the two fields and how they enrich each other[8]. According to Amine, the original approach of the UMT democratic current was to work under the general slogan of "serving, not exploiting, the working class." They focused on six main principles of union activism: unity (meaning the unity of trade unions' work), solidarity, grassroot activism, democracy, independence and progressiveness. In parallel, the democratic current established several principles of rights activism through the Moroccan Association for Human Rights (AMDH) since 1991 on the occasion of its third congress.

Outlining these principles was an important turning point in the AMDH evolution since they became the preamble of its basic laws in December 1991. These principles are:

Universality and comprehensiveness: This means a repudiation of the arguments of cultural relativism and particularities against the universality of human rights. Comprehensiveness means to respect the totality of human rights including economic, social, cultural and environmental rights alongside civil and political rights.

Grass-roots activism: This principle is largely unique to AMDH among other Arab human rights organizations. It meant AMDH had to pay attention to recruiting membership and to ensuring public support.

Democracy: This principle was seen to include: 1- Respect of human rights can be only assured through a real democratic system, 2- Maintaining democratic relations with partners, and 3- Democratic practices rely on effective protection of human rights.

Independence: AMDH should operate independently from the state, political parties, foreign donors or any such external influences to ensure that its positions stem from its own principles.

Progressiveness: AMDH should be positioned alongside progressive forces, whether locally, nationally or internationally.

The main confrontation within the UMT took place between the 'democratic front' and the 'bureaucratic line' during the February 20 uprising. The UMT central bureau was divided between the two tendencies, where the former advocated active participation of the working class in the protests, while the latter wanted the UMT to stay neutral. This internal difference was resolved through a concession that offered the freedom of choice to UMT members. However, when the two sides differed soon thereafter on adopting a position on the work of a royal committee to amend the constitution, the 'bureaucratic line' won. Amine comments: "We had neither the experience nor the political will at the time, to clash with the Makhzen[9] knowing fully well that they are capable of crushing us."

The administrative committee of the UMT central bureau met on 20 June 2011, ten days before the scheduled referendum on the new constitution. A majority of committee members argued that the amendments provided for a "positive constitution which the central bureau helped shape." The democratic front insisted on members' individual freedom to choose: to vote for, against or to boycott. It referred to the fact that the UMT rejected the first postcolonial constitution in 1962, stayed neutral towards the amendments of 1970 and 1972, and left members free to vote their own minds on the constitutional amendments of 1992 and 1996[10].

The 'bureaucratic line' won this dispute, leading to a rupture between the UMT two dominant but antagonistic groups after having coexisted for a long time, lasting even beyond the 20 February protests in which members of the 'democratic front' actively took part against the position of the bureaucratic line[11].

The differences regarding the constitutional amendments uncovered the unbridgeable chasm between the two groups dominating the UMT. Amine and his comrades were expelled from the UMT on 22 March 2012[12].

[6] The university reform law was applied in the academic year 2003-2004 to re-organize post graduate studies (for Masters and PhD degrees). The "improvised" implementation of the law led to several problems and directly contributed to a decline in the quality of postgraduate programmes. As a result, far less university graduates pursued higher studies, preferring professional training to avoid years of hard work without a reasonable assurance of social or economic rewards.

[7] In 2013-2014, the author of this paper edited a university supplement for Al-Masaa newpaper distributed exclusively in campuses at a preferential price of 1.5 Dirhams. This allowed for a detailed follow up of university life throughout Morocco.

[8] Interview with Abdelhamid Amine, a trade unions' leader and former AMDH chairperson, 6 October 2016.

[9] Makhzen (warehouse) is a term used in Morocco to refer to the ruling economic and security institutions clustered around the monarchy.

[10] In 1965, late King Hassan II announced a state of exception and dissolved parliament. He and his regime survived two coup d'états in 1970 and 1972.

[11] Mosbah Al-Hassan, "The Paths of the Moroccan Spring and its Aftermath: The 20 February movement and the Moroccan Particularity", Siyassat Arabiya, No. 7, 2014, Doha: The Arab Centre for Research and Policy Studies, pp. 72-87.

[12] The group included Abdelhamid Amine, Abderrazak Idrissi, Khadija Jamri and Abdallah al-Fanatsa. A UMT leader claimed that the ruling regime had ordered their expulsion and that it was also the same regime that ordered their return later on after it had weakened them within the AMDH, the Democratic Way party and inside the union itself. For more on this narrative, see Yanairi, "The Truth of Abdel Hamid Amine's Return to the UMT and the Expulsion of Farouk Shehir", 25 April 2016, available in Arabic at bit.ly/2EbVK98

Section 3: the INDH and Demands for Economic and Social Rights

On its first day, the 20 February movement raised the slogan, "bread, freedom and social justice". This slogan summarized the social ills afflicting Morocco, primarily the dramatic inequalities that severely hit various social strata who had previously enjoyed a 'middle class' status. They included civil servants, local administration employees, teachers and contractors. It also reflected concerns about civil and political rights and revived discussion on constitutional monarchy that had been seen by various political actors as a way out from an unchecked power held by the palace.

Days after the protests erupted, the King delivered a speech on 9 March, in an obvious attempt to contain the masses using a new discourse that included references to human rights and an integrated vision of political reform. The rights-based approach which framed the developmental politics of Morocco for more than a decade since the INDH launch had given roots to a new view of the function of political authorities – a view which was first revealed in King Mohamed VI's accession speech in 1999. The king had then spoken about the importance of rule of law, judiciary independence, and effective attention to social and economic issues of interest to the majority of Moroccans. Development projects in neighbourhoods and villages and the increasing number and spreading activities of NGOs created a fertile ground to those interested in participating in development initiatives, especially at a local level. All these developmental and institutional efforts, which took place before 2011, dissuaded the revolutionary forces in Morocco from calling for the fall of the regime as happened in Tunisian and Egyptian protests, making them instead call for 'reforms' including the consolidation of freedoms and improving social services in Morocco[13].

Persistent social demands had a major influence on the new constitutional document. Articles 1 to 35 provided for a range of social, cultural and economic rights such as the right to education, health and employment as well as the right to a safe environment for future generations. They all targeted vulnerable social groups that suffer from discrimination and social exclusion especially in the geographical peripheries. These constitutional rights, however, remained "ink on paper" until research for this paper was completed in mid 2017 pending the enactment of legal and regulatory frameworks to reform policies and reallocate resources.

After the 20 February movement, waves of protests continued to reverberate throughout Morocco, reaching nearly 17,000 protests in 2017 and probably exceeding 30,000 protests over 2016 and 2017. Most protests focussed on socioeconomic rights such as housing, healthcare, education and employment[14].

Occupying the Street: How Moroccans Domesticated the Forbidden!

Even before the Arab uprisings swept North Africa in 2011, many Moroccans, especially within the more vulnerable communities, had come to embrace the social significance of two values: dignity and accountability. This was a side effect of years of work on the INDH programmes and projects since 2006. Specific historical circumstances made it possible to enshrine these two values, to test the state's willingness and ability to respect and protect them as values and as practices, and, finally, to let the society scrutinize the seriousness and impact of major developmental projects and slogans[15].

The Arab Spring dynamics still provided the opportunity for Moroccans to exercise previously largely restricted rights; assembly and protest, both of which the state had been very allergic to for decades. This meant protestors were more willing to take over public spaces and unite in the face of hitherto customary state violence and repression. The protest action evolved together with more organized social movements as structural transformations, deep and cosmetic, swept through Arab North Africa (Tunisia, Egypt and Morocco) or led to the disintegration of the rigid Qaddafi regime in Libya[16].

Public protests had long belonged to the realm of the forbidden in Morocco. State institutions and the people approached their presence in public spaces differently. The state viewed any public assembly with deep suspicion and always worked to prevent it believing that it could undermine public order. The citizens, such as street vendors, started to view their occupation of public space as an earned right and a way to ensure their livelihood and secure their basic needs.

The death of Mohsen Fekry, a fish seller who was crushed to death in a garbage disposal truck, provided a vivid example of the gap between the state and the citizens in how they viewed public space as well as the contradiction between rights/legitimacy and legality when it comes to laws of the land. Mohsen jumped behind his fish catch in the truck after police officers ordered the garbage collectors to dispose of the "illegally caught" fish[17]. The fisherman was ground to death together with his catch. Mohsen was probably driven not merely by impulsive protest but also by an attempt to reclaim his material rights, his source of livelihood and his income. The state representatives ordered the truck driver to operate the grinder to dispose of the fish in compliance with regulations for handling fish caught during forbidden times, determined in order to ensure the sustainability of the fishing areas. The result was a tragic and cruel scene that led to public outrage and continuous protests in Rif since then.

The state attempted to provide an alternative narrative on the circumstances of Mohsen's death by highlighting punitive measures taken against coast guards and customs officer for not ensuring compliance with non-fishing rules during pre-determined times of mandatory biological rest.

The incident, however, exposed the wide gap between state and citizens, demonstrating that what citizens see as a contradiction

[13] Interviews with Moustafa Yahiaoui, Political Sociology Professor and an INDH expert, 8 and 23 November 2016.
[14] Hisham A'naji, "Press Review: 600 Complaints against Judges and 17,000 Protests in 2017", Lakome, 26 December 2017, available in Arabic at lakome2.com/politique/33590.html
[15] Yahiaoui interviews.
[16] Joel Beinin and Frédiric Vairel Ieds.), Social movement mobilization and contestation in the Middle East and North Africa, California University Press. 2013 p. 20
[17] Jazira Net, "Mohsin Fekry: The Crushed Moroccan", available in Arabic at bit.ly/2eMbQwI

between rights and laws could have tragic consequences. While laws have rationales that are largely based on a certain concept of public interest and the relative weights of social groups and their ability to alter legislations, they can be seen by a citizen as illegitimate as they impede an integral right. On the other hand, the tragic death of Mohsen embodied a public transition from a rhetorical phase of human rights advocacy to very concrete actions by non-politicized citizens. Economic and social rights are thus were transformed from tools in the discursive struggles of human rights and trade union activists to a popular and grass root movement when a common citizen decides to insist on them physically and pay for them, even with his own life and liberty, if must be[18].

The CDT as an Incubator of Protest

The Democratic Confederation of Labour or Confederation Democratique du Travail (CDT) was a prominent supporter of the 20 February protests. This became more evident after 13 March 2011, when national protests were harshly repressed, especially in Casablanca and Rabat where demonstrators were beaten up by the Rapid Intervention Forces of the ministry of interior. After this incident, the CDT headquarters in Derb Omar, in the heart of the modern city, became an assembly space for local coordinating bodies of the 20 February movement in Casablanca instead of the central headquarter of the Unified Socialist Party (PSU) in Agadir which had embraced the movement when it was being established[19].

In explaining the reasons for which the well-established trade union embraced the Moroccan street protests, Abdelkader Zayer, CDT deputy general secretary, spoke about CDT ethos saying that the trade union was established in 1977 primarily to defend basic human rights, especially the rights of the working class, and the freedom of expression[20].

The CDT has long adopted the slogan: "Democracy is the solution" since it was set up in a tense regional and national environment where recurrent protests took place motivated by the economic and social repercussions of structural adjustment programmes and influences by the 1979 Iranian revolution. The CDT organized a general strike in 1981 to protest price hikes for certain basic goods and took part in protests in 1984 and in 1990. In a way, it was not a detour that CDT backed the 20 February movement politically and logistically.

The CDT was transformed from a vicious opponent of the government to a social partner after the political environment opened up and allowed a rotational system of power-sharing among political parties in 1998. Abderrahmane Youssoufi, the leader of the Socialist Union of Popular Forces at the time, became prime minister, and the CDT, whose founders were members and supporters of that party, tried to maintain independence. They repeatedly announced: "We are not a government's union nor is the government a unions' government." It joined two strikes during Youssoufi's term.

CDT leader Abdelilah Moharar insisted that the agreement of 26 April 2011 which brought together trade unions and the government was an unexpected "gift" from the state. Wanting to secure workers support a couple of months before the significant referendum on the new constitution scheduled for 1 July 2011, the government agreed to raise salaries by 600 dirhams[21].

After the speech delivered by king Mohamed VI on 9 March 2011, in which the issue of the constitutional amendments was raised, the regime paid much attention to neutralizing the working class and securing its support or non-opposition in the imminent constitutional referendum. Amine argued that "the role played by the working class in the Tunisian and Egyptian revolutions" taught the Moroccan regime a lesson and enabled it to get away with making less concessions. The Tunisian General Labour Union (UGTT) played a leading role in the political transition as it sided with the protests and managed to convince the state bureaucracy that had been loyal to Ben Ali to change sides[22]."

Commenting on CDT support for the 20 February movement, Zayer said: "After the April 26 agreement, the state started to prepare new faces for ruling the country … the King was quick to declare that the winning party in the elections is the one to form the government. The CDT worked well within the 20 February movement. but the movement suffered from internal contradictions. The winds of the Arab Spring brought the [Islamist] Justice and Development Party (PJD) to power and this party helped abort the revolutionary movement. Although there are many social movements in Morocco, they remain incapable of realizing their goals in the face of state power[23]."

The Unemployed Movement Fails to Integrate

The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) stipulates that state parties recognize the "right of everyone to the opportunity to gain his living by work which he freely chooses or accepts and will take appropriate steps to safeguard this right." It further advised states on steps to be taken to gradually ensure this right including "technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual[24]."

The protests of the unemployed emerged in Morocco as a direct result of structural adjustment programs and consequent austerity measures since the late 1980s. The state had gradually withdrawn from social services and especially from the job crea-

[18] Hayat Dar'I, "The Evolution of Protest Movements in Morocco", Rahanat Magazine, Mada Centre for Research and Studies, No. 2, 2014, p. 18.
[19] On CDT support, see an Arabic timeline of the 20 February movement activities at bit.ly/2vUzpLP
[20] Interview with Abdel Qader Al-Zayer, CDT first deputy Secretary General, 5 November 2016.
[21] Under this agreement, the government agreed to a raise of 600 Dirhams in the monthly salaries of civil servants starting 1 May 2011, as well as raising the minimum pension from 600 to 1000 Dirhams. For more information, see: banisalman.dahek.net/t138-topic
[22] Interview with Amine.
[23] Interview with Zayer.
[24] See the full ICESCR text at www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx

tion functions moving towards a narrower public social and economic role in line with the neoliberal paradigms. The Moroccan state shifted from being, even if ostensibly, a 'welfare state' to a liberal state, economically speaking, that is based on 'free enterprise' and full integration in the global market economy after the agreement to establish the World Trade Organization was signed in Marrakech in 1994. This, for example, quickly impacted the number of available government jobs. For example, the number of jobs in the public education sector fell from 35,000, throughout the 1970s to only 8,000 in the last decade, pushing thongs of the unemployed and newly graduates to the street to protest and demand their right to work[25].

The first foundational gathering for an organization for the unemployed Moroccans was held in late 1980 at the CDT headquarters at Derb Omar, Casablanca. It led to the establishment of the National Association of Unemployed Graduates in Morocco (NAUGM). The fledgling entity then began to set up local branches all over Morocco, accepting members regardless of professional qualifications or specializations. NAUGM activists, assisted by the CDT and supported by the UMT, took part in protests, mostly in Rabat Parliament square. In addition to almost daily protests in the capital city, some NAUGM members took part in local protests. Local administrative bodies led by the Ministry of Interior and its local representatives led the government side in negotiations with these latter protesters. This oftentimes led to the later employment of some of these protesters in the Ministry of Interior and its local units throughout the country.

The AMDH adopted the demands of the unemployed and provided a platform to their provincial and sub-provincial branches. One of AMDH provincial leaders said: "To support the unemployed and the street vendors, the AMDH in Oued Zem was very engaged in their struggle. It raised their awareness by organizing seminars and meetings about the right to work including a meeting at the CDT. It expressed its direct support during their protests and by intervening with the relevant authorities to look into cases and problems of employment. Locally, the AMDH issued solidarity statements to support the unemployed and street vendors in their struggle against arbitrary security measures. It contributed to strengthening local activist networks such as the My Right to Work movement and the Local Coordinating Body of Unemployed Graduates[26]."

The Association of the Unemployed and its local branches was influenced by the AMDH and a disproportionate presence of radical leftist activists in its steering committees. Activists within the ranks of the unemployed tended to form other organizational platforms as of 2003. These included the Unemployed Graduates Group which together with other similar organizations took a corporatist approach to their cause in isolation of leftist or Islamist 'ideological' influences that had often characterized the activism of the Moroccan Association of the Unemployed until then.

The activism of these new groups was solely directed towards demanding the right to work. They established the National Agency to Support Unemployed Graduates (NASUG) in which several national media and civil society activists participated such as journalist Khaled Jamai, rights activists Malika Fatemi and Abdelkader Azria, and others[27]. Other political parties and activists joined the unemployed movement and attempted to gain support for their own outfits. The National Initiative to Support the Unemployed was an attempt to prevent the recruitment of unemployed graduates by the opposition Justice and Charity group as well as by the PJD youth.

Prime Minister, Driss Jetto's cabinet (2002-2007) was amenable to NASUG's work. More than 1,226 unemployed graduates signed up with NASUG. Its task of finding jobs for the unemployed in the public sector was not easy, with its negotiation sessions with the state sometimes reaching a dead-end before it succeeded in assigning some of these unemployed graduates to vacancies in the ministries of Justice, Foreign Affairs, Religious Endowments and Islamic Affairs, and Higher Education.

The 'Opportunism' of the Unemployed

The movement of the unemployed enjoyed a remarkable revival within the 20 February movement after overcoming the organizational near monopoly of the radical left on the unemployed activism. This radical left was represented by the Democratic Way Party and some Marxist currents (Leninist, Maoist, and Trotskyist)[28].

After an agreement with the government, negotiations continued between the NASUG, the authorities and other parties and social actors such as the Islamist Justice and Charity group and the Islamist Unification and Reform Movement, working especially with unemployed graduates. Unemployed advocacy groups seemed rather opportunistic in the eyes of several activists in the 20 February movement as they appeared unable to integrate their demands within the broader positions of the movement, limiting their advocacy to the right to work.

The unemployed advocacy groups stayed removed from the 20 February movement and its political demand for a constitutional monarchy or its socio-economic demands for dignity and social justice. The unemployed groups failed to create allies despite the support they received from trade unions and human rights activists. Their broad ideological contradictions and pragmatism drove their trade union and human rights' allies to take a distance from them. Amine described this with precision saying: "to sum it up, they truly exhausted us. They stood alongside the 20 February movement during protests. And yet, they continued to insist only on the right to work."

[25] Mohammed AbouHatab, "The Impact of Structural Adjustment on Morocco's Employment Policies", Uloum Qanoniya site, 8 April 2013, available in Arabic at bit.ly/2m6ENFL

[26] Interview with Ahmed Al Serbouti, AMDH branch director at Oued Zem, east of Casablanca, 3 November 2016.

[27] Interview with Abdel Qader Azria, a trade unions expert and the head of the local branch of the National Council of Human Rights in Rabat-Qnietra, 22 December 2016.

[28] "In its Fifth Anniversary: The Slogans of 20 February Movement Lose Value for the Unemployed and Professors", Zankat 20, 20 February 2016, available in Arabic at bit.ly/2FaTFM1

Despite all of this, the movement of the unemployed continued to exist on the public scene. However, it often appeared as an 'uncontrolled' social movement because of its escalation of activism and viewing the right to work as already an 'earned right[29].' This was evident in collective protests and hunger strikes that they carried out under the slogan of the battle of 'empty stomachs'. Azria believed that the intensity and opportunism of the unemployed movement highlighted a pirate's attitude to political opportunities, which became available as the political regime addressed the occupiers of public spaces after the eruption of the Arab Spring in 2011. The ruling regime adopted a lenient position regarding unstructured and informal labour and commerce and fast responded to social demands related to the right to work and to securing income-generating activities. For this, the state was forced to provide huge budgets in order to develop the employment sector. Despite the public pressure, the INDH projects proved effective in helping overcome the social tensions at the time given its accumulated achievements in marginal areas where it implemented various programs[30].

However, these new budgetary allocations and policy reforms collided with the deep-rooted transformation in Morocco from a welfare state to a neoliberal one that had abandoned many of its functions as a provider and regulator of social services, which significantly reduced the number of available job opportunities, especially in state institutions, in comparison to the number of job seekers. This dilemma was further compounded by increasing automation and the weak competitiveness of the Moroccan economy.

Conclusion

Morocco has enjoyed an exceptional human rights movement with accumulated achievements compared to other countries in its North African Arab environment. This was made possible thanks partly to the continuous struggles of human rights organizations and activists. The country has made relatively great progress in the field of civil and political rights since the late 1990s: it criminalized all forms of torture, removed reservations on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and amended criminal procedures law to ensure due process and fair trials. Moreover, the state created higher agencies and councils as well as a ministry for human rights including the National Council for Human Rights in accordance with the Paris principles relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights. Morocco witnessed its own spring of political and civil rights with the transfer of power from King Hassan II to King Mohamed VI in 1999. However, the terror attacks of May 2003 in Casablanca, as well as the government's response to these attacks, returned a large sector of the rights movement to square one.

Morocco political actors have suffered setbacks in the path of democratic transition as the state entered intermittent confrontations with mushrooming protest movements for social and economic rights in the north and south eastern parts of the country centred around demands for the redistribution of wealth and power.

However, the deeper and broader national transformation started to take root a decade ago as bridges started to appear over the gap between an alleged elitism of the human rights movement and the "masses", especially after the 20 February movement. This was evident in how human rights organizations refocussed attention on social, economic and localized causes with various communities and social groups such as students, workers or the unemployed. As it evolves along these bridges, the rights actors collide as is happening in other similar countries in the region with existing economic and political arrangements and especially the entrenched political economic patronage networks. This will be their challenge for years to come.

[29] Nadia Al-ba'oun, The Paths of the Movement of the Unemployed Graduates after their Employment, a Doctoral Thesis submitted at the Law School in Mohammed V University inAgdal, 2016-2017.
[30] For more information review INDH website www.indh.ma/en

PART IV:
Human Rights and Islamism

Islamists and Rights Activists in Egypt: The Potential for Convergence

Introduction

There is a need for a clear conceptual framework before one attempts to understand the relationship between Islamists and the human rights movement. The human rights movements in many Western countries combine a social arm with a legal/organizational arm and sometimes have partisan/political backing. As such, a movement is a comprehensive entity that uses its tools and utilizes its representatives to advocate for certain objectives and realize specific gains. The Arab human rights struggle, however, is split along the ideological landscape. Everyone practice it, including Islamists, but its definition exclusively covers non-Islamist rights organizations, since their establishment by, mainly, leftist and Nasserist figures[1]. These organizations can hardly be considered a 'movement', not only in quantitative terms, but also in terms of the diversity of issues they tackle without a clear overarching intellectual framework. These organizations have clashing positions on issues such as funding, belong to various kinds of local and external networks, and take different positions vis-à-vis the political regime. Their operational strategies include, inter alia, documentation, solidarity campaigns, legal aid, and campaigning. Observers are somewhat confused when analyzing the Egyptian civil society scene due to the politics of "substitution" or "replacement" used by some parties. By this I mean, for example, that a researcher following the behavior of professional associations could identify how they resort to political performances that are not very different from those of political parties. Analytical frameworks of political parties might in this case prove to be more explanatory for the phenomenon at hand, than analyzing it from the standpoint of being representative professional entities, and so on.

Some studies assumed that rights groups "contributed, even if in small ways and from the tight corner to which they were constrained, to the uprising of 2011[2]." After the revolution, some believed that their main role was to monitor the performance of Islamists, and to hold them in check, after their political ascendance. In parallel, their position towards the State was unstable, to the extent of supporting the rebellion against an elected president and welcoming a military intervention in the democratic process, in spite of the historically well-known crackdown of military regimes on human rights. These organizations failed, before the 2011 uprising and at the moment of a huge momentum in 2011 and 2012, to deepen and broaden its support base. They did not heed the hostile signals the State sent to human rights NGOs, regularly and repeatedly, before the uprising and right after it. Nor did they notice the clear trajectory towards neutralizing all independent NGOs at large. This is exactly what happened when the Parliament passed the NGOs bill in 2016, and after it was promulgated as Law 70/2017, along with the amendments to the National Human Rights Council law of 2003 that were passed in early July 2017 as well.

This paper cannot account for the whole matrix of complex relationships between Islamists, across the spectrum, and human rights organizations, in each and every sector. The paper, however, seeks to review, in broad brushstrokes, the contours and important turning points of the relationship between the two groups of actors[3].

I. Islamists and rights groups… problems and gaps

There are various points of entry and levels of analysis to better understand the relationship among actors in civic and political spaces. The relationship between the Islamist 'space' and rights groups can be addressed in light of several problematics, which offer, in turn, a number of analytical tools. Perhaps the most important such problematics are:

1. The ideological problematic:

It is hardly possible to understand the interactions between rights groups and Islamist movements without exploring the moment these groups were established. Most of the leaders who founded the Arab Organization for Human Rights, that soon gave birth to the Egyptian Organization for Human Rights, followed by the dispersal of founders among various platforms, had Marxist and Nasserist backgrounds, at the moment of breakdown of these ideologies. They turned towards human rights as a "Universal" vision, and a less biased alternative ideological framework, on the one hand, and a more "objective', 'technocratic' and 'professional' platform on the other hand. It was also the moment the Muslim Brotherhood made their entry into the newly born representative democracy of the early 1980s.

The emerging human rights actors were viewed in opposition to the prevailing religious perceptions, in terms of jurisprudence, mobilization, and institutions (including official religious institutions). A clear position came through: that religious conceptions and the legacy of Islamic traditions are laden with threats to human rights; they are not suitable except for those who believe in them, and; they come with the possibility of extremism and violating the rights of others[4]. Early conflicts within that emerging rights faction were concerned with the inclusion of Islamists in the Egyptian Organization for Human Rights. The majority refused, and adhered to a vision of "civil/secular" cohesion of the organization. Meanwhile, various factions in the or-

[1] [In Arabic] Yasmin Shash, "The rise, development and challenges of the rights movement in Egypt. Research papers", Arab Reform Initiative, 4 August 2017. Available at www.arab-reform.net/ar/node/1095, pp. 3-4.

[2] Khaled Mansour," Egypt's Human Rights Movement: Repression, Resistance, and Co-optation" in: Report: Arab Politics Beyond the Uprisings, The Century Foundation, 18 April 2017. Available at tcf.org/content/report/egypts-human-rights-movement/

[3] This paper is partially based on the author's direct observations and her presence in some of the events over the last few years, as an active citizen in civil society, although she does not belong, organizationally, to any specific institution, party, or group.

[4] Moataz El Fegiery, Islamic Law and Human Rights: The Muslim Brotherhood in Egypt, New Castle upon Tyne: The Cambridge Scholars Publishing, 2016.

ganization disagreed on foreign funding. This was a moment that will leave its mark on the relationship between the two camps up to the present.

The first generation of rights activists dispersed into various organizations after major disputes in 1993. Most dedicated their efforts to activism and advocacy, while the CIHRS paid special attention to theoretical and intellectual engagement with human rights issues, producing many works in this regard. There is, for example Moataz El Fegiery's studies about the Muslim Brotherhood and human rights. In his work, he argues for a link between the MB and Shari'a, where Shari'a and Islamic jurisprudence are presented as a threat to human rights, if they are ever codified into law. The CIHRS has had a special focus on Sudan, publishing n celebrating the work of Sudanese academic Abdullah Al-Nai'm, who is a follower of Mahmoud Mohamed Taha. The latter was executed for apostasy in 1983, by the Ja'far Al-Numeri regime, after Shari'a was declared the law of the land in Sudan. In line with Taha's work, A-Nai'm stresses the need to break free from Islamic jurisprudence or fiqh, and to establish a framework that is essentially normative or ethical, rather than a legislative/legalistic one, in making use of the Islamic framework.

In general, there seems to be a confusion between contemporary movements, such as the MB, and the rich legacy of centuries of ethical and legislative theories, judicial precedents, and institutional models, that extended from the Atlantic shores to China. This is also the case in spite of critique that many waged, including the author, against the MB, specifically since the mid-2000s. This critique highlighted the fact that the MB/s knowledge of fiqh is, strangely and amusingly, little, while their awareness of relevant contemporary ijtihad outside Egypt, and even inside it, is really poor. The MB's vision regarding a disciplined and rigorous renewal of Shari'a is almost absent altogether, in spite of decades of rhetoric about the need to applying Shari'a[5]. The absence of a clear MB vision based on substantial efforts to renew Shari'a was clearly manifested in their confused performance, in this regard, after 2011. They did not possess a clear blueprint for a genuine Islamic mode of governance, how to bridle security agencies, how to enhance public Shura, rebuild platforms of ijtihad, liberate the economy from capitalist investment strategies. Instead of recruiting religious institutions, such as Al-Azhar and Darl Al-Oloum for example, to play intellectual, legislative and educational roles, the MB gambled instead on mobilizing young people in these institutions.

There was a prevalent intellectual confusion due to the ambiguity of how truly "Islamist" the MB movement was on the one hand and the possibilities of a renewal of fiqh on the other hand. Thus, human rights NGOs kept on looking in for humanist philosophies in the common traditions, while dismissing fiqh as a non-renewable framework. Rights groups that took over this intellectual task, beside the operational rights advocacy struggles, did not produce a substantial body of work that teases out a distinct stream of "Arab" critique for the modernist human rights approach, matching the ones produced by critical Western voices, within their cultural sphere. This was caused by two factors: First, rights activists are not adequately familiar with the Islamic scholarly tradition and fiqh, given their Leftist and Nasserist backgrounds. They kept on looking for suitable philosophical frameworks for human rights in the common cultural heritage to enable a "secular" relationship to the past[6]. Second, rights groups, since they were founded, are ontologically grounded in Modernism as an intellectual framework, after the Socialist regime's crisis. This consequently made them wedded to a legalistic approach, which necessitates accepting state sovereignty as part of the imaginary of methodological nationalism[7]. The main tool in this regard is international law in addition to advocacy, monitoring, and accountability, especially within the framework of the United Nations; all of which fall squarely under the framework of the Nation-State.

This trend was established by Mohamed Al-Sayed Saed. His interventions were the most important stream within that trend. He managed, along with a group of researchers, albeit in the discipline of philosophy, in making CIHRS with its activities and publications, a space for thinking and intellectual deliberation. His openness as a thinker and an organizer allowed dialogue, and the reception of voices from across a wide spectrum, in events CIHRS hosted[8]. It is noteworthy that Saed was keen since his early writings in the 1990s, to elaborate on the relationship between Islam and Human Rights. He published a paper in the mid-90s in the first volume of Ruwaq Arabi. Before he died, he published a paper about an Islamist project rooted in the Palestinian cause, for world peace. He did not possess, however, enough religious knowledge to engage with the problematics that rights groups pointed out in the Islamist approach. His work is, thus, 'about' the issue, not substantially engaged with the issue[9]. It did not produce a paradigm shift for the parties concerned. Nor did it lead to consensus on commonalities, or an agreement on the possibility of collective work for the movements that remained adversaries for years. Each movement kept to its political and intellectual grounds, perhaps because the shift from the

[5] The parliament exerted deeper and more extended efforts on this front, in comparison to those of the MB in Egypt. This includes, for example, efforts between 1978 and 1983, which were simply ignored and dismissed as part of former president Sadat machinations to contain and coopt Islamists. See also in Arabic:
هبة رؤوف عزت، نحو عمران جديد، الشبكة العربية للأبحاث والنشر، 2015، ص 109-170؛ وجاسر عودة، الدولة المدنية: نحو تجاوز الاستبداد وتحقيق مقاصد الشريعة، الشبكة العربية للأبحاث والنشر، 2015، ص 7-23.

[6] Intellectual voices within the rights groups studied the humanist stream within the Islamic tradition in the same way Leftists were interested in the material philosophy in Muslim history. See in Arabic:
حسين مروة، النزعات المادية في الفلسفة العربية الإسلامية، دار الفارابي، 2002 (4 أجزاء)؛ عاطف أحمد (محرر)، دراسات في النزعة الإنسانية في الفكر الوسيط، ط2، مركز القاهرة لحقوق الإنسان، 2014.

[7] Heba Raouf Ezzat, Beyond Methodological Modernism: Towards A Multicultural Paradigm Shift in The Social Sciences, Global Civil Society Yearbook, London: Sage Publications, 2004, pp.40-58.

[8] For more on the role and influence of Mohamed Al-Sayed Saed, see a special issue of Ruwaq Arabi, the periodical he had founded at CIHRS:
رواق عربي، عدد تذكاري، محمد السيد سعيد، العدد 53، 2010، متاح في www.cihrs.org/?p=5225

[9] The author was keen to mention this first study, but she was not able to access the first issue of Ruwaq Arabi. However, she has a digital version of Al-Sayed Saed's last study, entitled "Islam and World Peace" on Madarek, which was part of Islamonline portal. The study is not available online anymore since the portal was closed sown in 2010. A detailed academic study about the work of Al-Sayed Saed is Ahmed Menissi's PhD dissertation written at the Arab Studies Institute in Cairo. The dissertation is reviewed at www.almothaqaf.com/a/b8/921595

Left to the human rights sphere was the maximum distance most rights groups founders were able to cross ideologically and due to the fact that most were then no longer young[10].

Ideologically speaking, human rights actors suffered a hole in their critical approach. Their critique of Islamist discourse and scholarly tradition is not comparable to what they could have been able to achieve had they also critiqued the Western human rights paradigm. Their critical discourse had opted not to consider Islam a parallel universal human rights approach, nor to consider it a rival human rights approach. This is very different from what Anthony Chase, from the Western viewpoint, or Abdulaziz Sachedina, from an Islamist viewpoint presented in their works[11]. The dominant critical discourse among Egyptian rights actors did not explore the specificity of the Western genealogy of the human rights discourse, as Talal Assad did, and how it revolved around the individual's sovereignty in parallel to state sovereignty. The latter remained the ultimate reference under which the human rights logic worked in practice, despite hypotheses about the 'Universality' of these rights[12]. Under such a framework, still, the state maintained the right to declare a state of exception at its own discretion (the sovereignty principle), and at such times all guarantees of rights are reduced to their absolute minimum[13].

The proponents of the human rights system who adopt the Universal Declaration of Human Rights (UDHR) have simply turned this text into an ultimate reference. They assume that applying Shari'a, as Islamists demand, would inevitably erode citizenship; that reaching political power is the highest priority of Islamists; and that they are not really worried about human rights. While Islamists are criticized as being very ideological, most human rights activists describe Islamists as "Muta'aslimun [persons who manipulate Islam to their ends]". They keep cautioning against the "despotism of the majority", while also reminding everyone about the danger of Islamists, and that they are against freedom of expression, women rights, minority rights, and personal rights: as if the danger of the Islamist Ideology is the main challenge[14].

In "After Evil", Robert Meister noted that the human rights regime became an "Ideology" in itself. It is not about rights groups versus social and political movements. It is about a conflict between ideologies where rights groups cannot be categorized under the banner of, say, Liberalism. As such, rights groups occupy their own ideological niche[15].

This is a very important point of departure if we want to 'genealogically' understand the rights movement. With this in mind, we can see how the pioneering human rights activists of the 1980s in Egypt moved from an ideological regime towards the human rights ideology, embracing relevant political positions and expectations from the political realm, and how it wishes to radically change this sphere, especially when engaging with Islamists. We can also see how far it accepts to adapt to the status quo, and to use the channels provided by despotic and totalitarian regimes to support specific rights agendas, especially women rights, as we will detail later this study. Meister also raised the question of the moral problematic when human rights is perceived as "post-religious", if we may say so, since this exclusion of religion does not resolve the very problematic of the moral grounding of rights.

Samuel Moyn suggests that the human rights movement is premised on an ethical promise that appeared after the political failure of grand ideologies rooted in the emergence of modern nation-states and born of the enlightenment era claims to universality. According to this understanding, universality should have founded "an international community" through the meeting of willing states. It is this very state that repeatedly violated the rights of citizens, and it is the same state that practiced sovereignty through waging wars of genocide, throughout the past decades and until the present. Therefore, the global rights movement was not able to break with political calculations, and it was not able to rise above them. Moyn, through an elaborate analysis, suggests that the quest for universality and attempts to tackle recurrent genocides contributed to the development and the rise of the concept of "transitional justice". It is a concept that the global human rights movement saw as combining an ethical essence and the possibility for engaging justice in through negotiations, rather than radical interventions[16]. The insistence of Egyptian and Arab rights groups on a "borrowed" universality that

[10] The role CIHRS played in that direction merits a separate study. EIPR raised the conceptual and research standards in its reports and activities, to some extent. The intellectual space of rights platforms, however, was not able to keep up the level of conversation founded by Al-Sayed Saed, due to the absence of individuals who enjoy extensive relationships with various factions, with the exception of Ahmed Saif Al-Islam and Ahmed Nabil Al-Hilali, who both passed away and belonged more to the legal/rights circle, not the intellectual one. The problems with regarding Islam as a source of knowledge, not as a history and legacy, was a topic I discussed in many meetings with Al-Sayed Saed, through years of scholarly cooperation with him as of 2003 on a global civil society project, and until his death in 2009. Al-Sayed Saed acknowledged the need of 'the rights movement' to study the Islamic legacy more systematically. The same opinion was expressed by Al-Sayed Yassin before his death, throughout extended discussions. Some people managed to handle this challenge, intellectually, including Adel Hussien and Abdulwahab Al-Messiry, but extensive knowledge about the Islamic jurisprudence and other aspects of Sharia remained limited because of how hard it is to navigate an entirely new discipline characterized by different approaches and conceptions.

[11] Anthony Chase, "The Tail and the Dog: Constructing Islam and Human Rights in Political Context" in: Amr Hamzawy and Anthony Chase (eds.), Human Rights in the Arab World: Independent Voices, Philadelphia: University of Pennsylvania Press, 2008, pp.21-2; Abdulaziz Sachedina, Islam and the Challenge of Human Rights, Oxford: OUP, 2014, pp.3-40.

[12] Talal Asad, Formations of the Secular: Christianity, Islam, Modernity, California: Stanford University Press, 2003, pp.134-158.

[13] (in Arabic)
كارل شميت، مفهوم السياسي، ترجمة سومر المير محمود، مدرات للأبحاث والنشر، 2017، ص 76-51؛ جورجيو أجامبين، حالة الإستثناء: الإنسان الحرام، ترجمة د.ناصر إسماعيل، مدرات للأبحاث والنشر، 2015، ص 92-39.

[14] (in Arabic)
معتز الفجيري، «استبداد الأغلبية: الإسلاميون وتقويض حقوق الإنسان»، في : بهي الدين حسن (محرر)، الدستور المصري الجديد يعيد إنتاج النظام القمعي القديم، مجلة رواق عربي، العدد 63، 2012، ص 84-53.

[15] Robert Meister, After Evil: A Politics of Human Rights, N.Y.: Columbia University Press, 2011.

[16] Samuel Moyn, The Last Utopia: Human Rights in History, London: Belknap Press, 2010.

lacks fresh contributions to the critique of this universality or questioning its concepts, led them to occupy the space of deliberating on the dangers of Shari'a, instead of critiquing the philosophy of the state[17]. These rights groups do not give Shari'a enough credit as part of the cultural tradition that formulated perceptions of "the legal"[18]. And while they had effectively chosen, as stated earlier, to be elitist and stay away from populism, they did not succeed during the popular uprising post January 2011, or after the brutal removal and neutralization of the MB to lay down deeper roots and move from the space of organizations to the realm of movements. Islamist movements had also failed in institutionalizing their rights-based activities, that were exclusively concerned with the cases of their own members, beside their initial inability to conceptualize the 'political', ending up in a state of confusion torn between utopian ideas and pragmatic actions.

2. The problematic of structure:

Since the 1980s, social sciences researchers differentiated between old and new social movements. Labour movements were considered a classic example of old movements that are based on extensive recruitment with strict membership roles; they are hard to leave; they live long, they use strategies of mobilization; and are based on an ideological vision and a hierarchical structure. Islamist movements are thus an old social movement given the common characteristics. The new movements are the ones that revolve around specific demands that they are formed form to push for; they resort to innovative means for mobilization that do not rely on membership, while relying sometimes just on support functions and advocacy activities; they change their goals more flexibly; are not grounded in rigid ideologies; and it is hard for them to enter alliances, to merge, or transform their nature[19].

There is a body of literature that criticizes this rigid dichotomy. It considered that class and social divisions, which social movements formed to challenge, changed in nature as modernization evolved and globalization spread. Therefore, both old and new movements alike are facing a new reality that pushes them towards new protest tactics, in the context of shifting lines of separation between the two categories. This also led to a whole new plethora of mobilization tools, means of practicing opposition, and the extension of alliances beyond borders. The old and new movements also started attracting a plurality of classes. They are not closed as before to any specific community, faction, or class[20].

A third categorization soon made its entry: the "non-movements". The most prominent scholar who applied the concept to the youth protests in Egypt and Iran is Asef Bayat. Such protests are spontaneous and use innovative and diverse modes of mobilization with sustained pressure that seeks to induce change. Non-movements disappear, leaving behind pools of expertise that help form new non-movements without necessarily repeating earlier patterns. This is something Bayat also described as: Street politics or daily life politics[21].

What concerns us here is to try and gauge the contours of rights groups and socio-political Islamic movements. Various rights organization appeared in the mid-1980s. The first one was the Egyptian Organization for Human Rights. Years later, the CIHRS was founded in 1993. The Arab Network for Human Rights Information (ANHRI) was formed in 2004. Many organizations and associations appeared, and some of them concerned themselves with specific themes, like women or labour rights. It is hardly possible to say with any certainty that there is an organized movement for human rights in Egypt. We can, however, refer to how these organizations, combined, approach the concept of new social movements of "limited size", that lack a considerable societal backing in comparison to the Islamic movement (the MB in particular). It is not necessary to even compare the size of membership and capacity to mobilize between the two sides; the rights groups and the Islamist movements. The Islamist movement engaged formal political action within partisan politics since the mid-1980s. They politicized civic and professional unions after controlling their boards. Rights groups, on the other hand, kept moving within the civil society framework. Some of them became active on the international level through conferences and global rights coalitions and networks.

This difference in structure caused a perpetual tension in the relationship between the two categories of actors, even when they cooperated to coordinate protests after the 2003 US invasion of Iraq. That moment mobilized the public sphere to some extent, and "Kefaya" movement was created. Throughout the years, the substantial weight and influence of the Muslim Brotherhood remained the reason for this movement to resort to independent one-sided decisions that clashed with agreements reached at the street level among grassroots. It kept justifying this by stating that it was the movement that had paid the highest price in confrontations, a position that it thought gave the movement the right to last-minute changes in agreements in certain situations. This disparity, and contradiction sometimes, between the structure and weight of the two groups of actors, the Islamists and the rights-based groups, had its repercussions on the nature of the relationship between the two sides. It also affected the chances of defending common interests by seizing available political opportunities.

[17] Upon reviewing the Ruwaq Arabi periodical between 2012 and 2017, we found four issues, beside the essays across other issues, dedicated to criticising and analysing the performance of Islamists. See:
الإسلام السياسي أمام اختبار الديمقراطية وحقوق الإنسان، عدد رواق عربي 60 ، تشرين الأول/أكتوبر 2012؛ حقوق الإنسان والقانون الإسلامي... تعارض أم توافق؟-عدد رواق عربي 64، أيلول/سبتمبر 2013؛ أي مستقبل لجماعة الإخوان المسلمين – عدد رواق عربي 66-65، خريف 2013؛ جماعة الاخوان المسلمين والثورة المصرية... مراجعات لم تجرى بعد،عدد رواق عربي 70، نيسان/أبريل 2017.

[18] See: Lawrence Rosen, The Anthropology of Justice: Law as Culture in Islamic Society, Cambridge: CUP, 2008.

[19] Claus Offe, "New Social Movements: Challenging the Boundaries of Institutional Politics", Social Research, Vol.52, 1985, pp.817-868-.; Nelson A Pichardo, "New Social Movements: A Critical Review", Annual Review of Sociology, Vol.23, 1997, pp.411-430; David Plotke, "What's So New About New Social Movements?" Socialist Review, Vol.20, 1990, pp. 81-102.

[20] Doug McAdam, Sidney Tarrow, and Charles Tilly, Dynamics of Contention, Cambridge: Cambridge University Press, 2001.

[21] Asef Bayat, Life as Politics: How Ordinary People Change the Middle East, 2nd edition, California: Stanford University Press, 2013.

Tarrow assumed that movements usually seek to push their demands forward whenever an opportunity appears in the political arena[22]. There are no clear ways to map such opportunities or to measure the odds of success or failure in the case of authoritarian regimes. In this regard, Tarrow and Tilly noticed that conditions through which social movements harvest gains from political opportunities, does include the plurality of power holders in the regime, the instability of ruling political coalitions, and the openness of the regime to include new players[23]. These are conditions not available in totalitarian regimes. As such, instead of "taking advantage of available opportunities", "opportunism" prevailed among various actors, who sought to present themselves to the political authority as replacements for the other group of actors, in spite of the disparity in their influence[24]. This aborted, over the last 30 years, the opportunity to build broad coalitions. It undermined trust between civil and political actors, and contributed to the absence of a culture of negotiation and long-term dialogue among various actors in the civil and political spheres[25].

3. The life-subjectivity-personal problematic:

For almost anyone who had a direct experience with both rights' activists and Islamists, there is a clear difference between the two factions both in everyday practices and lifestyles. This is something that remains unstudied in the literature addressing the tense relationship between the two factions. This behavioural difference was not altered by the golden opportunity provided by the January 25th revolutionary moment, nor by the 18 days following days in Tahrir square - with what that entailed in terms of crossing borders between the two groups, and standing on common grounds in terms of dreams and struggles.

Becoming part of the square did not depend on the ideology one believed in; it was thus a good opportunity to build a new map of relationships and coalitions. However, soon after the parties became divided because of the proposed constitutional amendments, the moment of the square was lost for good. Rights groups were present in the square as individuals, and not under their organizational banners. This was the right measure and in line with their professional and impartiality prerogatives as defenders of human rights. However, many prominent figures in these groups adopted anti-Islamist public positions early on, and they joined certain camps in various political situation. In other words, they crossed the line between professional neutrality and direct intervention. This made these groups and those defenders look as if they were both the monitor and the adversary at the same time. Meanwhile, daily hostile verbal exchanges between Islamist activists and rights actors flared up from 2011 to 2013. This led the grassroots level of the Islamist movement to see enemies in the rights groups, except for figures that steered the relationship wisely and fulfilled their roles as rights actors without entering the direct political struggle arena. Ahmed Saif Al-Islam was the most prominent example of such people. The Islamists went really far in smearing prominent figures in the rights groups, especially after the Ittihadiya presidential palace confrontations. This went as far as sourcing and then disseminating private videos of prominent rights' activists and their private social events in order to discredit them and question their ethics. Young Islamicists for example widely posted personal videos for Gamal Eid on twitter).

Enmity and the search for opportunities of doing harm went even as far as archiving positions of prominent rights activists on Twitter and Facebook, starting January 2013. These positions were later used against those who supported public protests on 30th June (these were demonstrations against President Mohammad Morsi and the MB) when they condemned Rab'aa and following massacres, to remind them that they supported protests that ultimately "betrayed the democratic process in July 3rd and as such have some of the blood spilled on their hands". In return, the MBs are reminded of Ittihadiya Presidential palace events half way through Morsi's one year in office and of their demonstrators who used verbal violence against their adversaries in the street, and how they physically assaulted them in some situations, which led to injuries in various governorates, especially Alexandria. Another recurrent narrative is the condemnation of how the MBs betrayed the revolution and hijacked it since the 18 days in Tahrir square, no less, when they communicated with the, then head of the Intelligence Service, Omar Soliman, and of how they then took over as the main player and excluded others, how they mobilized and resorted to shows of force in the elections, then "betrayal" in Mohamed Mahmoud events between largely secular protesters and security forces, how they monopolized decision-making through the Parliament, while drafting the 2012 Constitution, the Morsi Constitutional Declaration, etc. Some even insist, while condemning Rab'aa massacre as a central and symbolic tragedy of the Muslim Brotherhood, on hinting at how the sit-in included armed persons and that the MB was exploiting the death of their supporters. So, while MB young activists commemorate the Rab'aa massacre, young rights activists commemorate the Mohamed Mahmoud and Ittihadiya events, and so on and so forth in a vicious circle.

Mustonen tried to explore the perspectives of "lifestyle" and their influence on political adversaries and how the upper cosmopolitan class became hostile to the January 2011 revolt especially after the Islamist rise, given the big differences in their everyday lives, and imagining Islamists as "others", who do not represent the 'real' Egypt[26]. It is possible to conduct

[22] Sidney Tarrow, Power in Movement, Camridge: Cambridge University Press,1994, p.85.

[23] Charles Tilly and Sidney Tarrow. Contentious Politics, Oxford: Oxford University Press. 2006.

[24] In the field of women rights, for example, Tahani Al-Gibali, who was about to establish an Egyptian Women Union in 2000, and the trade unionist leader and leftist journalist Amina Shafiq, both joined the National Women Council under first lady Suzan Mubarak, during the last years of Mubarak's rule. They had both accepted to work under the banner of a state experiencing a legitimacy crisis, within an organization formed by the state to undermine autonomous women groups, similar to what the state did with the manipulation of the National Council for Human Rights later on (NCHR). See:
Heba Raouf Ezzat, "The Silent Ayesha: An Egyptian Narrative Globalization, Gender, and Religion", in: Jane Bayes and Nayereh Tohidi (eds.), Globalization, Gender, and Religion, London: Palgrave Macmillan, 2001, pp. 231-257.

[25] On the crisis of political negotiation among Egyptian political opposition factions, see:
Heba Raouf Ezzat and Aly El Raggal, "Can a Revolution be Negotiated?", in William Zartman (ed.), Arab Spring: Negotiating in the Shadow of the Intifadat, Athens/US: Georgia University Press, 2015.

[26] Liina Mustonen, "Cosmopolitanism and its Others: Social Distinction in Egypt in the aftermath of the Revolution of 2011", Thesis submitted for assessment with a view to obtaining the degree of Doctor of Political and Social Sciences of the European University Institute-Florence, 31 May 2017.

a similar comparison through another study, about the role of differing lifestyles in creating an adversary relationship between rights groups and Islamists. There is no systemic or rigorous research of this renewed animosity, on the level of the personal consciousness, within the ranks of both parties. The author, however, given her involvement in following social media platforms for years, possesses many examples that are relevant to how this relationship was influenced in the virtual/personal space. Such a space will need more discipline, and will be one of the hardest reconciliations ahead, in terms of managing and controlling, when the moment comes, in the future, for the sake of a general civil reconciliation.

II. 25 January uprising and beyond, accumulating disagreements and renewed conflicts

The Islamist movement, as a political faction, with the Muslim Brotherhood at its heart, was not particularly occupied with organized and institutionalized human rights work. For decades, the movement suffered systematic violations and persecution, since the assassination of its founder, Hassan Al-Banna in 1949, then throughout Nasser's conflict and repression with the MB after the 1952 Revolution. The MB rights advocacy was channelled through professional unions, especially the Bar Association, followed by solidarity from the Engineers and Physicians Syndicates with their detained members. Before 2011, there had been a sustained dialogue between the MB and human rights organizations to document (and/or campaign against) violations, detentions, torture, and military trials.

Three organizations with Islamist links were established in the early 2000s to work on human rights. The first one was Sawasiya Center, that was founded in 2004 and stayed active until 2013, when its founder and director, lawyer Abdelmon`iem Abdelmaqsoud who belonged to the MB, was arrested. Sawasiya issued many reports documenting various types of violations, including against students; it monitored and exposed violations in parliamentary and professional unions elections; it documented police actions, violations against Egyptians abroad and the Palestinians under occupation, and Muslims in the West. Sawasiya stayed removed from the concerns of other rights groups, because of ideological conflicts and the fact that it was mainly concerned with cases of detainees and torture cases. It did not challenge or contribute to a broad conception of the human rights agenda especially when it comes to basic citizen or labour rights[27].

The second organization was the Victims Center for Human Rights (Dahaya) in Alexandria. It was founded in 2009 at a personal initiative of Haytham Abu Khalil, in partnership with Ibrahim Al-Za'farani, who explicitly declared that the Center was not run by the Muslim Brotherhood[28]. The Center organized events and participated in various collective activities within the rights movement, openly, in 2009 and 2010. It also reached out to many rights groups, more than Sawasiya ever did. Then by the end of 2010 it closed down though Abu Khalil remained active in civil society[29]. He criticized the post-2011 MB political performance, and later on publicly resigned from the group. Away from a professional assessment of Islamist opposition media platforms abroad after 2013, the show hosted by Abu Khalil, Hakna Kolna or Our Right, All of US, on Al-Sharq Channel, was probably unique in the Arab media scene because it specialized in highlighting rights violations[30]

The third and last organization is El-Shehab Center in Alexandria, founded in 2006. The founder, Khalaf Bayoumy, a lawyer, had earlier managed the MB detainees' committee in Alexandria. He used to monitor arbitrary detention and torture, while providing legal aid for the families of detainees. After the public space opened up in 2011, he founded the Egyptian Association for Legal Studies and Development (El-Shehab) in 2012. He then left Egypt after the military seized power, but El-Shehab remains active in exile, from Istanbul. El-Shehab work, in general, lacked professional documentation capacity and the ability to utilize available international mechanisms, nor was it able to reach out to prominent international rights organizations[31].

It is perhaps useful to trace the contours of conflict between rights defenders and Islamists (MB at the forefront of the latter group) after 2011. In this conflict, the crises were recurrent, and their details reflected the dynamics of the uneasy relationship between the two groups.

The first disagreement within the political and rights arenas was centred on the 2011 Constitutional amendments. Some Liberal and Leftist groups stressed the need for a new constitution. The Islamist movements, however, preferred a restricted amendment for the constitution and to work on a new constitution later on. The Supreme Council of the Armed Forces (SCAF) first promised an amendment through a complementary constitutional declaration but then after a referendum supported these specific amendments the SCAF added many articles that were not part of the original document voted on and issued an almost new constitution. Though the SCAF, thus, made it clear that its authority rises above that of the voters and the constitution, the quick developments and conflicts among other political actors did not allow for a serious alignment, in one camp, strong enough to confront the SCAF.

[27] See Sawasiya Center's mission statement. Its Facebook page (goo.gl/dmZJhz) is no longer active, nor its webpage. The author knows about its activities since it was founded, because she used to receive its publications since its activities became systematic.

[28] Some argue that no individual initiatives can be taken by MB members without a formal group endorsement. But credible information indicates that Al-Zaafrani decision to establish Dahaya Center was indeed an independent initiative. In this, he was not different from the conference held by young MB members by the end of March 2011 against the decision of the MB highest body, the Guidance Bureau or Maktab il Irshad. The author was aware of these conflicts given how close she was to the younger generation of various political movements. The prominent youth who decided to hold the conference were motivated by the dominant revolutionary spirit. They chose to leave the MB after the group ended their membership, viewing the conference as an attempt to undermine the MB leadership and include the younger generation in decision making mechanisms. See an interview at the time with some of these young MB members in Yousri Fouda's Akher Kalam talk show available at bit.ly/2NtuqY7

[29] A page on Dahaya Centre available at The Arab Network for Human Rights Information at bit.ly/2y1u1HF

[30] The Facbook page of Hakna Kolna show is available at www.facebook.com/haknakolna/

[31] See the Centre's webpage at www.elshehab.net. See also the Center's most recent reports about human rights violations in Egypt in 2013-2017 at goo.gl/6gmLMM

Soon after, the government cracked down on NGOs. A total of 43 staff members from several NGOs, including 19 Americans, faced a criminal trial over charges that included receiving funding from foreign entities without a government permit. In spite the fact that a judicial decision was issued banning the travel of those charged in the case, the foreign suspects returned to their countries onboard a US military plane in March 2012 under ambiguous legal conditions[32]. The MB criticized the move by the ruling SCAF in a statement issued by spokesperson Mahmoud Ghozlan, who explicitly condemned the way the suspects left the country. The official media repackaged the story when the case was reopened in March 2016, claiming that the plane that took the Americans abroad was simply a 'private' jet and not a military aircraft, while accusing the MB of facilitating the suspects' travel and undermining national security[33].

The political events of 2011 and 2012 moved fast and in an intensive manner until June 2013 when the military seized power with the support of civilian factions, the Grand Imam of Al-Azhar and the Coptic Pope. Not all events constituted sites of conflict and disagreement between rights organizations and the Islamist movement. Some of the individuals belonging to both camps differed regarding their positions in street protests, shared demonstrations and clashes. They engaged in verbal attacks through social media platforms. There were not any major events, however, before the deadly protest of Mohamed Mahmoud, except for the Maspiro Massacre of Coptic protesters that the Church opted to ignore and avoid a confrontation with the SCAF.

It is important to focus some attention on the trajectory of fact-finding commissions that started in this period. Such commissions constituted an important route within the shaky process of transitional justice, but they were part of the tool box that the MB ignored. The MB did not have a clear strategy for the evolving situation and whether they should follow a path of retribution (Qissas) or resort to amnesty? Due to this confusion, no single death penalty was issued in cases against those who killed protestors and were convicted in fair trials.

The first fact-finding report was issued by the Committee to Investigate the Violence during the January 2011 Uprising. Led by Judge Adel Qoura, the committee issued a report in March 2011, confirming the involvement of officers, parliamentarians, and leaders from the National Democratic Party in the Camel attack against Tahrir protesters on 2 February 2011. The 400-page report was submitted to the SCAF and the Cabinet of premier Essam Sharaf. A copy was sent to the Public Prosecutor Abdul Mageed Mahmoud to take necessary measures regarding the claims in the report. The Committee published a short 45-page version of the report confirming that the Egyptian police used "live ammunition" against demonstrators on 28 and 29 January[34]. Some of the accused were arrested, but several years afterwards there was no retribution for the martyrs of the revolution and consequent protests. It might not be a surprise that SCAF did not provide redress for those killed, since it might have colluded with the police and remnants of the fallen regime since day one of the uprising, but it was surprising that the MB opted to ignore the damning reports of successive fact-finding missions under President Morsi. The MB position towards human rights when they won a majority of seats in Parliament and then the Presidency is unjustifiable not because of its political ramifications and the negative implications for human rights in general, but also because it contravened with the Islamist criteria that they explicitly adopt as their reference.

We will study four important milestones in the following paragraphs: the Mohamed Mahmoud protests of November 2011, the Ittihadiya clashes in late 2012, a few months after Morsi's term in office started, the 30 June and 3 July 2013 protests and military takeover, and then the Rab'aa Massacre and the crises that followed. We will use these milestones to shine a light on the turns and twists of the relationship between rights groups and Islamists, especially the MB.

Mohamed Mahmoud protests in November 2011 were preceded by demonstrations in 28 October, where various political factions demanded the speedy transfer of power from the military to an elected civilian government and president before April 2012. Then a meeting was held on 2 November 2011 to explore the negative ramifications of the Al-Salmi document[35]. During the meeting, representatives of various political factions including the MB and the Wasat Party agreed to take part in a demonstration on 18 November[36]. MB spokesperson Ghozlan reaffirmed that position on 17 November. The 6 April Movement and other revolutionary groups said they intended to take part as well. On the day of protests, disagreements erupted when Islamist political groups left the scene by the end of the day fearing that prolonged protests could delay the parliamentary elections that were to be held few days later. They left behind members of youth movements and martyrs' families in a sit-in in Tahrir square. Protesters and police forces clashed near the Ministry of Interior's headquarters until

[32] Shaymaa Sayed and Magie Fick, "Egypt Convicts 43, including Americans, in NGO Case," Reuters, 5 June 2013, available at reut.rs/2zXCr4b

[33] (in Arabic)
مصطفى بكري، «من وراء تسفير المتهمين الأجانب في قضية التمويل الأجنبي؟»، الوطن، 10 يونيو 2015، متاح على
www.elwatannews.com/news/details/747677

[34] See:
وائل علي، «المصري اليوم تنشر النص الكامل لملخص تقرير لجنة تقصي الحقائق حول ثورة 25 يناير»، المصري اليوم، 19 نيسان/أبريل 2011. متاح في
www.almasryalyoum.com/news/details/126472

[35] The document contained a cconstitutional framework put together by then deputy prime minister Ali Al-Salmi in the summer of 2011 to control the transition process including the formation of the Constituent Assembly and to firewall the interests and autonomy of the Armed Forces. Islamists who expected to win the parliamentary elections, scheduled for November 2011, and form this Assembly were incensed. Some rights advocates suspected the document could cement the Islamist-Military alliance, holding Islamists responsible for what they described as "the violations of SCAF against the civil state". See in Arabic
خلف علي حسن،»حقوقيون: الوثيقة فوق سلطة البرلمان المقبل والرئيس القادم مدنى تحت حكم العسكر»، المصري اليوم، 3 نوفمبر 2011، متاح في
goo.gl/EgcJZ4

[36] See in Arabic:
فاطمة سويري، «الإخوان يؤكدون أن مليونية إسقاط «وثيقة السلمي» لن تكون الأخيرة»، بوابة الأهرام، 17 نوفمبر 2011، ومتاح في
gate.ahram.org.eg/News/138253.aspx

25 November. The police used rubber and live bullets and tear gas[37]. Scores of protesters were killed, hundreds injured while many suffered greatly and almost suffocated to death because of the excessive use of tear gas. Amnesty International called for ceasing exports of arms and tear gas to the Egyptian Ministry of Interior until the police is restructured[38].

Various factions and individuals who participated in these protests differ bitterly on the details of what happened. Some factions blamed the MB for what their "absence and abandoning the revolutionaries". The author has her personal account of the events as an eyewitness. She witnessed the participation of a variety of actors, including young MB and Salafi activists. They were joined by groups of teenagers from poor neighbourhoods and slums, who had long nursed their resentment against police personnel. From pupils to former criminal convicts, the protests brought together lots of different people who recognized in the revolutionary moment a chance for sublimation, pride, and reintegration. In other words, it was more like an Intifada that gained momentum on account of the many calls from various political movements to go to the square. The MB position was clear, notwithstanding accusations of betrayal from other factions. The MB agreed to take part in the demonstration that preceded the clashes then issued two statements during the week-long bloody events explicitly and strongly condemning the Ministry of Interior and stressing the importance of holding the parliamentary elections as scheduled. The statement blamed unidentified parties for escalating the protests in order to postpone the elections. The MB called on the SCAF to ensure security and fulfil agreements and promises related to the elections[39]. It is no longer debatable that the young MB members in 2011-2013 did not heed leadership decisions, and that many of them were present at the protests, driven by their generational identity and preferences[40].

The protests were examined by a fact-finding committee that President Morsi decreed to investigate the events from January 2011 to June 2012, the date he took office. Ahmed Ragheb, a rights activist and a member of this committee, said their report that was to be sent to the President in early January 2013 included a lot of new evidence that would have led to reopening trials "provided that there was the necessary political will". The report took about six months to prepare by 17 fact-finding teams confirmed, according to Ragheb, the involvement of police and military personnel in using live ammunition and birdshots against demonstrators. State agencies and government-owned TV declined to share evidence they had regarding the killing of protestors. The report indicated that the tear gas used by the police forces during the protests killed several demonstrators by suffocation, because the police violated pertinent rules of engagement and use of gas.

Ragheb declined to reveal the names and identities of suspects, to keep information confidential, and fearing that some of them might flee (especially given that the report was not issued yet when he gave this official statement). Among the most prominent recommendations of the report was calling for unifying the investigation and prosecution authority involved in all cases, and to avoid any discrimination among suspects in terms of which courts they are referred to, be it military or civilian. There was also a recommendation to send all records and evidence to dedicated investigation units. It also called for a revision of the Police Law and the Ministerial Decision on the use of fire arms in order to make both consistent with international human rights treaties and conventions. Finally, the committee asked that investigations in the virginity tests case be reopened and that recommendation was the most opposed by the representatives of the police and army in the committee[41].

It is noteworthy in this context, that the committee condemned the army and police, and demanded accountability. This report, however, was not published. President Morsi received the report on the 2 January 2013 from the committee and "assigned… Judge Mohamed Ezzat Shurbas, the head of the committee and Judge Omar Marwan the Secretary General of the committee, to deliver the report and its attachments to the Public Prosecutor Office to act upon it[42]". Some committee members were told by political and rights activists when they repeatedly asked the Presidential team about the report, that the President trusted the army commanders and would not release the report[43]. Before the end of January, Human Rights Watch demanded that the report be published in order to guarantee victim rights. Parts of the report, however, were first[44] leaked by the Muslim Brotherhood to Al-Jazeera and consequently broadcast after the Rab'aa massacre (August 2013), when the Islamist movement had become embroiled in a bloody conflict with the regime that was being formed at the time after Morsi was removed from power on 3 July 2013[45].

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[37] See eyewitness accounts on these clashes in Al-Nadeem's report [in Arabic], "Testimonies from Mohammad Mahmoud", November 2012, available at goo.gl/h69dzv

[38] CNN, "Amnesty International Asks U.S. to Stop Sending Arms, tear gas to Egypt", 8 December 2011, available at goo.gl/enGx3Q

[39] The MBs statement about the events of Saturday, 19 November 2011, on Nafizat Misr website, 20 November 2011. Available in Arabic at m.almogaz.com/politics/news/2011/11/20/88782. Also see their statement on 22 November 2011at www.ikhwanonline.com/Section/95554/Default.aspx

[40] On the MB generational gap, see unpublished MA Thesis supervised by the author:
Doha Samir Mostafa Abdelgawad, Muslim Brothers in Egypt: Politics of Generational Gaps, MA Thesis, AUC, Political Science Dept., May 2012, available at goo.gl/85X8oo

[41] See in Arabic:
حسام الهندي، «تقرير لجنة مرسي لتقصي الحقائق: الجيش والشرطة أطلقا النار على المتظاهرين»، المصري اليوم، 1 يناير 2013، ومتاح في www.almasryalyoum.com/news/details/268976

[42] See in Arabic:
عماد حجاب ومحمد فؤاد، «مرسي يتسلم تقرير لجنة تقصي الحقائق في قتل الثوار: قوات الداخلية كانت تحمل أسلحة آلية وخرطوش»، بوابة الأهرام الالكترونية، 3 كانون الثاني/يناير 2013. متاح في www.ahram.org.eg/archive/Al-Mashhad-Al-Syiassy/News/192281.aspx

[43] Committee members whose names are public record can ascertain that. The Same was confirmed to the author by credible sources.

[44] See in Arabic:
«هيومن رايتس تطالب مرسي بنشر تقرير تقصى الحقائق وضمان حق ضحايا انتهاكات الجيش والشرطة خلال الثورة»، بوابة الأهرام ، 24 كانون الثاني/يناير 2013، متاح في gate.ahram.org.eg/News/299636.aspx

[45] See in Arabic:
الجزيرة، «الجزيرة تنشر تقرير تقصي حقائق محمد محمود»، موقع الجزيرة، 20 تشرين الثاني/نوفمبر 2013. متاح في goo.gl/CLwWni

The main objective of the Islamist Movement in 2011 was to ensure that parliamentary elections are held. But after they secured their landslide victory, this Parliament did not hold for long. Conflicts erupted about the Constituent Assembly that was chosen then dissolved, only to be formed for a second time to the renewed dissatisfaction of some parties. In what follows, we focus on the performance of the so-called "Parliament of the Muslim Brotherhood", with respect to human rights issues. We will address three important cases: Port Said stadium riots, NGOs Law, and enforcing international Human Rights mechanisms.

A fact-finding committee was formed by the Parliament to investigate the deadly events in Port Said stadium. When the committee only released a weak report, almost all observers and interested parties became so angry that the committee claimed that it was working on a final report that should reveal the facts about the hideous murders in the stadium This final report was never issued. The initial short report was discussed in Parliament in February 2012 and held the Port Said Police Department and the Central Security Section of the Canal Governorates, fully responsible for the death of football fans. It accused them of grave negligence, but the Port Said Criminal Court which handled the case put Al-Masry Club fans on trial and sentenced 11 defendants to death in June 2015. It also ordered that 10 others serve life sentences, sent 10 to maximum security prisons, and 12 to serve 5-year terms. The convicts included the Port Said Head of Security and other police officials. In February 2017, the Egyptian Court of Cassation upheld the 11 death sentences. The case was judicially closed[46].

The second case where the MB Parliament could have played a game changing role was the civil associations law. Very tough negotiations occurred in parliamentary committees with government representatives from the Ministry of Social Solidarity. Meanwhile, security and intelligence agencies pressed all relevant parties to sustain their influence in this field, especially their almost full control over the flow of foreign funds to domestic NGOs. The MB managed this time to reach an acceptable bill in a way consistent with the demands of most NGOs, according to rights groups. The Parliament, however, was dissolved before the law was promulgated[47].

The third case is related to the ratification of the Rome Statute of the International Criminal Court. Although Egypt signed the Statute on 26 December 2000, it had not ratified it till then, giving the ICC no jurisdiction over Egypt, let alone the bloody events since 2011. Ratifying the ICC treaty became a sensitive issue because of ongoing debates after repeated violations by security and military agencies against street protesters and the rising number of people who have been disappeared since the revolution broke out[48]. In June 2012 the MB-dominated parliament refused a call from a rights coalition to ratify the Rome Statute. Then when the lower house was dissolved by a court order, Shura Council took over the legislative functions under a decree from President Morsi. It again refused to ratify the Rome Statute claiming that the ICC was a politicized body[49]. Ironically, the MB attempted to raise a case with the ICC after the military takeover, but the court declined the request in early 2014. Judge Hisham Al-Bastawisi raised the question of ratification again in early 2018, but to no avail[50].

In summary, this political roller coaster produced more disagreements and discord among various political factions. The parliament was dissolved before Morsi came to office. The fact-finding committees he established did not yield any results on the fate of detainees, whose whereabouts were unknown, nor on accountability for the violent acts that occurred since January 2011. The Committee on detainees did not achieve what it set out to do, primarily accounting for the fate of all detainees and ensuring their release. The fact-finding committee on violent acts submitted a report to the presidency but President Morsi refused to publish it. In April 2013, the Egyptian Shorouk and the British Guardian, published excerpts from a leaked copy of the report on the illegal use of live ammunition by the police, and torture against demonstrators detained by the army.

The Presidency, no doubt, faced pressures and engaged in a delicate balancing act with security agencies and the armed forces that were antagonistic. Attempts to change the makeup of the Constituent Assembly reached a deadlock. Fearing the Assembly might be dissolved at the hands of the judiciary, the MB opted to a consultative committee for the Assembly that included ten members, including prominent professors of Constitutional Law (e.g. Dr. Tharwat Badawi, Dr. Souad Al-Sharqawi, and Dr. Ahmed Kamal Abulmagd, who should have been members of the Constituent Assembly itself in the first place), beside political science professors and public intellectual figures. The author was chosen as a member in this committee that sought to broaden the margin of freedoms in the constitutional draft. The work of the committee faced many obstacles, including from the Muslim Brotherhood, especially the repeated changes in the draft and how the members of the Constituent Assembly were not keen to be in direct communication with the committee. Assembly speaker Judge Hossam Al-Ghiriani turned down a request that the committee present around 60 amendments to the plenary after six weeks of continuous work. This all led eight members of the committee, including the author, to resign after issuing a public statement. Committee members faced a wave of bitter criticism from MB followers after the extensive media coverage of this statement[51].

[46] See in Arabic:
أشرف عبد الحميد، «حكم نهائي بإعدام 11 شخصاً في قضية مذبحة بورسعيد»، العربية، 20 شباط/فبراير 2017، متاح في goo.gl/a6WkLH
[47] In May 2012, 42 organizations issued a statement: "The New NGOs Law: Tangible Progress and Inherited Problems", available at goo.gl/ghia1J
[48] The "We will find them" campaign was established to look for the persons who disappeared during the revolution. It kept on working for a long time, then it could not cope with challenges and rising counterrevolutionary pressures. The enforced disappearance phenomenon took a brutal turn after 2013. See in Arabic an interview on this campaign with prominent human rights lawyer Ahmad Seif Al-Islam and activist Nermine Youssri on Naharik Said talk show, Nile TV, 13 August 2012, available at www.youtube.com/watch?v=GFN9zzp4aMs . See in Arabic:
محمد محمود الزيدي، «حدود الملاحقة الدولية للجرائم الداخلية: المحكمة الجنائية الدولية والثورة المصرية"، السياسة الدولية، 27 تمّوز/يوليو2011، متاح على www.siyassa.org.eg/News/1581.aspx
[49] نورا فخري، «جدل بالشورى حول التصديق على اتفاقية المحكمة الجنائية الدولية.. عفيفى: القضاء المصرى عجز عن محاكمة رموز النظام السابق.. والكومى: الجنائية الدولية لا تزال مُسيَّسة»، اليوم السابع، 23 شباط/فبراير 2013، ومتاح على goo.gl/wNUDQu. In 2011
[50] See in Arabic:
محمد نصار، «لمتابعة جرائم الاختفاء القسري: البسطويسي يطالب الحكومة بالتصديق على اتفاقية المحكمة الجنائية الدولي»، مصر العربية، 7 شباط/فبراير 2018 متاح على goo.gl/26cic2
[51] See the reasons for withdrawal of consultative committee members and the detailed account by the author at her public Facebook page at goo.gl/G2j9dv

The human rights community did not allow Morsi enough time to consolidate his grip on a power that has been long in the hands of deep state institutions, huge economic interests, remnants of the former regime, and security agencies. One hundred days into Morsi's presidency, rights groups issued a statement criticizing him (perhaps as a reaction to claims by his supporters that there was a 100-day plan, a declaration which in itself betrayed their political shallowness)[52].

Bakinam Al-Sharqawi, a President's Assistant, invited a group of rights advocates to an extended discussion, over several rounds, about how to reform the Ministry of Interior, especially the members of the National Initiative for Police Reform (NIPR) that took off in 2011[53]. When Morsi suddenly issued a Constitutional Declaration, various political actors protested the presidential performance and soon thereafter supporters and opponents clashed at the presidential Ittihadiya palace. This led the rights advocates to withdraw from the dialogue with the presidency.

During the Ittihadiya events, MB supporters attacked the tents of peaceful protesters camped in front of the presidential palace. After many hours, more MB opponents and proponents came to the area and clashes broke out. Thugs escalated the situation and tried to break into the palace in what some MB members described as the first coup attempt against president Morsi. Eight MB supporters were killed. The ninth death was that of opposition activist Al-Husseini Abu-Deif, for whose murder the MB was blamed.

The Ittihadiya events were a turning point in the antagonistic relationship between rights activists and MB members. Torture or physical assault cases were documented. The most prominent one was the torture of Ola Shahba, an activist who was detained and beaten for hours by MB supporters until activist Mohamed Al-Qassas intervened and got her released. A Christian Copt was also held and beaten up. Furious rights groups issued several statements, demanding (again) that a fact-finding commission be established. They even threatened President Morsi to raise the issue internationally, but the political events led the country quickly to what happened on 30 June 2013[54].

The 3rd July forceful removal of the elected government led by Morsi was not something that many of those who took part in the 30th June protests particularly expected or foresaw, but the quickly unfolding events do not absolve rights groups and advocates from their partial responsibility for the ultimate outcome as the military seized power. Some prominent rights activists publicly supported the Tamarod or Rebellion campaign, a position that politicized human rights action and raised question about the boundaries of political engagement for rights advocates and the significance of their active non-alignment or impartiality with respect to political factions and parties). On 27th June, a time of heightened mobilization, 20 rights groups issued a press release claiming that Morsi's one year in power witnessed an unprecedented scale of human rights violations[55]. With their long experience in documenting violations by security agencies, they should have been aware of how such practices were committed by police and army personnel. Such an understanding would not fully exonerate the MB from using violence in some confrontations with revolutionary movements. Consequently, they should not have believed each and every accusation against the MB, especially when these allegations came from their nemeses or lacked any credible evidence.

The Rab'aa massacre was a milestone at which rights groups and advocates returned to their position of opposition to the regime after a period of oscillation and volatility following the coup of 3 July. The coup was followed by recurrent massacres from the Republican Guard barracks to the Military Parade Platform where people were killed by the Army and the Police, before reaching the dramatic turning point of Rab'aa and the bloody protests at Al-Fath mosque.

Some rights groups kept on insisting that the post 3 July regime was legitimate enough since it rested on the public 30 June demonstrations. It is unfortunate that women rights organizations appealed to the interim president Adly Mansour who took office with military support[56], They called upon him to increase the representation of women and hold all those who committed crimes against the country under Mubarak, SCAF, and Morsi, accountable, and ensuring that the police forces are restructured. "While stating our concern over the growing political role of the military institution, at the expense of democracy and national security process,". It was naïve that these organizations expected from interim President Mansour to rein in the army. These organizations and many influential figures in them themselves suffered, months later, from government retaliation (e.g.: Azza Soliman was charged and released on bail while Mozn Hassan was banned from traveling. This regime that brutally killed and detained Islamist women activists did the same to revolutionary activists like Mahinour Al-Masry and others.

The women rights organization issued their statement about a week after the massacre at the Republican Guard quarters on 8 July, when army and police soldiers fired at demonstrators killing 51 people while another 400 were wounded according to the Ministry of Health. This was the first alarm sounded to rights NGOs about the oncoming bloodletting. Fifteen organizations signed a statement on 9 July, entitled, "Before the Country Slides into a Vicious Circle of Violence that May Never End, Unbiased

[52] See in Arabic:
"ما بعد المائة يوم للرئيس محمد مرسي مؤشرات سلبية على مستقبل حقوق الإنسان، وأزمات كبرى مفتوحة"، مركز القاهرة لحقوق الإنسان، 15 تشرين الأول/أكتوبر، 2012. متاح في: www.cihrs.org/?p=4523

[53] See the initiative website at www.policeforegypt.org/honors.php

[54] See in Arabic:
المصري اليوم: منظمات حقوقية تهدد مرسي بالتصعيد دوليًا حال عدم التحقيق الجاد في انتهاكات الاتحادية، 2 شباط/فبراير 2013 متاح في: goo.gl/219d1h

[55] See in Arabic:
بيان صحفي مشترك من 20 منظمة حقوقية: عام من حكم محمد مرسي سجل حافل من الانتهاكات وتقويض منهجي لدولة القانون، حزيران/يونيو 2013 goo.gl/BSDTzX

[56] See in Arabic:
تحالف المنظمات النسوية المصرية – بيان موقف 16 يوليو 2013 متاح في goo.gl/mQ9Kmp

Investigations Should Start and Include Independent Rights NGOs[57]". Then came the Military Parade Platform or Manassa protests where nearly 100 people were killed. The Rab'aa massacre exceeded them all. As many as 932 people were killed according to a rights group, while many more were injured and at least 800 detained[58]. A statement was quickly issued by the main rights groups, condemning the massacre, though it referred in its title it also condemned MB terrorist practices, in an obviously bad situation analysis and a misunderstanding of the balance of power at the moment[59]. Four months later, many of these Egyptian rights groups, were joined by Human Rights Watch, in a statement: "Egypt: No Acknowledgement or Justice for Mass Protest Killings, Set Up a Fact-Finding Committee as a First Step". The groups demanded, once again, the formation of a fact-finding committee, but they also included some crimes that go as far back as 2011. The demands recurred[60], which explains the increasing harsh regime measures against the rights groups since it feared international accountability mechanisms that could have viewed Rab'aa a crime against humanity.

The National Council for Human Rights (NCHR) played an expectedly supportive role for the state. On 5 March 2014, it issued a brief report about its fact-finding activities regarding the Rab'aa Massacre[61]. The report's language is so riddled with contradictions and confusions that it was strongly criticized. It did not rely on documented information or data. Council member, Nasser Amin, acknowledged that they did not see the Ministry of Interior's action plan to disperse the Rab'aa sit-in because the Ministry declined to share the plan. Rather, they relied on eyewitness accounts by individuals who approached the committee. Prominent journalist Mohammad Abdel Quddous gave the Committee the contact information of 12 MB members who were in the sit-in during the police action, but they refused to cooperate with the investigation team. Given the ad-hoc nature of the report and how it was prematurely issued, it was not even backed by all members of the Committee. Amin, who led the Committee, presented its activities in a press conference, while the report was issued in a manner different from how such reports are usually released perhaps because there was haste since NCHR President Mohammad Fa`iq, had to leave shortly to Geneva to represent Egypt at the UN Human Rights Council. Fa'iq was supposed to present the Committee findings at the HRC meeting, hence the need to translate the report into English to share it with the international human rights body[62]. The report acknowledged many violations and the killing of civilians. However, it accused the MB of arming the sit-in and that some armed protesters initiated started the shootout by firing at police forces. The Committee claimed that the police alone, without support from the armed forces, dispersed the protesters[63].

Human Rights Watch issued a detailed report a year after the Rab'aa Massacre[64]. This deeply angered the regime which had since discredited HRW reports while banning the organization's activities in Egypt, and then in 2017 it blocked access to HRW website in Egypt.

The government sought to bring rights groups under full control after July 2013, so that all reports by domestic organizations could become consistent with official position, and to avoid information on grave human rights violations reaching European embassies or international rights groups. The regime worked to expand the remit of military tribunals[65]. Legal harassment of domestic rights organizations continued. In March 2016, investigations into foreign funding to rights NGOs restarted with the claim that new information surfaced about certain NGOs and public figures receiving funding from abroad.

Fourteen human rights groups asserted that the aim was to punish civil society organizations, especially as the investigating judges worked to freeze the assets of several human rights defenders and organizations, dissolving NGOs, and travel bans for many individuals[66]. Rights groups kept monitoring violations, including torture and enforced disappearance. But with the increasing caseload and the multiplicity of violations, thematic reports started to be issued, as organizations sought to largely document and publicize having lost almost all tools to change the reality or impact the state behaviour.

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[57] See in Arabic:
«بيان صحفي مشترك، قبل ان تنزلق البلاد في دائرة عنف لا ينتهي»، بيان موقع من 13 منظمة حقوقية ومتاح على goo.gl/NzjgJp
[58] See the Wiki thawra website and tables at wikithawra.wordpress.com/2013/09/03/rabiadisperal14aug/
[59] See in Arabic:
"بيان صحفي مشترك، التجمع غير السلمي لا يبيح العقاب الجماعي - المنظمات الحقوقية تدين أعمال العنف المميت ضد الاعتصامين والممارسات الإرهابية لجماعة الإخوان المسلمين»، بيان وقعته تسع منظمات حقوقية، 15 آب/أغسطس 2013 ومتاح على goo.gl/HUdxNT
[60] See "Weeks of Killing: State Violence, Communal violence, and Sectarian attacks in the Summer of 2013", EIPR, 18 June 2014. It covers the events of political violence in the weeks before and after removing Morsi in July 2013. It held the state as the actor mainly responsible for what could be the worst acts of violence in modern Egypt, as thousands of people were killed or injured. EIPR sent the report to the government "Independent National Committee for Collecting Information and Evidence, and for Fact Finding, that came with the 30 June 2013 revolution and the events that followed". Available at goo.gl/doMMpa
[61] See report was issued in a hard copy in 2014 by NCHR. Some media sites published the full text. See for example:
النص الكامل لتقرير تقصي حقائق «قومي حقوق الإنسان» بشأن فض «رابعة»، موقع جريدة البديل، 6 آذار/مارس 2014. متاح في goo.gl/5B9Bzr
[62] See in Arabic: تقرير رابعة يشعل الخلافات داخل القومي لحقوق الإنسان، بوابة الأهرام، 8 آذار/مارس 2014. متاح في goo.gl/7j5DCr
See also statements by NCHR member Gamal Fahmy who supported the report, claiming that it was the only "credible source out there", and as such questioning the credibility of international reports. He also described the sit-in as "an armed mutiny". See:
«القومى لحقوق الإنسان»: تقريرنا بشأن فض تجمع رابعة المسلح من أهم انجازاتنا»، اليوم السابع، 10 أيلول/سبتمبر 2016 bit.ly/2wC8qox
See also his televised interview two years after Rab'aa where he described the Rab'aa and Al-Nahda sit-ins as being "rotten", and "hotspots of armed criminality" bit.ly/2NIzclq
[63] See in Arabic:
"توصيات تضمنها تقرير «حقوق الإنسان» حول «فض رابعة» لم يتحقق منها شيء"، المصري اليوم، 13 آب/أغسطس 2018. متاح في 7 www.almasryalyoum.com/news/details/1176502
[64] See: "All according to Plan: The Rab'aa Massacre and Mass Killings of Protesters", Human Rights Watch Report, 12 August 2013. Available at: www.hrw.org/ar/report/2014/08/12/256580
[65] See in Arabic:
«خمس عشرة منظمة ومجموعة حقوقية مستقلة تنتقد توسيع اختصاصات القضاء العسكري»، 30 أكتوبر 2014، متاح على www.cihrs.org/?p=9633
[66] See in Arabic:
«استمرار مطاردة المدافعين عن حقوق الإنسان واستهداف عمل منظمات المجتمع المدني»، 23 نوفمبر 2016، متاح في goo.gl/uwPFVH

III. Potential points of agreement and losing opportunities

According to the theory of political opportunities, it should be noted that the hardest barriers to seizing opportunities is the prevailing political culture[67]. This usually shows in the inability to deconstruct the opportunity to its many levels and components, with the inclination to perceive it as a zero-sum game. The temporal dimension of the opportunity become absent, with the impossibility of analyzing the components of the opportunity or to rightly perceive its various trajectories and their relative speeds. Some actors can make gains on the short run without necessarily losing medium and long-term opportunities. However, this does not happen because of hastiness and the absence of strategic thinking that can determine a collective interest of civil actors (secular and Islamist alike), given that the relationship between the two is rooted in competition rather than conflict.

The trajectory of recent events, given the long contentious relationship between the generation that established the Egyptian Organization for Human Rights on one hand and the Islamist movement, primarily the MB, on the other hand, shows that all actors took advantage of available political opportunities with a high degree of pragmatism, short sightedness, and obsession with short-term gains despite the largely obvious long-term negative consequences. This was partly caused a conflict approach dominated rather than a rational approach to build on common grounds, share gains, or expand the possibilities of mutual benefits. They both ignored that the military became the only winner as it captured the state even when Morsi was still a president in Ittihadiya palace unable to enforce his decisions while being surrounded with agencies whose senior officials admitted after 2013 that they did not cooperate with him on purpose. (Why the MB insisted to stay in "power" in the presidential palace despite all this and what kind of psychological, cultural and political motivations that went along with this position, is an issue that deserves a separate paper). The available political opportunities at the time were not seen by almost everyone as opportunities that can be a subject of negotiations. All political actors failed to reach a lowest common denominator or clear rules for a political management of the volatile situation[68].

There is no doubt that the cleverest actor on the political scene for decades was the state, despite the regime change through the 25 January Uprising. The decisive factor has always been its reliance on the factors of speed and surprise, while using legal tools to undermine justice. The state engaged this existential conflict as if it were an actual war. It deployed tactics to disperse coalitions, co-opt political actors, isolating individuals and disbanding the masses. This "speed management" by the state using the tools of the sovereign dominated the civil space all the time. It crafted society in its image. And instead of "the right to a State" as an essential right, the State apparatuses, through its sovereign, cultural, and media arms, preoccupied actors with many small battles that lasted for limited periods of time. As such, it pushed them to lose sight of the need to align on overarching objectives and non-negotiable rights in the long run. It pushed the masses away from the streets into closed spaces each and every time people occupied the streets. They were either taken to prison or meeting rooms for an exercise in co-optation.

In wars, manoeuvring spaces are decisive. Attack and defence are strategic skills. The battle ground of civil liberation wars is the city, where the authorities divide up connecting spaces using walls and fences, deploy soldiers throughout, arm policemen to the teeth, send elite troops to public squares to patrol, and ultimately ensure surveillance system are in place for real and virtual spaces.

As such, a primary question arises:
How is it possible to cross these gaps and get over that animosity for a better division of labour in the civil and political arenas? Actors in these arenas have become united under harsh state measures of dispersion, confiscations of money, brutalization behind bars, and unfair judicial verdicts? What are the issues that all such actors can cooperate on and pool together their expertise in documenting violations and ensuring accountability and justice, in the future?

It is of critical importance to understand that the Nationalistic Imaginary that became primarily obsessed with the state as a framework, or with governing as an end in itself, neglected the crucial factor of the nation-state, which is territory. There is no possible 'common ground' in the civil arena without a territory in the geographic sense. This does not only refer to public space, but also to territorial integrity and defending the People's sovereignty over it. We thus move from the civic and political rights coding to a perspective that starts with the right to the street, to the city, and to the state.

The Tiran and Sanafir crisis was a unique opportunity to build a national consensus on a non-controversial issue, regardless of how useful that consensus was in stopping the deal to move sovereignty of the two red sea islands from Egypt to Saudi Arabia. Memories filled with hate and anger impeded efforts for broad coalition building. And as usual, the state had acted pre-emptively and early on when it promulgated a draconian demonstration law to contain and control potential public protest. It quickly put revolutionary in prison, making detention centres the place where various movements, including even those who supported 30 June or even 3 July events, meet. Defending the homeland and its territory will remain one of the issues that should be used for coordinating actions, in the future, towards building 'common grounds[69]'.

The second issue around which various faction can align is the right to the city; this is the right to the grounds on which citizens stand, and the lands they own, with what both rights entails in terms of services and access to public space in everyday life[70].

[67] David Meyer and Debra Minkoff, "Conceptualizing Political Opportunity", Social Forces, Vol.82, No. 4, June 2004, pp.1457-1462, 1480-1485.
[68] Regarding the inability to craft mechanisms of negotiation that follow clear rules, and the mistrust between civil and political actors after 2011, see: Aly El Raggal and Heba Raouf Ezzat, "Can a Revolution Be Negotiated", in: Arab Spring: Negotiating in the Shadow of Intifada, London: The University of Georgia Press, 2015, pp.80-115.
[69] See:
«هل تنجح المعارضة المدنية والإخوان في التوحد ضد السيسي؟»، العربي الجديد، 22 حزيران/يونيو 2017. متاح في goo.gl/WiMU5P
[70] It is important to understand everyday life as a field of contestation with the powers over historic right, per se, and not just contestation of the physical rights. See Agnes Heller's important and relevant work: Agnes Heller, Everyday Life, London: Routledge and Kegan Paul, 1970.

The challenge various actors face is the ongoing 'war' against civil space and the poor in the city[71]. Efforts are underway to reinforce an apartheid-like structures in Egyptian provinces with clear discrimination in space, based on the two factors of wealth and arms[72]. The most prominent and clearest example is the New Administrative Capital that is being built as a "Green Zone", where there will be a concentration of wealth and arms in one place, while delineating various spaces in the 'old city' and 'gated communities' to create distinct lines between the wealthy and the rest[73].

Meanwhile, a new and different generation is rising in terms of professionalism and ideological anchors; it is distinct from the older generation of rights advocates and the previous generation of the 1970s. This generation consists of development and community activists, as well as architects and social science researchers who attach a great significance to the right to place, city, and territory[74]. Yes, the housing rights were long on the agenda through the efforts of UN-Habitat in Egypt, and they became prominent and more visible when debates flared around issues related to combatting poverty or promulgating a new law to organize old controlled housing rents. Still, the new initiatives became more focused and shone a light systematically on specific issues. For example, the Urban Solidarity Initiative was established in a collaboration between Takween Integrated Community Development and the American University in Cairo (AUC) with support from the Ford Foundation and the Norwegian Development Fund. The initiative has sought to document urban transformations and raise awareness about the right to public space in urban areas since 2009. Simultaneously, the Urban and Environmental Studies Lab/Initiative has been focused on developing downtown Cairo, then its focus was broadened to include local initiatives of urban development, and to create transdisciplinary spheres for studying urban development and related rights. Then came the "10 Tooba: Applied Research on the Built Environment", which is a specialized group concerned with issues of urbanism, linking them with architectural and urban planning. This group has accumulated expertise on urbanism and participatory planning, and on rights and politics of urbanism, through projects in urban communities in Egypt. It was founded in 2013 by a group of architects and activists, who established the Built Environment Observatory. There was also some networking to establish the "Shadow Ministry of Housing", to monitor policies and raise awareness about housing rights. It is notable that all of these efforts are dedicated to the rights land, housing, and space, and that they monitor transformations in various provinces. This is beside the prominence of the right to housing issues in the activities of EIPR, the Egyptian Commission for Rights and Freedoms, and other rights groups. Mada Masr and other web-based conventional and social media have dedicated substantial efforts to relevant monitoring and investigative reporting.

There is a rising tide of young rights actors from outside the established groups, after the 25 January Uprising, especially after July 2013. They came off street activism, and from new efforts to document violations and follow up on the cases of detainees and torture. So, beside the activists of "No to Military Trials", the role of the Association of Freedom of Thought and Expression (AFTE) became prominent, and it attracted many young activists. The Arab Foundation for Civil and Political Rights Nidal was established in 2013, to be soon followed by the Egyptian Coordination of Rights and Freedoms in 2014, the Egyptian Commission for Rights and Freedoms, and Adala Center for Rights and Freedoms. Outside Egypt, Human Rights Monitor was established in London, in 2014, and it is mainly concerned with Egypt. The Geneva-based Adalah Committee was founded in 2015. It has a broad interest beyond monitoring violations measured according to standards of free trails and fair laws. There are also many relevant Facebook pages against military trials, enforced disappearance, executions, and torture. The first platform among those is No to Military Trials[75], then Break the Cuff[76] and others.

These transformations that took off with the 25 January Uprising, and right after, pushed a new agenda and new generations into rights spaces that became broader and closer to following everyday violations. It created a new generation, and a new pattern of rights groups more responsive to current threats and violations, with varying degrees of politicization and of how far they can confront the regime. This is a historic opportunity to rise above the conflicts between Islamists and rights groups; these conflicts are anchored in ideological differences as well as personal conflicts within the 1970s generation[77].

We have a prominent example for the possibility of cooperation among organizations, domestically and abroad, and the possibility of creating coalitions and coordinate efforts. The mobilization over the arrest of lawyer Ibrahim Higazi, who took part in establishing "Families of the Forcibly Disappeared" after the disappearance of his son during the Republican Guard events in July 2013. This international mobilization led ambassadors of the U.K., Germany, Italy, and the Netherlands in Cairo to issue a joint statement expressing grave concern over Higazi's detention.

Higazi disappeared after his arrest at Cairo Airport, while he was departing to Geneva after getting invited by the UN Working Group on Enforced or Involuntary Disappearance. Higazi was one of the lawyers who cooperated with the family of Giulio Re-

[71] One of the most important papers in this regard is Henri Lefebvre's book on the critique of everyday life, and 'occupying time' and Richard Sennet's work on using 'informality' in resistance. See: Henri Lefebvre, Critique of Everyday Life, translated by John Moore, London: Verso, 1991; Richard Sennet, The Uses of Disorder: Personal Identity and City Life, N.Y.: W.W. Norton, 1992.

[72] Stephen Graham's understanding of the militarization of cities is taking shape in Cairo and in other bigger cities, and of course it is happening in Sinai, while noting the particularity of its situation. And it is happening fast. See in Arabic:
ستيفن جراهام، مدن تحت الحصار: فضائح العنف العسكري وعسكرة التنظيم المدني، ترجمة ميراي يونس، شركة المطبوعات للتوزيع والنشر، 2013، ص ص 43-90، 503-547.

[73] Regarding the New Administrative Capital and the Military mentality, see: Ursula Lindsey, "The Anti-Cairo", Places Journal, March 2017.

[74] Roman Stadiniki,»De l›activisme urbain en Egypte: émergence et stratégies depuis la révolution de 2011», Echogéo, Vol.25, 2013, available at echogeo.revues.org/13491. (See English translation by Oriental Institute-Beirut at goo.gl/h6ta1f)

[75] See the website and facebook page for "No to Military Trials" at www.nomiltrials.org and goo.gl/rjybcf

[76] The dormant twitter feed of this group can be reached at @breakcuffsegy

[77] Hassan believes that defending MB members should be an ethical duety. However, there is no theoretical framing available to establish an Arab concept for such ethics. This is due to the lack of interest and ability to theorize on human rights within the Egyptian rights community. See: Bahey el-Din Hassan, "A Question of Human Rights Ethics: Defending the Islamists", in: Amr Hamzawy and Anthony Chase (eds.), op. cit., pp. 38-48.

geni, the Italian student who was tortured then killed in Cairo in February 2016. Higazi appeared, two days into his disappearance, at State Security Prosecution Office in Al-Tagamou, Cairo, faced with two charges of "establishing an association against the law" and "spreading false news". He was detained for 15 days pending investigations, His detention has been regularly renewed since then[78].As expected, a deputy foreign minister for European Affairs summoned the ambassadors of three countries in Cairo, to deliver "a strong official objection" against the statement their countries signed, and as such showing the continuity of a policy of systematic denial of violations or extrajudicial killing, and the regular condemnation of rights reports about Egypt. This automatic policy has been in place since 2013[79].

Regardless of how Higazi's and the other cases evolved later, these opportunities as suitable points of departure to develop rules and 'traditions' for repeated and systematic cooperation, might open the door for more coordination and collaboration. It might prove to be a source of more professionalism, with focus on rights activities utilizing domestic and international mechanisms, away from politicized contentious positions of individuals within the field.

This cooperation is necessary, now more than ever, given the Egyptian regime's state of continuous and automatic denial of rights reports by international organizations about violations in Egypt; it is customary for the Foreign Ministry to work hard to discredit such reports and ban the relevant organizations from working in the country. Moreover, the regime has even started to suspect and even work sometimes to disable the very institutions that it had created and relied upon their reports as political tools, once it felt these institutions could gather evidence that can serve as ground for indicting regime officials in the future or expose them to international accountability mechanisms.

For example, the state-appointed National Council for Human Rights (NCHR) was under pressure due to the dramatic rise in violations and in cased of enforced disappearance. It went on to include enforced disappearances in its 2016 report without going far enough to reflect the actual dimensions of the phenomenon; it just acknowledged that disappearances occurred. That report was followed by the Regeni crisis and the tensions it caused in the Egyptian-Italian relations. This is probably what led the regime to feel that such reports, even by councils it appoints, were risky[80]. After the Rab'aa Massacre report, issued by NCHR, was utilized to confront international accusations, justifying the killing of civilians, and confirming allegations that MB members were armed in the Rab'aa sit-in, the regime now faces a report from the same Council that pointed at, even if in a very feeble way, rights violations by the state such as enforced disappearance.

The regime responded repeatedly with statements by members of parliament that the NCHR should be reconstituted to include younger members. As such it threatened to dismiss rights advocates that it had included in the NCHR after the army takeover in 2013 to give the Council some measure of credibility. The Council has been led by Mohamed Fa`eq, who has a long history of serving state agencies, but even though, there were rumours that he would be replaced by another regime stalwart, Mufid Shihab[81].

The enforced disappearance report was resented by the regime to the extent that the law governing the NCHR was amended to bring it under the control of the Parliament and limit its mandate. As if all this was not enough, Tareq Mahmoud, a lawyer, started a lawsuit to dissolve the Council (the same lawyer had earlier sued to broaden the scale of military trials and also demanded that medals of honour awarded to former President Morsi be withdrawn, and that Egyptian Courts should consider Hamas a terrorist organization, etc.). Mahmoud argued that former President Adly Mansour issued a decree in August 2013 to reconstitute the NCHR stipulating that the current membership was to continue in place until a new Parliament was elected. Mahmoud further argued in a petition to the State Council that since the parliament had been elected, there were legal grounds to dissolve the NCHR and to consider all reports issued by the Council since the parliament came into session on 14 January 2016, null and void. The panel of the first district of the Administrative Court in State Council decided to hold off looking Mahmoud's motion until it further studies the matter[82]. If this scenario takes its course, it will simply mean that the reports issued by NCHR were procedurally void and cannot be used by international bodies. Consequently, the regime had used the NCHR to counter rights groups for years and may now try to use it to avoid any measure of accountability bearing in mind that many of these rights groups were either shut down or are under strict surveillance. Such moves are not strange to a regime that had committed many crimes against unarmed and innocent civilians and then puts judges on trial because they helped draft an anti-torture

[78] See in Arabic:
مجموعات حقوقية: يجب الإفراج عن إبراهيم متولي فورًا والتوقف عن استخدام سجن العقرب للتنكيل بالمحتجزين»، المبادرة المصرية للحقوق الشخصية، 24 أكتوبر 2017 متاح في goo.gl/qgwuKp

[79] See in Arabic:
احتجاج رسمي..مصر مُستاءة من بيان 5 دول بشأن احتجاز مؤسس أُسر المختفين قسريًا"، مدى مصر، 5 نوفمبر 2017، متاح في" goo.gl/Ay4tcX

[80] See in Arabic:
تقرير القومي لحقوق الإنسان عن الاختفاء القسري في مصر»، المجلس القومي لحقوق الإنسان، 3 يوليو 2016 ، ومتاح في» goo.gl/QKQLik

[81] See several media reports on these threats to the NHRC to better toe the line:
قانون القومي لحقوق الإنسان بعد موافقة البرلمان نهائيا»، اليوم السابع، 4 تموز/يوليو 2017. متاح في» goo.gl/7xfzuc
بعد تعدّيل قانون «القومي لحقوق الإنسان».. مخاوف بشأن أداء المجلس مستقبلًا»، مدى مصر، 9 آب/أغسطس 2017. متاح في» goo.gl/FfiuAM
التشكيل الجديد لـ«القومى لحقوق الإنسان» ينتظر الانعقاد الثالث للبرلمان»، اليوم السابع، 16 أيلول/سبتمبر 2017. متاح في» goo.gl/oVYtsv
اتجاه لاختيار عدد من الشباب في تشكيل المجلس القومي لحقوق الإنسان»، البوابة نيوز، 24 أيلول/سبتمبر، 2017. متاح في» goo.gl/HpzvFG
و»مصادر تكشف لـ»اليوم السابع» التشكيل الجديد للقومى لحقوق الإنسان»، اليوم السابع، 24 كانون الأول/ديسمبر، 2017. متاح في www.albawabhnews.com/2726186
وأخيرا انظر مطالبة داليا زيادة «بضرورة سرعة تشكيل المجلس» ومهاجمتها من «يدعون الثورية» من أعضاء المجلس لضمان أن ينأى المجلس بنفسه عن أي عمل حزبي أو سياسي. الوطن، «داليا زيادة: يجب التعجيل بإعلان تشكيل المجلس القومي لحقوق الإنسان»، 9 كانون الأول/ديسمبر 2017، ومتاح في www.elwatannews.com/news/details/2808786

[82] See in Arabic:
المفوضين تحجز دعوى حل المجلس القومى لحقوق الإنسان لكتابة التقرير»، اليوم السابع، 7 كانون الأول/ديسمبر 2017»

bill[83]. Such a regime would not shy away from creating more fragile entities to defend its policies.

Given that the right to life, in continuity and quality, has the highest priority in the struggle for human rights by various parties for all citizens, opposing the death penalty and preventing military trials for civilians, combatting torture, and ending enforced disappearance, can be the four pillars of cooperation among various groups and organizations, moving forward. A coalition can be built among differing parties around these four issues even if they have varying motivations to advocate on such issues depending on their ideology: secular advocates refuse the death penalty, for example, as a matter of principle while Islamists are against it now because the regime lacks the minimum level necessary for organizing fair trials --- it can be argued that upon a close look that this lack is common to the nation-state and its judicial system, in all states, though in varying degrees[84]. Collective pressure and coordination efforts invested in this cause, over months, led to the issuance of a statement in early 2018, by the UN High Commissioner for Human Rights, calling for a moratorium on executions in Egypt[85]. A group of organizations issued a statement condemning the death penalty[86]. In February 2018, a report entitled, "In the Name of the People: About Death Penalty in Egypt" was issued as the outcome of a collaborative effort between Adalah Center for Freedoms and the Egyptian Initiative for Personal Rights. It was a cooperation that is indicative of what we expected, in terms of the necessity of dismissing ideological differences, or in other words not to build collaboration on ideological platforms, but rather to focus on common human rights struggles[87].

Conclusion

Animosity was the keyword in the relationship between Islamists and rights advocates during the time of revolution. Islamists turned a blind eye to many crimes committed by the regime and its security agencies between 25 January 2011 and 2013. On the other hand, some rights advocates took part in mobilizing and supporting the Tamarod movement that culminated in the demonstrations of 30 June 2013. They even supported the military seizure of power. However, the killings, executions, and other rights violations, then the direct confrontation between the regime and rights groups culminating in a more restrictive NGO law, led rights defenders to take a firmer position, by condemning the regime, and monitoring and documenting its violations. They even resorted to international advocacy, in various ways depending on the respective capacity of each organization, including those who stayed operational in Egypt and the others which moved abroad or were established outside the country.
It is expected that this trend will push more Islamists, in the broader non-organizational sense, to see opportunity in resorting to human rights advocacy. As such, this will mean accepting more cooperation, especially in terms of monitoring and documenting, among the various initiatives and institutions established after 2013. Cooperation will be largely free from ideological conflicts and led by a new generation of actors.

Based on the above, it is expected that the relationship between the Islamist movement, in a broad and loose sense especially after its crisis with the regime, and rights groups on the other hand, following generational and structural transformations, would become more collaborative in the next stages of domestic and international struggle for rights, after the death of politics and political parties. Collaborative work could focus on enforced disappearance, torture, and the death penalty. It might also include the right of return for the displaced people of Sinai, and accountability for crimes against civilians in the name of counterterrorism, in particular the military operation of the Armed Forces since February 2018. The preservation of life, in terms of survival with minimum living standards, could be among the priorities of cooperation to bridge the perception and framework gaps between the parties in the medium and long term. These priorities will furnish the common ground to hold efforts together and could create a larger base for the rights paradigm while giving Islamists the opportunity to apply an Islamic approach to human rights, a direction that they theorized about for too long. As such, a professional tract could open up for the Islamists allowing them a more credible and active role in human rights on the national arena.

[83] HRW, "Egypt: Stop Retaliation for Anti-Torture Proposal", 8 June 2016, available at www.hrw.org/news/2016/06/08/egypt-stop-retaliation-anti-torture-proposal
[84] In this regard, see what Foucault wrote on punishment, and Agamben's on the uses of bodies:
Michel Foucault, Discipline & Punish: The Birth of the Prison, translated by Alan Sheridan, New York: Random House, 1995; Giorgio Agamben, The Uses of Bodies, translated by Adam Kotsko, California: Stanford University Press, 2016.
[85] «Egypt Must Halt Executions, Say UN Human Rights Experts", OHCHR, 26 June, 2018, available at goo.gl/J4MFwr
[86] See in Arabic:
«في خطاب موّقع من 13 منظمة مصري حقوقية مستقلة-مصرا نطالب الأمين العام للأمم المتحدة بالتدخل لوقف تنفيذ أحكام نهائية»، مركز القاهرة لحقوق الإنسان، 29 كانون الثاني/يناير 2018. متاح في www.cihrs.org/?p=20911
[87] See in Arabic:
«المبادرة المصرية: 260 متهمًا صدرت ضدهم أحكامًا بالإعدام في 2017"، موقع مدى مصر، 30 يناير 2018. متاح في goo.gl/8FGGVX

Tunisia: Human Rights Organizations, Political Islam and its Groups

Mohamed Sahbi Khalfaoui

Summary

How can we understand the relation of political Islam in Tunisia with the human rights system in its indivisibility and universality? Since the establishment of the Tunisian Islamic Movement in the early seventies, it has worked extensively to articulate public positions addressing issues of human rights and freedoms.

This relationship sprang from a dual position which juxtaposed full hostility to personal freedoms such as sexual rights and a relatively positive interaction with public freedoms. Then came the deliberations and process of ratification of the 2014 Constitution which was special in its emphasis on equality between women and men, freedom of belief, and criminalization of accusation of blasphemy. The repression of Islamists in Tunisia in the 1980s and 1990s was the most important factor that defined their position, views, and engagement with human rights principles.

After the fall of former Tunisian President Zine El Abedine Ben Ali in 2011, the return of the Islamist Ennahda (Renaissance) Movement to public activity was one of the most important features of the new political phase in the country. The Tunisian society was split between supporters and opponents of such a development. With the return of Ennahda and the emergence of other Islamist groups, especially the Salafis, the debate resumed over the position of Islamists towards human rights. While they attempted to include Islamic law (Sharia) as the main source of legislation in the constitution, Islamists continued to declare their belief in human rights principles. Some analysts were optimistic concerning a transformation in the Islamist ideology, while others insisted that Islamists were duplicitous, waiting until they are empowered enough to impose their project, which is inherently hostile to human rights. This paper is an attempt to review the Islamists' positions on human rights and how they changed over time.

Introduction

The return of Islamist parties to public political activity is one of the most significant outcomes of the popular uprising in Tunisia in late 2010 and early 2011. Although the most important of these organizations, that is Al Ennahda, has been in the forefront of the political scene and one of its most relevant interlocutors, the integration of Islamists into the heart of the project for democracy remained problematic within the political transition in Tunisia. The Islamists, both organized groups and influential individuals, developed varying and sometimes contradictory positions on the universality and indivisibility of human rights. This is a central part of the problematic of their participation in a democratic project in which human rights is a central pillar.
The difference between political Islam in Tunisia and its counterparts in the Arab Maghreb region in particular and the Arab region in general, limits to a great extent the possibility of its deconstruction and understanding as a more general phenomenon. The historical evolution of Ennahda in Tunisia, since it was first established as the Movement of Islamic Tendency, had been very different from that of its counterparts in all other Arab countries. Although they all agreed on certain religiously-inspired objectives such as calling for religious reform to save the Ummah (Muslim nation) from the existing grim political reality, Ennahdha differed from the rest in the dynamics of political action ensuing in the postcolonial state formation period, a process that differed in Tunisia compared to other Arab states.

In Tunisia, modernity formed the basis for state building, which consequently subjected religion to the remit of the state, whereby the administration of religious affairs became an exclusive state function. Secondly, the birth of the Islamist movement in Tunisia was not organically linked to the international movement of the Muslim Brotherhood in contrast to what happened in the Levant.

In short, Tunisian Islamists emerged from within a specific ideological and political discourse that differed from the one that dominated Egypt and Arab countries east of the Mediterranean.

Tunisian Islamists approached the complex issues of human rights at the intellectual and theoretical level as well as in real everyday life situations. So, in addition to writing on relevant issues, they also engaged with human rights groups on the ground. Islamists did not take part in the formative phases of those groups, which began in the late 1970s. For years, Islamists often deployed a rights rhetoric, largely exclusively on civil and political rights, especially after they became the target of repressive measures and long crackdown by Tunisian security agencies.

Tunisian Islamists maintained a dual position regarding the human rights paradigm: one is distant and unengaged and the other partially instrumental. The former was largely a rhetorical ideological position while the latter took precedence when practical considerations called for it.

The shuffling of the Tunisian political scene in 2014 changed the relationship between the Islamists and the human rights movement, especially with the ratification of the 2014 Constitution by a Constituent Assembly, in which Ennahda had a relative majority. This Constitution enshrined a set of rights and freedoms largely in line with international covenants and treaties. This created a wide disagreement regarding the Islamists. On the one hand, some argued that the transitional period, especially the resulting constitution, served as proof that Islamists were in support of the universality of human rights. Others countered that the Islamist position was a political maneuver and that their true colors would show up when they assume full power.

The concern went beyond Ennahda to other currents Islamist factions, foremost among which were Hizb Tahrir and the Salafis, both 'Almiya (scholastic or scripturalist) and Iihadi variations. The Ennahda accommodated the rise of the Salafi movement in Tunisia until 2014, thus raising many questions specially after several terrorist attacks perpetrated by Jihadi Salafis cast doubts on whether it was at all possible to have clear lines of demarcation among various Islamist factions especially when it come to their foot soldiers. This situation brought back early secular concerns about whether Islamists have changed seriously enough to firmly support human rights – for all humans and for all rights.

1. Human rights or Muslim rights: Tunisian Islamists and the human rights paradigm[1]

On a theoretical level, the Islamist literature on human rights vary from the general writings by Islamist intellectuals to works by Tunisian Islamists, foremost among which Ennahda's leader Rached Ghannouchi, who had a dual approach to the positions of the Muslim Brotherhood in this regard[2]. Ghannouchi sometimes, in what appears to be a rebellion against conventional fiqh views, removes the sacred-like cover off certain teachings arguing that they were based on rigid, ahistorical views of jurisprudence while they needed to be adapted according to context, or correctly historicized, and, thus allowing for discarding opinions described as the consensus of Muslim scholars or 'Ijma' when it comes to borderline issues. Perhaps the most controversial of these issues is Hodoud (physical penalties) and the postponement of their enforcement until the establishment of the state of sufficiency, the state governed according to the teachings of Prophet Mohammed and his immediate successors, Al Khulafa' Al-Rachedeen.

Ghannouchi and the Tunisian Islamist Movement are not an anomaly within political Islam, where several leading thinkers including Malik bin Nabi in Algeria and Hassan al-Turabi in Sudan tried to reform Islamic teachings and Islamize major modern political concepts. However, this process was not comprehensive, and the Tunisian Islamist ideology continued to embrace major fundamental Islamist teachings.

A. Before 2011

Since its inception, Ennahda has developed two contradictory positions in reaction to the two main political groups: the ruling and powerful Constitutional Party on the one hand and various leftist factions, usually in opposition with the height of their influence occurring in the late 1970s and early 1980, on the other hand.

Human rights constituted One of the areas of confrontation between Ennahda and both these two groups. Islamists opposed both but for a distinct set of rights for each of them; these were public freedoms with the Constitutional Party and personal rights with the leftist. Ennahda also adopted a human rights discourse that demanded the state to respect the rights to freedom of assembly, organization, expression, publication, demonstration and other political rights. Ghannouchi rooted this position in Islamic jurisprudence and Sharia in his writing[3].

Perhaps the most important political challenge for the Tunisian Islamists before 2011 was the harsh crackdown imposed on them by the state. This siege like tactic by the state led to Ennahda's commitment to various civil and political rights, while also maintaining the conviction that Islamic teachings should govern the state and its enforcement of personal law, which was their most contentious difference with the regime of former president Al-Habib Bourguiba. However, the 1990s' crisis and the crackdown against Islamists during the rule of former President Ben Ali deepened this focus on civil and political rights as evident in Ghannouchi statements and speeches.

As a direct result of Ben Ali's repressive policies in the early 1990s, many Islamists were imprisoned while their families had to endure severe security restrictions and surveillance that drastically affected their lives. This made Ennahda even more interested in defending civil and political rights, temporarily giving lower priority to calls for reorganizing the political and public realms on the basis of Islamic principles. This meant less public advocacy by Ennahda against personal rights, especially those related to freedom of belief and women.

The Islamist movement was increasingly presented as the main victim of state repression, if not the only one[4]. Since the public space of protest shrank dramatically for Tunisia's Islamists together with other opposition movements, parties, and human rights associations, the Islamist Movement sought to form committees to support political prisoners and their families in exile (especially in the French capital). The main task of these committees was to draw the attention of large international human rights organizations, such as Amnesty International, Human Rights Watch and others, to the human rights situation and the ill treatment of political prisoners in Tunisia. These committees and the Ennahda leadership abroad adopted a universal human rights discourse that is not Islamically packaged nor dependent on Islamist concepts and approaches. In this context, Ben Ali was described as a tyrant and not Taghut (Islamic term for tyrants with theological connotations) and the regime was denounced for its dictatorship and not Jahiliyya (pre-Islam way of life in Arabia) and blasphemy (Kofr)[5].

[1] Unlike Ennahda, neither the Salafi movement nor Hizb Al Tahrir reconsidered their position regarding human rights. Neither of them conducted any revision of their ideological underpinnings.

[2] Ennahda movement was established in 1972 under the name "El-Jama'a El-Islameya". Its name changed twice. In 1981, it became the Islamic Tendency Movement and in 1989 it became Ennahda Movement. When it was legally registered in 2011 it became Ennahda Movement Party. All those changes were largely a reaction to government policies.

[3] Rached Al Ghannouchi, Alhoiryat Al-'amma fil Islam (Public Freedoms in Islam) , the Center for Arab Unity Studies, 2001 (Arabic).

[4] Alzakira Altunisia li Sanawat Al jamr (Tunisians Remember the Years of Embers), "Our Trials could Lead to Extremism or to Moderation, an Interview with Ennahda Leader Abdallah Elzawari", available at bit.ly/2MWyCiV (Arabic).

[5] Al Jazeera, Al Itijah Al Mo'akiss Show, "Interview with Rached Ghannouchi and Al-Hashemi Al-Hamedi", Part 1, 1999, available at bit.ly/2IaYs24 (Arabic).

Personal and Individual Rights

The Movement of Islamic Tendency constructed an oppositional discourse against the regime, not only in defense of public freedoms, but primarily to rehabilitate the society after "the destruction caused by the Bourguiba regime", referring in that regard, to the personal status law of 1956, which prohibited polygamy, empowered courts to decide on divorce as a civil matter, and restricted religious education, basically through closing down the educational programmes organized by Al Zaytouna mosque. The Islamist movement disagreed with both the regime and the leftist opposition on issues of individual freedoms. The women's rights constituted the starting point for this confrontation, which later expanded to cover other freedoms. Islamists argued that such rights caused moral decay and weakened social ties and cohesion as a result of public policies which ignored the 'Islamic anchor and framework' of the Tunisian people.

Despite several compliments to women and references to contemporaneous female followers of prophet Muhammad and urging Tunisian women to follow suit, Ghannouchi's book Women between the Quran and the Reality of Muslims included provisions that reflected the movement's general perception of the role of women. For example, it stated that "Islam does not approve of women's work while many men suffer unemployment … the main function of women is the sexual function ... and reproduction." Ghannouchi insisted on the need for women to stay home in order to focus on raising their children. This conservative approach went beyond an opposition to women's rights to include specific practices people may engage in such as opening bars and frequenting them and serving customers in cafes and restaurants during the fasting hours in the month of Ramadan[6].

At the level of action

At the beginning of the new millennium, the Tunisian opposition began to protest against the growing tyranny of the Ben Ali regime. These protests reached their peak in October 2005 when eight national figures began a hunger strike[7], raising three demands: freedom of organization, media freedom and a general amnesty. Two prominent figures of the Islamic movement joined the strike, Samir Dilou and Mohamed Nouri, as representatives of the International Association for the Defense of Political Prisoners[8]. The demand for a general amnesty for political detainees was adopted by the Tunisian opposition in general though its main beneficiaries would have been Islamists. In other words, realizing this goal would have strengthened the Islamists in the political arena.

As a result of this hunger strike, a coordinating committee was formed by participating political parties including activists such as Samir Dilou, Ali Larid and Ziad Al-Dulatli from Ennahdha. After two years of meetings and compromises, this committee proposed a common political front that rested on several documents including The Declaration of the October 18 Committee on Women's Rights and Gender Equality and The October 18 Committee for Rights and Freedoms: Joint Declaration on the Relationship between State and Religion[9]. By signing these documents, Islamist leaders agreed, inter alia, that "the desired democratic state can only be a secular state based on Republican principles and human rights, deriving its legitimacy from the will of the people". They also agreed that "politics was a human undertaking regardless of the convictions and beliefs of political actors," something that strips such political action from any sanctity, thus freeing the political space from restrictions on expression and enabling a free and open competition among varying visions and programs of diverse ideological backgrounds. Another declaration enumerated women's legal and social gains since the establishment of the postcolonial state in the mid 1950s and ways to undertake necessary reforms to consolidate these gains. Such reforms included an explicit stipulation of gender equality in the Constitution and in various Tunisian laws, which needed to be amended to remove any … form of discrimination against women in order to guarantee full equality with men and open wider areas for participation in public life."

Parallel to this Secular-Islamist convergence within the ranks of the political opposition, another rapprochement occurred in the human rights arena, where the Tunisian League for the Defense of Human Rights (LTDH) opened up to Islamist members for senior positions. The last LTDH held in 2000[10] was attended by Islamists Muhammad Al-Qumani and Abdul-Aziz al-Tamimi who secured seats in LTDH leadership structure[11]. Since it was established, the LTDH had distinguished itself by defending the rights of all political and human rights activists, without discrimination due to ideological or political affiliation. Despite state restrictions, the LTDH continued to demand a general amnesty for all political prisoners in the 1990s and the early 2000s and declined to join other CSOs in state-supported campaigns of "Resisting Backward Ideas"[12]. Such campaigns were designed and implemented to market the claim that the regime security forces had to suppress Islamists in Tunisia in order to protect the nation-state from their harmful ideology as "spearheaded" by Ennahdha. Such campaigns were designed to justify the use of any means necessary to preserve the secular façade of the state. The LTDH, meanwhile, stood fast on principles calling for comprehensive and universal rights, under two slogans: "All rights to All People" and "Human Rights are Universal".

[6] Rached Al Ghannouchi, Women between the Quran and the Reality of Muslims, Al Markaz Al Magharebi for Research and Studies, 2000 (Arabic).

[7] Ahmed Nagib Elshabi - the Progressive Democratic party, Hamma Alhammami - Tunisian Workers' Communist party, Abdel Raouf Alaiady - the Congress for the Republic party, Lotfi Hagi - journalist, Mokhtar Yehiawi - judge, Alaiashi Alhammami - LTDH, Samir Dilou and Mohamed Nouri - the International Association for the Defense of Political Prisoners.

[8] An association that was not granted legal registration during the reign of Ben Ali in 2001. It constituted a front for activity of some Ennahda members who were not imprisoned or in exile.

[9] See the documents of the 18 October Committee at Nashaz website, available at bit.ly/2FhzpaC

[10] Since then LTDH was banned from using its offices or organizing its congress until after 2011.

[11] While preparing this paper for publication in September 2018, both Mohamed Alqumani and Abdeaziz Altamimi were members of Ennahda political bureau. See Ennahda website for more details at www.ennahdha.tn

[12] For example, women participants in the 13th congress of the Tunisian women's union held in April 2010, emphasized the role of Tunisian women in preserving the national Tunisian identity and confronting all forms of fanaticism and conservatism. See a relevant commentary at www.fettounsi.blogspot.com/2010/04/13.html

The other association that maintained its independence throughout the reign of Ben Ali was the Tunisian Association of Democratic Women (ATFD), which has long adopted a strongly critical position against Islamists. The ATFD's had been a very critical voice against 'patriarchal authority' and a committed opponent to the regime's 'reactionary misogynist projects'. This exacerbated their relations with the Islamist movement until 2003, when ATFD president, Bushra Belhaj Hmeida, issued a statement calling on the authorities to act against the increased veiling of women. Thirteen years later, Yousra Ferawiss, an ATFD board member, confirmed that the organization has never defended Islamist detained nor their wives and families, justifying this position by saying that Ennahda women never asked ATFD for help in defending themselves or their husbands when they were all repressed during the rule of Ben Ali[13]. ATFD was thus skeptical towards the release of the 18 October documents of rights and freedoms, warning against what it viewed as a duplicitous Islamist discourse with a hidden agenda.

These documents stirred a wide debate even within the ranks of the Ennahda movement itself with a large number of supporters in Tunisia and in exile, criticizing them as a divergence by the leadership of the movement from an established political and intellectual position. Many Islamists took this change to mean a reformulation of Ennahda main political tactic, whereby the organization had long presented itself as a victim of systematic human rights revolution rather a champion of these rights for all. This tactic was in a way imposed on Ennahda by the repressive state apparatus since the early 1990s. However, to exclusively defend Islamists' civil and political rights and the movement's right to exist and engage in public activities was an acceptable tactic as long as it did not overshadow the fundamental objectives for which the Movement was created: to defend an Islamic identity for Tunisia. This ostensible major shift fueled disagreements among leadership and grassroots in Ennahda with the rank and file believing that the leadership had long exploited their sacrifices to market and benefit alone from the image of a victim[14].

Thus, a convergence evolved between Ennahda leadership and its secular counterparts reaching a largely supported agreement within the ranks of the opposition on the priorities of struggle, which was to enshrine the rights to freedom of association, assembly, and expression in addition to a general amnesty to all political prisoners. This consensus over major sociopolitical issues came with a price for Ennahda; the leadership influence over the rank and file has weakened as the grassroots felt alienated and longed for the Ennahda they have joined in the 1990s. This duality within the Islamist movement on the issue of rights and the resulting gap between the leadership and its popular base has been salient since 2011, when Tunisia embarked on a democratic transition.

B. Since 2011

Ghannouchi returned to Tunisia from his London exile immediately after the revolutionary wave toppled Ben Ali in January 2011[15]. This was the most significant political development after Ben Ali's fall. This return and visible Islamist participation in massive public protests such as the Kasbah 1 and 2 sit-ins shone a light on the role and influence of the Islamist movement and attracted the attention of political and rights activists.

The Movement held a press conference on 7 February 2011 to announce it had submitted an official request to the authorities to form a political party. Noor al-Din al-Beheiri, member of the founding committee, said: "The position of Ennahda on the issue of the personal status law and women's rights is clear. Our statements clearly indicate our commitment to this law. We have formed a political party according to the provisions of the law of political parties, which stipulated that any party must respect the republican system, the constitution and the personal status law." Al-Sahabi Atik added: "We support human rights. Islam supports the rights of women and human rights in general. We are a patriotic and national movement with an Islamic ideology. Our ideology is moderate and centrist. We mix the teachings of Islam, Sharia, Islam, the achievements of humanity and values of modernity together." The response to these declarations came from inside the movement itself when Habib al-Louz, former head of the movement, said at a public meeting in Djerba that "defenders of the personal status law represent only a minority within the party."

The issue of the personal status law and the conflicting positions around it constituted an example of the evolving positions of a party that had just reassumed a public presence. These controversial issues included the adoption of Sharia as the source of legislation in the constitution, the universality of human rights, and freedom of thought and belief. Analysts disagreed concerning those contradictions. Some saw them as evidence of a Ennahda duplicitous discourse[16], where the movement maintained a public position towards other political actors, interacting with their positions and views, while holding on to its long-standing ideological foundations. The concluding statement of Ennahda's 9th Congress[17] stated that "the congress endorsed a vision of a society and of [Ennahda's] role in building it, based on Islamic principles ... [I]n that vision it is the state that regulates this social role". This meeting took place when Ennahda was in power for the first time ever.

Some Islamists defended this duality and considered it a sign of pragmatism and objectivity, elaborating that the Islamic movement had embraced a heterogeneous mixture of ideas ranging from the revolutionary to the reformist, traditional and jihadist,

[13] A seminar was held at the office of Rosa Luxembourg Foundation organized by Nashaz association on "Women's Rights between Islamists and the Left". Yusra Frawis from ATFD and Saieda Alwanisi from Ennahda took part in the seminar.

[14] Elzawari, a Ennahda leading member, claimed that leaders of the movement abroad exploited the suffering of the grassroots membership, who were oppressed in the prisons of Ben Ali, on media platforms and in international human rights circles. See the Tunisians Remember the Years of Embers, "Our Trials Could Lead to Extremism or to Moderation, an Interview with Ennahda Leader Abdallah Elzawari", op. cit.

[15] Ghannouchi returned on 20 January 2011.

[16] Nagi Alze'eiry, "Islamist Movements in Tunisia: Which Rhetoric and What Objectives?", Alchorouk newspaper, 12/9/2011, available at bit.ly/2xKnqQX

[17] Ennahda, "The Concluding Communique of Ennahda 9th Congress", 23 July 2012, available at bit.ly/Xk5UPs (Arabic).

literal and pragmatic, in addition to a duality in organizational structures that pulled the members of the Islamic Movement towards two different political paradigms.

The first paradigm is based on allegiance to a doctrine that sees Ennahda as the group of credible believers who embraced the way of God to reform their compatriots and, above them, their state. Affiliation to this group is an indication of affiliation to Islam, while breaking away from it only means breaking away from a project of governance based on the teachings of the Prophet and his early followers.

The second paradigm is based on a civilian sensibility and the adoption of political positions publicly but in line with personal convictions and due consideration of pertinent social interests, thus converting Ennahda to become like any other "ordinary" party.

To better understand this apparent contradiction, one should study the impact of underground political activism on Ennahda. This secrecy never allowed for an open debate among the Islamists, unlike what has transpired since 2011[18].

Others believed the movement was going through an identity crisis as a result of internal ideological conflicts between «doves» and «hawks" triggered by the new political reality. The intellectual and doctrinal (Quran and Sunna) terms of reference of the movement are influenced by the existence of a modern state (whether Ennahda is persecuted or in power). The divergence of views on Ennahda's political identity then becomes unavoidable as the Movement itself undergoes ideological infighting. Ultimately, if Islam provides for a comprehensive and harmonious organization of human life and the universe, the religious cannot be separated from the political. Consequently, the moderate centrist wing within Ennahda is inherently antithetical to its initial ideological foundations.

C. After October 2011

The October 2011 elections produced a victory for Ennahdha, enabling it to control more than one third of the seats in the Constituent Assembly. During the proceedings of the committee entrusted with the drafting of a new constitution for the country, Ennahdha defended several positions that angered political opponents and unsettled modernist civil society organizations. Those positions notably included: Naming Sharia as the primary source of legislation, adopting Islam as the state religion, maintaining

the death penalty, considering women complementary to men rather than equal to them[19], rejecting the move to criminalize accusations of blasphemy. These positions led to heated debates inside and outside the Constituent Assembly. Secular organizations rejected a role for religion in politics and demanded the separation of the two realms. This position was argued by organizations such as ATFD and the Tunisian Cultural Association for the Defense of Secularism (laicite)[20].

After the national dialogue[21] that followed the assassination of MP Muhammad Brahmi (July 25, 2013) discussions accelerated in the Constituent Assembly, and a rapid agreement was reached on controversial issues, some of which were related to private and individual freedoms (public freedoms were not subject to any major disagreements since there was a consensus among political parties in the Constituent Assembly). The final consultations on certain chapters were saddled by intense disagreements, even within Ennahda ranks. Ennahda's leadership managed with difficulty to contain bitter disagreements that threatened a split within the party. The most important of those disagreements related to Chapter VI on the freedom of conscience and the stipulation that accusations of blasphemy (takfir) was a crime. Some Ennahda members in the Assembly threatened to resign, arguing that they cannot support constitutional articles that 'contravene the teachings of Islam' and 'legitimize infidelity, atheism and idol worship and prohibits parts of God's law such as declaring that somebody was an infidel[22]. Other significant disagreements in drafting the constitution was related to equality between men and women (Ennahda vote on this chapter was not unanimous).

The Ennahda's duplicity of discourse and identity crisis affected internal debates within the party bloc in the Constituent Assembly especially regarding political and civil rights enshrined in previous constitutions. Ideas and views clashed due to contradictory frames of reference that juxtaposed universality, under the influence of a deepening commitment to modernity in the collective political consciousness in the country, and specificity associated with the supremacy of Islam and the religious text, as well as rejecting a break with the ideological foundations of the Islamic Movement.

This was reflected in the antagonistic position of some Ennahda's MPs to certain human rights, insisting that those rights challenged established Islamic jurisprudence. For example, they declined to discuss the abolition of the death penalty since it is an established means of retribution (Qisas) in fiqh. They also rejected rights that could undermine the 'righteous Islamic way of life' as they embraced it, such as equality between women and men, a principle that could, for example, lead to equality in inheritance[23].

Ennahda succeeded in containing internal differences within the Constituent Assembly through its own Consultative (Shura)

[18] Sami Brahim, "Three Questions to the Islamists of Tunisia", Kalima, 12 April 2016, available at is.gd/iDUegt (Arabic).

[19] During the drafting of the Tunisian constitution, the Ennahda movement changed positions and even ignored some of Ghannouchi positions. Ennahda representatives in the in the Rights and Freedoms Committee in the Constituent Assembly refused to vote on a draft chapter (No. 28) that guaranteed equality between men and women, claiming that women's rights exist in complementarity with men and not through their independence, and that there is no absolute equality. Later the Ennahda bloc dropped this classical position and endorsed the constitution as a whole including the chapter on equality.

[20] A Tunisian association founded by rights activist Saleh Zoghidi in November 2007.

[21] The National Dialogue was launched on 5 October 2013.

[22] A statement by member of Ennahda Bloc in the National Constituent Assembly, Ahmed Al-Samaii. See Khamees ben Brik, "The Tunisian Constitution and the Crisis of Chapter 6", Jazeera net, 24 January 2014, available at is.gd/cuurUQ (Arabic).

[23] At one of the drafting stages 53 Ennahda members voted against criminalization of accusations of heresy, 18 abstained and only10 agreed.

Council, which engaged Ennahda representatives in the Assembly on various issues such as the criminalization of accusations of blasphemy[24]. The Council succeeded in maintaining unity within the Ennahda movement and convinced the most conservative Islamists to line up behind the leadership and its vision of how to proceed on contentious issues, in view of the prerogatives of the dominant social and political context[25]. The Council worked as an adequate internal organizational tool for conflict resolution and opening a space for tackling disagreements within, and not outside, party structures. In all stages the leadership was willing to listen, at times seeking to persuade and at other times resorting to a majority vote[26]. Despite acrimonies, a large number of Ennahda members still trusted the leadership and its 'correct' interpretation of the political reality, and consequently, its decisions that are anchored in such a nuanced understanding[27].

Ennahda has learnt well from its history in forging together a strategy meant to make it stronger and more politically savvy. After demonstrating that it had a wide public support in 1989 elections, the Ben Ali regime initiated a systematic campaign of repression against Ennahda until it was banished outside the public political realm. This is the kind of fate that Ennahda seems to have worked hard since 2011 to avoid by becoming more resilient, flexible, and steadfast. It succeeded in securing the loyalty of varying and different members who have endured prison and/or exile. It was this internal reform that enabled the Islamic Movement to engage in a comprehensive mobilization of all members and resources to support public freedoms (and to deal with the second decade of the rule of Ben Ali as a stage for wide public mobilization for the liberalization of the system and opening it up). This struggle eventually contributed to the modification of positions of several of its leaders towards fundamental issues concerning human rights and gender equality[28].

When Ennahda leaders returned from exile in 2011 and the part became public again, the most conservative Tunisian observers expected to meet the same Islamic Movement that existed in 1992. They were surprised to find a division within the Movement leadership on issues of public and private interest to society. Away from a narrow-minded ideological approach towards sensitive issues, Ennahda leaders exhibited moderation and militancy, a heterogeneity that guaranteed the mobilization of the largest popular and electoral base possible, transforming the party platform into something akin to an open and incomplete manual that provides ready-made positions for the whole society, from one end of the ideological spectrum to the other.

Though Ennahda does not claim the leadership of the whole Islamist movement in Tunisia, it has worked to accommodate the whole Islamic spectrum that emerged after the revolution, especially those groups that adhered to Jihadi Salafism, who rejected the secular state as a political framework. In addition, it worked to settle disagreements with the Salfis at large, e.g. attempts to settle the dispute between Ghannouchi and Sheikh Khamis Almajery, who is a prominent Salafi leader in Tunisia[29].

We can conclude that Ennahda positions are not in compliance with an idealist model but are rather determined by the balance of power within the movement and interaction with a rich and multifaceted sociopolitical reality. For example, the designation of the jihadi group Ansar al-Sharia [supporters of Sharia] as a terrorist organization[30] occurred at the hands of Ennahda's leading politician Ali Larid who was then head of government. Such a decision revealed that the balance in Ennahda, then, was in favor of the "doves" within the movement.

2. Islamists and the state: alienation versus cohabitation

Suddenly, the Islamists became the rulers of Tunisia, and suddenly they had an unprecedented meeting with the Tunisian state; a state that spent nearly 30 years persecuting them. They had spent the same period of time cursing and opposing this very state. Islamists thought that taking charge of the government meant taking charge of the country. They were met with opposition inside and outside the Constituent Assembly, opposition by trade unions, by the bureaucracy, by community organizations, by professional unions, and by civil society organizations. Facing all this opposition, a conviction immediately formed; they were subject to a conspiracy aimed at returning Islamists to the pre-revolution situation[31]. In response, Islamists in general and Ennahda in particular adapted to ensure resilience. For example, in the middle of these multiple confrontations, Ennahda sought alliances on its right, mainly with the Salafis. This was evident when Ennahda Shura council member and MP Sadok Chourou attended the congress of Ansar al-Sharia. In this congress, the collaboration between Islamists and secular parties to draft the constitution was explained away as a tactical move resembling Prophet Muhammad's reconciliation with the infidels of his tribe, Quraish, in the Hudaibia treaty. In other words, for certain Islamists the secular parties were seen as infidels and the constitution as a compromise born of necessity and could be annulled when conditions permit. However, after pressures exercised on Ennahda to distance itself from the Salafis, especially Ansar Al-Sharia, the relation between Chouurou and the rest of Ennahda leadership deteriorated, especially with Ghannouchi, This Ennahda-Salafi short-lived pact initially resulted in reformulating the Islamist rhetoric on human rights issues. It became focused on defending "the rights of Islamists" only. At this stage, the confrontations intensified between terrorist Jehadis and security forces which reported to the minister of interior, Ali

[24] Monica Marks, "Convince, Coerce or Compromise? Ennahda's Approach to Tunisia's Constitution", Brookings Doha center, 10 February 2014, available at brook.gs/2MQobNT

[25] Ibid. p. 20.

[26] Interview with Ennahda leader Ali Larid, 16 October 2016.

[27] Interview with Bizerte (Easter North) Ennahda Secretary General Ali Alnafati, 28 December 2016. Also an interview with local Secretary General Jalel Alhaj Salem, 28 December 2016.

[28] Rached Ghannouchi, "A Sample of Ennahda Revisions," AlHiwar net, 11 June 2010, available at www.alhiwar.net/ShowNews.php?Tnd=7329

[29] Interview with Sheikh Khamis Elmagery, 19 November 2016.

[30] The designation took place on 13 August 2013.

[31] Nour Eldin Lembarky, The Rhetoric of Conspiracy and Coups in Tunisia, October 2014, no publisher, (the electronic book includes analyses and commentaries published between 2012 and 2013 on the challenges the Troika government faced), available at www.slideshare.net/noureddine01/ss-40355912

Larid, himself a leading Ennahda politician. The Islamist rights activists at the time focused their work on defending the right of suspected Islamist detainees to have fair trials and addressing allegations that some of these suspects have been tortured.

A new wave of civil society organization has emerged in Tunisia after the 2011 political earthquake. This wave included an exponential increase in the number of CSOs as well as a division between modernists that sought to preserve the secular character of the state[32] and others that favored an Islamist approach. Islamist CSOs indirectly served Ennahda's political positions as they were mobilized whenever the Movement needed them. Perhaps the most prominent example in this regard was the position towards inclusion of Sharia as a source of legislation in the constitution. None of those CSOs continued to defend such a position after Ennahda withdrew its proposal, with the exception of those affiliated with the hawkish wing of Ennahda[33].

In other words, The Islamist movement nurtured a duality regarding human rights. It espoused an Islamic version of human rights that is essentially against many personal rights while defending the rights of Islamists to propagate their beliefs and ideals. This is why Ghannouchi said that young Salafis reminded him of his youth since they advocated certain cultural precepts that do not threaten public security[34]. Perhaps the most important manifestation of this duality was reflected in the work of Freedom and Equity organization and the Observatory of Rights and Freedoms, both of which are human rights organizations with an Islamic orientation.

Freedom and Equity was founded as a result of a split in the International Association for the Support of Political Prisoners. It was led by the latter's former president, Mohamed Nouri after he clashed with another leader of the same organization, Samir Dilou, who is a Ennahdha prominent figure. Nouri argued that a human rights organization should exclusively focus on rights issues, while Dilou considered CSOs another space to engage in political action in light of the restrictions and repressive measures against Ennahda under the Ben Ali regime. After 2011, Islamist lawyer, Iman Triki, became the new president of the organization, and mainly worked on providing a platform for Islamist grassroots whose ideas did not resonate with the Movement leadership[35]. Despite the fact that her brother was a member of Ennahda Shura Council while most of her family belonged to the Islamist Movement, Triki led her organization to condemn the state measures against Islamists detainees even when Ennahda controlled the government. Ennahda tolerated the organization and found it an acceptable ally despite differences with Triki, since all established human rights organizations opposed the Islamist Movement and were impenetrable. Freedom and Equity was a rare CSO where Islamists engaged with human rights issues since most other Islamist activists preferred to focus on provision of social services. The organization brought together many mid-level Ennahda cadres, who had been excluded and subjected to ferocious security measures in the 1990s. It is arguable that there has been no structural links between the organization and Ennahda, which repeatedly tried to infiltrate it[36]. However, there existed an objective link between the two sides. Freedom and Equity consequently declined when Ennahda lost power in early 2014.

We can conclude that despite differences between the organization and Ennahda, the latter used the organization as an objective ally in the face of the deep state when it came to handling sensitive issues that the political leadership could not engage publicly such as enforced disappearance, torture and secret prisons[37]. Ennahda probably saw Freedom and Equity as an instrument to satisfy mid-level cadres who could not benefit from the new position of power including senior government posts for party members since one of the organization main undertakings was securing state compensations for the victims of Ben Ali security agencies from the 1990s and beyond.

The Observatory for Rights and Freedoms[38] focused on defending suspects in terrorist acts or those who were subjected to punitive administrative measures under the new Anti-Terrorism and Money Laundering laws. The Observatory was established at a time when Ennahda edged closer to liberal democratic, leftist and secular parties while combatting terrorism. Ennahda ignored rights violations allegedly committed by the state against terrorist suspects, especially when it enforced travel restriction overseas and between provinces under a procedure known as S-17[39]. The Observatory led a campaign knows as "Ammar17- Let me live"[40] against S-17 and campaigned against torture allegations by detainees in terrorist cases. It implicitly claimed that the state used counterterrorism measures as a pretext to undermine an Islamist revival that was abandoned by Ennahda, and to demonize Salafis in a way similar to what Ben Ali security agencies had done to Ennahda itself under the same pretext.

Meanwhile, Islamist CSOS became increasingly more active in providing social services and undertaking community development programmes, benefiting from large funds that enabled them to operate on a large scale and to indirectly serve the Islamist political project.

[32] A protest rally was organized on 20 March 2012 in front of the Baladi Theater in Tunis to defend the secular character of the state and oppose the adoption of Sharia as a source of legislation in the new constitution.
[33] A protest rally by Muslim clergy was organized on 14 January 2014 against the draft chapter VI of the constitution. Another similar protest took place on 18 January 2014 in Sfakes against possible 'infringements' on Sharia in the new constitutions.
[34] BabNet, "Rached Ghannouchi: Salafis Engage in Cultural Activities and not a Threat to Public Security," 22 February 2012, available at www.babnet.net/rttdetail-46065.asp (Arabic)
[35] These issues included the neglect by movement leaders to some intermediary cadres or not working seriously enough to provide compensations for Islamist detained who have been persecuted in the 1990s.
[36] BabNet, "Iman Triki: Political Parties Working to Control Freedom and Equity," 24 June 2013, available in Arabic at bit.ly/2zoAaP2
[37] Lilia Weslaty, "Freedom and Equity: A Report on Forced Disappearance and Secret Prisons," 29 March 2013, available in Arabic at is.gd/sTniYU
[38] The Observatory was led by Islamist lawyer Anwar Awlad Ali known for defending terrorism suspects.
[39] S-17 is an administrative restraining order that forces citizens subject to it to apply for a permit to move between provinces or leave the country. Its application prevented many youth (those younger than 35) from leaving the country.
[40] On "Ammar 17 – Let me Live" campaign see the Observatory's website in Arabic at is.gd/jac14G

It is important to pay attention to the rhetoric that united the two main Islamist factions, Ennahda and Salafis, against their common enemy, the non-Islamist other, which is seen as an alliance of leftists, secularists and former regime loyalists. While Ennahda constantly modulated its rhetoric and public statements in addressing the universality of human rights, to the point of recently accepting it with some reservations, the Salafi movement had always dismissed the paradigm of human rights in its entirety.

Is it coincidental or just a 'normal' evolution that the main rights CSOs had been developed and led by activists who belonged to the broad secular civil society, who defend human rights in their totality as universal and indivisible? Gradually, the Islamist public formed a stereotype, almost a caricature, of these activists, of the other, describing them as immoral, alcoholic, lazy, unmanly, defenders of nudity, and westernized individuals who worked to separation religion and politics, which, to certain Islamists, undermined the genuine Tunisian identity and challenged the fundamental principles of Islam. that does not explicitly stipulate Islam as the state religion and Sharia as the source of legislation.

Ennahda movement, thus, is a reformist political movement that operates on the basis of compromises and negotiations. It puts aside rigid ideological approaches when it comes to achieving political gains, even if tactical. The Salafis, on the other hand, are a radical revolutionary movement seeking to overthrow an entire system and replace it with a totalitarian one that has strict universal perceptions and precepts for human life, rights and social relations. Ennahda, effectively, painted the Salafis as the far right of a spectrum in which it came out as moderate.

These fast ideological and political adjustments within the Islamist current occurred after Ennahda had entered into a temporary alliance with the Salafi movement and used their reservoir of voters to win elections against the "democrats" and form the government in 2011. Some Ennahda members would have preferred to keep this alliance as a strategic bond. The Salafi movement (both 'Almiya or scripturalist and jihadi) wanted to benefit from this alliance after Ennahda assumed power to escape state surveillance and to be able to spread its ideas throughout the country.

This alliance, however, cracked and then fully disintegrated by February 2014 when Ennahda handed over power under the National Dialogue Agreement to independent technocrats. The Ennahda rhetoric shifted dramatically to defend the constitution and all the rights contained therein, including freedom of conscience and equality between men and women. The influence of identity-based politics declined, leaving Islamist CSOs focused on social services alone to raise the banner of Islam in civil society, a role that was articulated with electoral campaigning.

These elections ended with Ennahda's failure to secure a majority of vote and the decision of its leaders to enter into a coalition with the winner, that is the Nidaa Tunis party (Tunisia's Call). This alliance further developed the way Ennahda addressed human rights, sometimes dramatically. In an interview with a French journalist on the subject of homosexuality Ghannouchi said: "Monotheistic religions do not accept that homosexuality become the norm in society, but the state has no right to enter the homes of people and to monitor their preferences and choices[41]." Such a statement was an unprecedented revision of the relationship between state and religion and an implicit acceptance of the secular state while addressing a very sensitive issue not only to Islamists but to the entire Tunisian society.

With the decline of heated debates in public forums and mass media, especially regarding cultural issues, Ghannouchi and several other Islamist leaders went beyond the positions of many secularists on issues of public and personal freedoms, stressing that all such controversies were resolved by the constitution, which emphasized that the Tunisian state was secular but rooted in an Arab-Islamic environment.

[41] Rached Ghannouchi and Oliver Ravanello, Au Sujet de l'slam, Plon, 2 April 2015.

Islamists and Human Rights in Morocco

Mohamed Wazif

Summary

The spectacular political rise of Islamist forces in several Arab countries over the past few years was one of the outcomes of the Arab spring, which included a massive protest movement in Morocco in 2011. This rise, accompanied by several radical and extremist manifestations, raised concerns among civil and political actors about power-sharing and the future of democracy and human rights at this pivotal stage in the history of a people who had recently come to reject many forms of tyranny and oppression. A history of confrontations between Islamists and human rights activists intensified these concerns. This paper examines the relationship between Morocco's Islamists and the human rights movement through the most prominent historical milestones and controversies. It illustrates the dynamics and evolution of how Islamists operated within the human rights discourse from positions within government or in civil society organizations.

Introduction

Since the declaration of independence in the mid-1950s and throughout Moroccan modern history, issues of democracy and human rights have not garnered the level and intensity of attention they did over the last two decades. Human rights activism and gradual political openness since the mid1990s contributed to this transformation and placed Morocco on a slow but steady path towards political change and democratization. In parallel, the gradual rise of Islamism, both socially and politically, created tensions, polarizations and challenges within the human rights arena in terms of debates and actions.

The Islamist position on human rights, bearing in mind their worldview and actual practices, is paradoxical and has thus been criticized among non-Islamist political and civil actors. In addition to describing this position as complex and confused[1], critics and opponents accuse Islamists of being selective, opportunistic and tactical when they address democracy and human rights. It is mostly when Islamists suffer human rights violations that they come to face the paradox of their traditionally adversarial position to the universal rights discourse. Paradoxical, since this discourse, in fact, provides mechanisms that could help protect Islamists against such violations. Lamenting this paradoxical position on democracy and rights, Tunisian Islamist leader Rached Ghannouchi said: "It's a shame that a people crushed by dictatorships and suffering under tyranny, instead of confronting their real adversary which is despotism, find all sorts of faults with democracy[2]."

Contributing to the tension between the Islamists and human rights actors are past and current positions adopted by Islamists and mutual accusations and suspicions. This background contributed to an atmosphere replete with tensions that sometimes threatened to erupt into full-scale confrontations. The friction between both parties reached a peak in the first decade of this century when they battled each other over certain rights' issues.

The recent political transformations in Morocco manifested in the Islamist electoral victory of the politically-integrated Justice and Development party (PJD after its French acronym) contributed to reviving fears, concerns and discussions of the future of democracy and human rights under an Islamist mandate.

General framework

This paper examines some of the fundamental dilemmas of how Moroccan Islamists approach and assimilate the discourse of rights and freedoms. An exploration of this issue requires an understanding of the workings of the political regime in Morocco as well as the historical context of the relationship of Moroccan Islamists and human rights issues. The paper examines the positions of various actors and reviews stakes, strategies and interactions amongst them. Rather than tackle this issue from a normative standard or a theoretical perspective that seeks to address the degree of compatibility between Islamist teachings, on the one hand, and the principles of human rights and democracy[3], on the other hand, this paper explores the role of the Islamist elite and actors by examining their actual rhetoric and practices.

To that end, this study employs two approaches:

1. A review and analysis of relevant documents and literature:[4] these include legal documents and academic papers in addition to documents produced by civil society and media actors (statements, press releases, interviews, articles or media reportages, speeches and Fatwas, etc.)
2. Interviews with several civil society actors and activists (in various CSOs) in addition to intellectuals and relevant individuals (journalists, professors and researchers).

[1] Doha Zeineddine, "The Islamists and the Human Rights Complex", Al-Sabah, 12 December 2011 (in Arabic)

[2] إمحمد جبرون، «الاسلاميون في طور تحول : من الديمقراطية الأداتية إلى الديمقراطية الفلسفية: حالة حزب العدالة والتنمية المغربي»، تبين، العدد 3 شتاء 2013 (ص. 193 . 208).

[3] Except for consensus on the major issues associated with the doctrinal and specific ritualistic aspects of Islam, the religion is characterized by its historicity and flexibility. Its understanding, interpretations and practices are varied as they are influenced by different historical, economic, social and political contexts.

[4] In addition to one dissertation at Oujda university by Abdel Rahim Allal, entitled "Human Rights in the Perception, Rhetoric and Practice of the Islamist Movement in Morocco", we found no other research of the relationship between Islamists and human rights. On the other hand, many researchers work on the Islamist engagement, critique and reconstruction of democracy and human rights. They review and analyze Islamist positions on democracy, secularism, women, Amazigh, etc. Most of this output focuses on addressing the perceptions and ideological and political stances of Islamists.

Some of the initial questions include:
What are the manifestations of the interaction between Moroccan Islamists and other actors in human rights organizations in Morocco? What are the core Islamist stances on issues of rights and freedoms? How do actors in human rights organizations perceive Islamists and how do they work with them? What are the most prominent challenges to the Islamist perceptions of freedoms and rights in comparison to those held by their adversaries and competitors? What are the most important points of clashes and confrontations between the two parties in that regard? In what sense can we discuss an Islamist human rights approach in Morocco? How can we evaluate the overall performance of PJD, the Islamist ruling party on the human rights scene in the aftermath of the "Arab Spring"?

To answer these questions, it is important in the beginning to position the study within its appropriate historical context and to delineate the stances of the most important Islamist actors.

Regional and national geopolitical transformations

Beginning in late 2010, a wave of protests swept through the Islamic-Arab world. Called the "Arab Spring", this social momentum resulted in several major transformations in the political regimes of several countries in the region. The spark started in Tunisia, with the overthrow of former president Zine El Abidine Ben Ali, and then spread to other countries in the region with varying consequences (Egypt, Libya, Yemen, Syria, Bahrain, Jordan, Morocco, etc.). Regardless of the general outcome of the Arab Spring, one of its most important characteristics has been the forged bond between protesting economic social conditions while demanding political change and a democratic system based on respect for human rights and freedoms.

After decades of "Islamization from below", the changes resulting from the "Arab Spring" contributed to an "Islamic Spring" when votes carried Islamists to the leading position in the political scene. The rapid rise of the Islamists and the new positions Islamist currents came to enjoy, in association with a more visible presence of extremist and radical factions, intensified fears within civil society and among political actors about possible implications for the future of power-sharing, democracy and human rights.

Morocco's February 20 protest movement

In the aftermath of the Arab Spring, Morocco was not isolated from the social and political transformations affecting the MENA region. The Moroccan version of the Arab Spring took the shape of protests on 20 February [5] by a movement that is considered a qualitative and objective extension of the history of protest and social action in Morocco [6]. The February 20 movement mobilized Moroccan public opinion around several social and political demands calling for dignity, freedom, democracy and social justice. The demands of the movement were reflected and cemented in a slogan used prominently in its different local organizations and national marches: "an end to corruption and the overthrow of tyranny".

In order to contain this eruption and to prevent a confrontation of the kind witnessed in other countries [7], the Moroccan authorities chose to address the momentum in a proactive manner and appease protestors by offering a number of political proposals and a package of social concessions[8]. The royal speech on 9 March 2011 became a roadmap for a series of political reforms and a ceiling for the remaining civil and political teams to work with. The most important result of these measures was the constitutional reform[9] and the adoption of a new constitution (1 July) that included considerable gains both on the level of politics and human rights[10]. Additionally, legislative elections were held ahead of schedule (25 November 2011) ending with the victory of the Islamist party, a former parliamentary opposition, that presided over a coalition government (3 January 2012) made up of diverse parties[11].

Islamists and the Moroccan political movement[12]

Religion became part of the political scene, both during and after the movement, with the rise of Islamists as prominent actors. A public debate over the dilemma of identity accompanied discussions of revising the social and political contract (the post-Arab Spring constitutions)[13] and centred on several polarities: the state of religion vs. the civil state, Sharia vs. Positive law, particularity vs. universality, etc[14].

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[5] Sélim Smaoui and Mohamed Wazif, « Etendard de lutte ou pavillon de complaisance ? S›engager sous la bannière du ‹›mouvement du 20 février›› à Casablanca », in Amin Allal and Thomas Pierret, (dir.), Au cœur des révoltes arabes. Devenir révolutionnaires. Paris, Armand Colin/Recherches, 2013. Mounia Bennani-Chraïbi and Mohamed Jeghllaly, « La dynamique protestataire du Mouvement du 20 février à Casablanca », in Revue Française de Science Politique 2012/5-6 (Vol. 62)

[6] Frédéric Vairel, Politique et mouvements sociaux au Maroc. La révolution désamorcée? Presses de Sciences Po, Paris, 2014.

[7] In general, the way the security handled the protests was characterized with less violations and violence than expected when compared to similar experiences in the region or when considering the government's legacy.

[8] See for example: "Montserrat Emperador Badimon, Où sont les diplômés chômeurs? Un exemple de pragmatisme protestataire à l›époque du "20 février", in Confluences Méditerranée, n° 78/2011. p. 77-91.

[9] See: in Arabic, Abdellah Tourabi, "Constitutional Reform in Morocco: Reform in times of revolution", Arab Reform Initiative, 1 November 2011, available at https://www.arab-reform.net/en/node/526
Thierry Desrues, "Le Mouvement du 20 février et le régime marocain: contestation, révision constitutionnelle et élections", in L'Année du Maghreb, 2012. pp: 359-389.

[10] See: Omar Bendourou, "La consécration de la monarchie gouvernante", in L'Année du Maghreb, 2012. PP: 391-404; Malik Boumédiene, "Révolutions arabes et renouveau constitutionnel: une démocratisation inachevée", in La Revue des droits de l'homme, n°6/ 2014.

[11] For a reading on the victory of the Justice and Development party in the 2011 elections, see Abdellah Tourabi, "Morocco: Towards a cohabitation between the King and the Islamists?" Arab Reform Initiative, March 2012, available at https://www.arab-reform.net/en/node/439

[12] On the Moroccan Islamist movement, see Mohamed Tozy, Monarchie et Islam politique au Maroc, Paris: Presses de la Fondation nationale des sciences politiques, 1999

[13] Hassan Tarek, "From Revolution to Constitution: Identity, Democracy and Constitutionalization", in Public Debate, 2014 (in Arabic).

[14] See, for example,
الحركة الشبابية لمنتدى بدائل المغرب (بتأطير من : الحسين أعبوشي)، دليل الدولة المدنية. منشورات منتدى بدائل المغرب، 2014.

The following section briefly surveys the positions and alignments of the most important Islamist organizations and Salafi currents in the context of the Arab Spring in Morocco[15].

1- The PJD: from controlled integration to a partnership in administration

Against the desire of its youth and some of its factions, the PJD leadership – as well as its religious wing Attawhid Wal Islah or the Movement for Unification and Reform – demanded that members refrain from joining the February 20 protest movement. For this gesture, the PJD was rewarded by the release of some of its political detainees. In keeping with its reformist position, the party and its various parallel organizations were remarkably present during the reform process particularly through ideological and identity battles to influence constitutional amendments.

During the 2001 legislative elections, the party ranked first in terms of the number of seats as well as the votes it gained. The PJD, the most untested and organized party, attributed this victory to the strength of its electoral machine and the slogans of its campaign: "the war on corruption". The slogan was inspired by the wider Arab Spring agitation and the demands of the February 20 Movement. By the end of the elections, the PJD was the first Islamist party to form a government in Morocco, which many described as "half-bearded[16]."

2- Al-'adl Wal Ihsan (Justice and Charity): continued opposition and protest

The position of the Justice and Charity group, the strongest organizational power in political opposition to the regime, was prominently displayed during various February 20 protests. The group was one of the balancing components in the February 20 Movement. Its dynamic young members took part in many local coordinating bodies. For this "semi-outlawed" group, the February 20 Movement presented an opportunity to re-adjust and re-assert its position vis- à -vis the political regime by calling for a boycott of the 2011 constitutional referendum and other electoral activities.

After the death of its founder and spiritual leader Sheikh Abdesslam Yassine in 2012, the group maintained its organizational unity, its oppositional approach and its public protest dynamism. After withdrawing from the February 20 Movement, the group proved its popularity in several political gestures and several protests (regional or trade union-related) demanding rights for certain groups (students, teacher trainees, resident doctors, etc.).

3- The Salafi currents: between revisionism and normalization

The Salafis differed in their positions on the February 20 Movement according to their varying orientations, different leaders, and divergent relationships with the authorities[17]. There were signals that they had come to the forefront since the beginning of the protests after the gradual release of several of their important detainees including 'Jihadi Salafis', the participation of some Salafis in public protest marches and the outbreak of prison riots/protests by Salafi inmates that led to various agreements between the authorities and representatives of the detainees.

One of the most important results of the movement was a screening of the Salafi actors in Morocco and clarifying their relationship and their actual engagement with the political scene. The actual level of engagement contrasted with their past rhetoric (this also applied to the positions of other religious actors such as the Zawaya and Sufi orders).

For example, a prominent founding figure among traditional Salafis (affiliated with Saudi Arabia), preacher Abderrahmane al-Maghraoui, called on his followers to vote in favour of constitutional reforms, to register on the electoral lists and to take part in the 2011 referendum[18]. On the other hand, some radical Salafi factions, prompted by the recent release of Salafi prisoners, launched a series of normalization measures with the authorities. They took part in political or civil work either through creating new associations or participating in existing organizations or parties.

Islamists and human rights actors in Morocco

As is the case with other Arab countries, the rights movement in Morocco originated among leftists and maintained a leftist identity[19]. In contrast, the Islamist rights advocates are relatively a recent phenomenon that faces several constraints and challenges.

The relationship between the Islamist movement and other civil, human rights and political actors (particularly on the left) has been tense and ridden with conflicts as well as occasional violence. In addition to physical violence, including murder and physical injuries, there have also been cases of symbolic violence embodied in hate speech and adversarial rhetoric as well as vilification and the ongoing Takfir by Islamists of their opponents or competitors.

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[15] On the relationship of the Islamist movement and the Arab Spring, see for example:
بلال التليدي، الاسلاميون والربيع العربي. الصعود، التحديات، تدبير الحكم (تونس ، مصر ، المغرب ، اليمن) . مركز نماء للبحوث والدراسات، بيروت، 2012.

[16] This is how Minister of Islamic Affairs and Endowments of Morocco, Abdelkébir Alaoui M'daghri described the government. He argued that "a bearded government will materialize for many reasons. It will be a mere introductory act to another government that comes decades later and be a true Islamist government. As for the bearded government, it will only be Islamist in name since the context will not allow it a genuine implementation of much of Islam's principles and systems. The Islamist government, however, will be the fruit of a long laborious cultural, religious, intellectual, political, social and economic process." See:
عبد الكبير العلوي المدغري، الحكومة الملتحية. دراسة نقدية مستقبلية. دار الأمان، الرباط، 2011. ص. 14

[17] عبد الحكيم أبو اللوز، سوسيولوجيا الحركات السلفية في المغرب، مركز دراسة الوحدة العربية، بيروت، 2009.

[18] Sanaa Karim, Party Politics for Morocco's Salafis?" Carnegie Endowment for International Peace, October 2012, available at https://carnegieendowment.org/sada/49544

[19] On the rights movement in Morocco, see Marguerite Rollinde, Le mouvement marocain des droits de l'Homme. Entre consensus national et engagement citoyen. Edition: Karthala, Paris, 2002.

In addition to sectarian differences and the political stakes of each group, the historical legacy of this confrontational relationship between Islamists and rights advocates influenced how their relationship metamorphosed. For some human rights activists, the intensity of this polarization and conflict had been nurtured by the policies of a ruling regime that worked against any possible convergence between these two groups. According to them, the polarization had been maintained and intensified by extremist and radical elements in both camps. Despite the intensity of this polarization, one can still find evidence of common grounds between the two camps in addition to some initiatives to encourage dialogue, understanding and coordination.

A number of shared characteristics between activists of the Islamist movements in the 1990s and the leftist activists of the 1970s in Morocco have been identified[20]. First, both groups forged a path of political struggle during their university years by affiliating with the National Union of Moroccan Students despite different ideological frameworks. The Islamists used Islamic identity as a framework and an objective instead of the conflict among classes. Both groups also shared common socio-cultural and economic backgrounds that set them apart from the other social groups they purported to defend. Additionally, the prison experience has affected many activists in both camps.

Despite the more dominant confrontational nature of their relationship, several rare incidents attest to a degree of proximity, dialogue and coordination between the two groups. These included the discussions of 2001 and 2002 between the Islamists of the "Civilized Alternative" and some leftist and democratic forces which were crowned by signing "A Call for Democracy" and by founding the "Democratic Pole"; the series of discussions in 2007 and 2008 between Islamist and secular factions under the umbrella of the Moroccan Branch of the Citizens' Council of the Middle East, the Dutch Peace Council/Pax Christi and Ibn Rushd Fund. These discussions revolved around several points of contestation between the two groups[21]. Finally, some Islamist actors and organizations (primarily the Justice and Charity group) came together with other leftist and rights-based movements to organize various protests on February 20 in the context of the Arab Spring.

Considering this nuanced history, this section seeks to review and analyze the course and nature of relations and tensions between the Islamists and Moroccan human rights organizations.

Human rights in Morocco: positions and alignments

As one of the primary fronts of the struggle for democracy, human rights lay at the heart of the public debate as well as the conflicts and rivalry among all civil and political actors. Differences and inconsistencies in perceptions and positions on human rights can be attributed to several reasons: differences in ideological frameworks, conflicts of interest, different stakes and resources and the margins for political action. Two main opposing groups could be outlined from the main debates on human rights over the last two decades[22]:

First, the conservative Islamists: This camp consists of a number of endeavours, characters and organizations that maintain a similar intellectual and ideological approach that posits their understanding of Islam as their referential framework despite some variations in their principles, rhetoric, projects or affiliations.

The main components of this camp include state bureaucratic religious institutions (Ministry of Religious Endowments and Islamic Affairs, The Supreme Council of Scientific Research together with its local and regional branches, etc.); political parties (particularly the PJD), religious movements and factions (e.g. Salafis and the Movement for Unification and Reform), several Islamist women organizations (e.g. the Organization for the Renewal of Women Awareness – ORWA), Islamist newspapers (Attajdid, Assabeel, etc.), conservative public figures (Mohammed al-Habib al-Fourkani, Belbachir al-Hosni, etc.), well known preachers (Al-Zamzami, Al-Fizazi, Al-Samadi, etc.) in addition to intellectuals and civil associations affiliated with the Islamist camp in pedagogical, cultural, charity, youth, and other fields.

The PJD and the Unification and Reform Movement represented the two poles of this camp. The strongest depiction of the Islamist power of the constituents of this camp took place in Casablanca during the million-man march on 12 March 2000 in opposition to the Action Plan for the "Integration of Women in Development". A counter demonstration was organized the same day but in Rabat by the opposing camp, the modernist democrats.

Second, the modernist democrats: This camp is composed of a complex mix of organizations and individuals from democratic, modernist or liberal circles who embraced the universality of human rights as their referential framework despite their different projects and ideological and political motivations.

This camp includes all Moroccan political parties and currents that share a socialist or leftist outlook; the most prominent human rights organizations (e.g. the Moroccan Association for Human Rights or AMDH after its French acronym); most organizations and networks advocating women's rights (the Association of Democratic Women, the Federation of the Democratic League of Women's Rights, the Spring for Equality network, etc.); Amazigh networks and associations; a number of "enlightened clerics" (e.g. Abdelhadi Boutaleb, Mohamed al-Khamlishi, and Mohamed Mrabet); several secular intellectuals (e.g. Ahmed Assid); and

[20] See chapter 3 in the book by French researcher Frédéric Vairel listed above.

[21] Among the outputs of this initiative was the publication of an edited volume documenting these discussions.
المعطي منجب (إشراف وإعداد)، مواجهات بين الاسلاميين والعلمانيين بالمغرب: ديمقراطية، فكر، حرية، عنف، قيم. دفاتر وجهة نظر، الرباط، 2008.

[22] Neither camp constitute a unified or coherent entity. Both are diverse and lean on varying conceptions and approaches. See: Malika Benradi, "Genre et droit de la famille, les droits des femmes dans la Moudawana (de la révision de 1993 à la réforme de 2003)", in Féminin-Masculin. La marche vers l'égalité au Maroc 1993 – 2003, Friedrich Ebert Stiftung, undated, p. 53.

several newspapers and magazines (TelQuel, Al-Ahdath Al-Maghribia, etc.). This camp also included individuals from the worlds of business, performance arts, academia, media, and writers, in addition to diverse local, national and regional networks and associations with a democratic or a progressive outlook.

Members and supporters of the modernist democratic camp created several organizations to counter extremist religious thought and to advocate for principles of equality, citizenship and tolerance. These included organizations such as Bayt al-Hikma, the Vigilance and Citizens Movement, al-Damir, etc.

The two camps held totally opposing views on issues of human rights and freedoms. The conservative Islamist camp has been in favour of protecting a religious identity and a national particularity. It is apprehensive of any change in social mores and values against demands for human rights which they viewed as "harassment, provocations and deviances" that take place under the banner of individual rights and freedoms. The modernist democratic camp defended the universality of human rights against all sorts of restrictions and violation committed in the name of any authority, whether social, moral, religious or otherwise.
At the centre of this polarization, the monarchy played the role of a final arbiter since it enjoyed religious legitimacy and political power. The monarch delineated the boundaries and decided on the balance of power among all political and civil players. This status and role were evident during the battle of the "Integration of Women in Development" when the king, also the Commander of the Faithful or Amir Al-Mu'minin, settled the dispute by adopting a new family code in 2004 that struck a compromise between the demands of both camps[23].

Human rights controversies and battles

Since 1998, a great deal of friction and tension has existed between the two camps. Tensions began with a sharp and unprecedented social and political division over the National Action Plan for the Integration of Women in Development that was prepared by the socialist government of Abderrahmane Youssoufi. The plan was strongly opposed by most Islamist groups, both reformist and radical, in addition to other conservative circles including those close to the state and the decision-making circles[24]. This period, until the Casablanca suicide bombings on 16 May 2003[25], witnessed an upsurge in the Takfiri rhetoric in sermons by preachers and Jihadi Salafis who spoke against secular and modernist activists, journalists and politicians and their organizations[26]. In the wake of the bombings, progressive factions placed the "moral responsibility" for the terrorist attacks on the Islamist, specifically the PJD and their extremist religious discourse. They also established several initiatives and campaigns for civil mobilization to confront violent and rhetorical extremism. The Democracy and Modernity Collective and the Moroccan Front against Extremism and Hatred were amongst these initiatives. In parallel, security agencies cracked down on Islamist suspects and committed rights violation. Such transgressions and violations occurred in civil social practices as well; for example, restrictions were placed on wearing the veil in some businesses and economic sectors[27].

In 2009, the dynamics of the conflict between the Islamists and the modernist democratic camps took a new turn with an increasing public visibility for minority rights (sexual orientation, religious minorities such as Christians, sectarian such as Shiite, etc.). These dynamics were reinforced when the Alternative Movement for Individual Freedoms (known by its French acronym MALI[28], moved from the virtual sphere to street activism through an initiative against the criminalization of not-fasting (thus drinking and/or eating) in public during the day in the holy month of Ramadan. The campaign, called "We're not Fasting" takes place annually and so do counter-campaigns[29]. With the emergence of this movement, the polarization and conflict between the two camps mainly revolved around several individual freedoms and pertinent laws[30], including freedom of faith, the status of religious minorities[31], sexual orientation and consensual sexual relations (homosexuality, sexual relations outside marriage, etc.); consumerist habits and behaviours (eating publicly in Ramadan, consumption of alcohol); abortion or the termination of unwanted pregnancies; artistic and cultural choices and expression (festivals, some films or literary works). These were all added to a long list of past battles including women issues (equality between sexes, diversity, under-age marriage, inheritance[32], single mothers, etc.).

These issues are still the focus of disputes between the two camps regardless of the different labels they come to carry with

[23] Bernard Cubertafond, Mohamed VI, "Commandeur des croyants au secours de la laïcité?", Confluences Méditerranée, n°51, 2004, pp 163-180.
[24] On debates over this government proposal, see:
Zakia Daoud, "Le plan d'intégration de la femme, une affaire révélatrice, un débat virtuel", AAN, 1999; Najia Zirari, "Le statut des femmes au Maroc, un éternel recommencement", Confluences Méditerranée, n° 33/ 2000; Aïcha Belhabib, "Le processus de mobilisation, le cas du projet du Plan d'intégration de la femme au développement", DESA en Sciences Politiques, FSJES Casablanca, 1999/2000.
[25] See: Abdellah Tourabi, "Les attentats du 16 mai 2003 au Maroc. Anatomie d'un suicide collectif", Mémoire de DEA, Institut d'études politiques, Paris, 2003; Khadija Mohsen-Finan & Malika Zeghal, "Le Maroc, entre maintien de l'ouverture politique et 'fin du laxisme'", in Rémy Leveau (ed.), Afrique du Nord- Moyen-Orient. Espace et Conflits, La Documentation Française, Paris, 2004, pp 119-133.
[26] On these sermons and reactions during that period, see:
Mohamed Wazif, La politique religieuse au Maroc. La gestion des lieux de culte (l'exemple des mosquées), Rapport de DESA, Université Hassan II: FSEJS Casablanca, 2006.
[27] خديجة علي موسى ومحمد أفزاز، «في مغرب دينه الإسلام ويعترف بحقوق الإنسان: إدارات رسمية ومؤسسات غير حكومية تمنع الحجاب»، التجديد، 16 يونيو ٢٠٠٤.
28 Mohamed-Sghir Janjar, "L'épisode MALI: réflexions sur un cas de désobéissance civile au Maroc", Les Etudes et les Essais du Centre Jaques Berque, n° 6/2011.
[29] Stéphane Papi, "Les fattara du ramadhân au Maghreb ou l'hétéropraxie religieuse au prisme des normes sociales et juridiques", L'Année du Maghreb, n° 14/ 2016, pp. 99-114.
[30] On the perception of Moroccan Islamists of individual freedoms, see a special issue of the magazine Al-Furqan:
الفرقان، "الحريات الفردية، إلى أين؟"، العدد 70: 2013.
[31] مجموعة الديموقراطية والحداثة، حرية المعتقد بالمغرب (أشغال الندوة الدولية بالدار البيضاء، أيام 16 . 17 مارس، 2012.
[32] الجمعية الديمقراطية لنساء المغرب، من أجل نقاش مجتمعي حول منظومة المواريث. المغربيات بين القانون والتحولات الاقتصادية والاجتماعية. الفنك، الدار البيضاء، 2015.

each new event. For example, many conservative and Islamist voices attacked the February 20 Movement claiming individual freedoms activists were central in the demonstrations. They accused demonstrators of sexual perversion, depravity, westernization, being agents of foreign powers, etc.

The 2011 constitutional amendments became a fierce battleground among these camps on issues of Islamic identity of the state, personal freedoms and human rights. Faced with the potential of having some of these rights and freedoms enshrined in the Constitution, the PJD along with allies and supporters, mobilized and pressed the Constitutional Reform Advisory Committee, going as far as calling for boycotting the vote[33]. The Islamist party's campaign mostly focused on attempts by rights defenders to enshrine freedom of faith in the Constitution. Tileedi crystalized their position:

> "Are we about to give up the political identity of our state and discard the centrality of religion? Are we willing to discard 14 centuries of the history of our Moroccan state? Are we going to give up our identity? To allow the possibility of freedom of faith, even with the restrictions proposed in the new Constitution, is a measure of dangerous implications that could alter the demographics of religion in Morocco. It could pose a risk to the religious unity of the Moroccans and strike at the main pillars of the state; foremost among which is the Islamic identity of the people and the state. This would come at a time when we are facing international attempts to manipulate our strategic interests in order to create a Christian minority in Morocco and remove the constitutional and legal requirements that can fortify our unity of faith and the political identity of the state[34]."

The Islamists' electoral victory and the PJD forming a government in 2012 revived fears among the modernist democratic front, who called for 'vigilance' and began to mobilize to confront any possible decline in human rights and freedoms in Morocco[35].

Islamists and human rights organizations

The Islamist hostile positions to certain human rights demands stem partly from the centrality of identity to the Islamist movement. This is further fuelled by the limited experience of Islamists in the human rights field, despite the many violations inflicted on them. This limited experience can be attributed to the fact that the Islamist experience in rights advocacy had been relatively short and with a relatively much lower level of interest compared to religious advocacy and charity. This part will outline attempts among Islamists to engage with human rights and the consequent challenges and dilemmas. It starts by looking at the relationship between Islamists and two specific institutional models; the AMDH and the National Human Rights Council or CNDH (after its French acronym).

The Moroccan Association for Human Rights (AMDH)[36]

Founded in June 1979, the AMDH is considered one of the most prominent civil organizations in the Moroccan legal and political arenas. Despite its state-recognized legal status as a registered public welfare association, the AMDH has been considered by the state as part of the socio-political opposition and thus subjected to restrictions and legal harassment.

The AMDH founders and members are generally leftist, a fact that influenced their relationship with the Islamist factions. Many members have reservations on admitting Islamists into AMDH because of concerns about being infiltrated and undermined or due to the apparent contradiction between Islamist faith-based convictions and both the universal rights discourse and AMDH progressive identity[37].

These reservations aside, the AMDH treated cases involving Islamist victims of rights violations in a principled manner. For example, the AMDH provided legal aid to lift restrictions imposed on Justice and Charity group members and leaders, showed solidarity with Islamist political detainees held in Belliraj case[38], and hosted the launching of the Coordinating Committee of Former Islamist Detainees in 2011 in its central headquarters in Rabat.

Moreover, numerous Islamists' testimonies praised AMDH and its leaders for defending Islamist organizations and activists. For example, Abderrahmane Benamrou, one of the most prominent AMDH founders, is seen by many Islamists as "the heart of the struggle, an icon of justice and a source of pride for free Moroccans." Minister of Justice, Mustafa al-Ramid, who is an Islamist, considers Benamrou "an Imam of Moroccan right defenders and a great man[39]." The rights committee of the Justice and Charity group sent a congratulatory message to the former president of the association, Khadija Ryadi, on receiving the United Nations

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[33] محمد الحمداوي، «رئيس حركة التوحيد والإصلاح: المرجعية الإسلامية خط أحمر»، التجديد، 10 يونيو 2011، وحسن الأشرف، «تحذيرات من مس المرجعية الإسلامية في دستور المغرب»، هسبريس، 9 يونيو 2011، ومتاح على www.hespress.com/permalink/32698.html

[34] بلال التليدي، «حرية المعتقد والهوية السياسية للدولة المغربية»، التجدي، 16 يونيو 2011.

[35] أحمد عصيد، «من أجل جبهة لمقاومة النكوص السياسي والحقوقي: التحدي الذي يواجه الإسلاميين هو تحقيق أهداف الحراك الشعبي وليس أهدافهم الخاصة والضيقة»، الصباح، 12. مارس 2012

[36] Check AMDH website at www.amdh.org.ma

[37] In this context, a leftist activist interviewed for this paper said that "to participate in any organization, you need to have had embraced its goals and principles. Therefore, it is difficult to imagine that Islamists can be AMDH members. Logically speaking, rather than join and participate in this association, it would be more useful for them to join or create an association that is in line with their own intellectual and religious beliefs."

[38] عبد العلي حامي الدين، "إسلاميون ويساريون يدا في يد للتضامن مع المعتقلين الستة في ملف بليرج"، المساء، 11 أكتوبر 2008.

[39] "Benamrou had defended late Sheikh Abdessalam Yassine, the spiritual leader of the Justice and Charity group. They had been detained together and had come to discuss contentious issues in a respectful way, according to Semmouni. As a lawyer, Benamrou also represented members of Justice and Charity. He defended and stood in solidarity with the Islamist "Civilized Alternative" before it was licensed and even after it was dissolved and banned, in addition to defending the Umma party which was never licensed. He also defended Salafi and Islamist detainees". See testimonies of several Islamist activists and actors on Benamrou in
عبد الله لعماري، "عبد الرحمن بنعمرو، جوهرة النضال"، bit.ly/2OSy3HJ حسن الأشرف، "عبد الرحمن بنعمرو.. شيخ الحقوقيين في المغرب"، العربي، 20 نوفمبر 2010، متاح على www.aljamaa.net/ar/document/80803.shtml وأيقونة العدالة ومفخرة المغاربة الأحرار"، جماعة العدل والإحسان، ومتاح على

Human Rights Prize in 2013[40].

However, the AMDH has been accused of giving relatively less attention to cases of Islamist suspects and victims of rights violations compared to others and that it occasionally used the Islamists as means of "leverage against the state" as they allegedly did in cases involving Salafi detainees. Some attribute the AMDH limited support in defending Islamists to an existing prejudice among the modernist and progressive elite against Islamists whom they perceive as "enemies of democracy and human rights" – an approach that had been captured in the slogan "No democracy except with democrats."

The National Human Rights Council (CNDH)[41]

The CNDH succeeded the Advisory Council for Human Rights, which had been established in 1990 and re-organized in 2001. The CNDH, which the king established in a royal decree on 1 March 2011[42], was part of the state response to the February 20 Movement[43].

Abdelali Hamieddine, president of the Islamist Al-Karama Forum for Human Rights believes that despite the reference in this decree to "the Paris Principles" which frame and guide national human rights institutions, the pertinent law organizing CNDH does not fully abide by these principles. He primarily criticized "the method of appointment stipulated in the Dahir (royal decree) that does not provide the necessary guarantees for the required pluralism and independence." He insisted that this was "reflected in a number of other requirements that restrict the Council and places it under the control of the appointing authority (the king) ... In brief, the current version of the National Human Rights Council is an extension to the 1996 constitution with all its authoritative implications. The 2011 Constitution, on the other hand, requires a comprehensive parliamentary review of the updated law of this institution. This goal appears out of reach now after indications that the current Constitution has been voided of all democratic prerogatives and is now instead imbued with an authoritarian interpretation that belongs to the outdated practices of the pre-1996 era[44]."

The CNDH has been indeed criticized for the absence of Islamists including in its provincial and local committees[45]. Critics argued that the CNDH was not nationally representative but rather a closed club dominated by the logic of patronage and loyalty with a privileged position for leftists[46]. Critics allege that there has been a systematic and deliberate exclusion leaving the CNDH under a mono-ideological influence[47]. They point out to the absence of even Islamist women organizations in CNDH committees and membership, which meant the exclusion of feminists and rights defenders from organizations such as Azzahrae Forum, al-Karama Forum or the Organization for the Renewal of Women Awareness[48].

Several rights advocates, meanwhile, viewed the CNDH as an "official institution" and "the Human Rights arm of the state". They argue that most CNDH decisions and activities are daring if they do not portray the organization as a political actor on sensitive issues. This was evident when the CNDH issued a report on Gender Equality and Parity in Morocco, recommending, inter alia, that inheritance laws (which favour men under a religious pretext) must be reviewed to ensure equality and/or parity.

The report, especially this recommendation, was harshly criticized by a wide spectrum of Islamists including official religious bodies (e.g. The Supreme Council of Scientific Research) and preachers[49], most Islamist organizations and prominent activists. PJD women leaders criticized the CNDH and its report through the Organization for the Renewal of Women Awareness. They considered the report to be a "step beyond CNDH remit" and claimed that it was "a transgression on the king's powers as the Commander of the Faithful or Amir l-Mu'mnin and an encroachment on other constitutional institutions such as The Supreme Council of Scientific Research" according to a statement by Azzahrae Forum for Moroccan Women. Similarly, the Moroccan Centre for

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[40] The message also stated: "We have known you to be proud and steadfast. We worked together on various issues and found you a model of commitment, loyalty and gracious accomplishments. As head of AMDH, you took important measures to defend human rights, freedom and dignity of the Moroccan people regardless of political affiliation or intellectual background... you still fight to rid the field of human rights work from political and ideological influences. You are deeply aware that the road is long and full of obstacles. We hope, as we genuinely express our pride of this victory, to successfully complete all the just projects we work for together." See full message at www.aljamaa.net/ar/document/74471.shtml

[41] See the CNDH website at www.cndh.org.ma

[42] For papers on CNDH see:
محسن عوض وعبد الله خليل، تطور المؤسسات الوطنية لحقوق الإنسان في العالم العرب، منشورات المجلس القومي لحقوق الإنسان وبرنامج الأمم المتحدة الإنمائي، مطبعة مجلس الشورى، القاهرة : 2005. وعبد الكريم عبد اللاوي، تجربة العدالة الانتقالية في المغرب، أطروحات جامعية (10)، مركز القاهرة لدراسات حقوق الإنسان، القاهرة: 2013.

[43] الظهير الشريف رقم 1.11.19 لانشاء المجلس الوطني لحقوق الإنسان الصادر في أول مارس 2011، بالجريدة الرسمية، عدد 5922

[44] عبد العلي حامي الدين، «المجلس الوطني لحقوق الإنسان ومبادئ باريس»، بدون تاريخ، موقع حزب العدالة والتنمية ومتاح على www.pjd.ma/node/1661.

[45] Under the CNDH charter, the Council's membership should adequately represent "rights of all different groups, mainly women, children and persons with disabilities, as well as all human rights issues, keeping in mind that this composition should reflect all intellectual, cultural and human rights backgrounds". The CNDH was formed after extensive consultations with more than 200 associations, four of which refrained from recommending candidates.

[46] For a critical view of the CNDH, see:
عبد الكريم الوردي، "في تشكيلته الجديدة، المجلس الوطني لحقوق الإنسان يدق ناقوس الخطر: من منطق الإجماع إلى منطق الإقصاء"، العلم، 5 أكتوبر 2011، و «اتساع دائرة التنديد بالإقصاء من مجلس حقوق الإنسان»، التجديد، 7 أكتوبر 2011.

[47] In that context, Abdelali Hamieddine said that "al-Karama Forum had submitted proposals and suggestions to the CNDH presidency at the latter's request. However, the final charter reflected no consideration of any Islamic sensibilities. This expresses an exclusionary trend at the state level to disenfranchise the Islamist elite. It is a clear sign of how the state will be dealing with such issues in the future." See:
هسبريس، «حامي الدين: هناك توجه إقصائي داخل الدولة اتجاه الإسلاميين»، 6 أكتوبر 2011، ومتاح على www.hespress.com/permalink/38968.html

[48] The PJD-allied Al-Karama Forum complained about "an intolerance on the side of the state evident in the list of CNDH members which excluded all rights and feminist activists who have an Islamic sensibility (…) in addition to ignoring activists from different well known rights associations to the benefit of others who are more supportive of the regime or indifferent to its unfair policies and transgressive institutions." See:
حركة التوحيد والإصلاح، «منتدى الكرامة: المدير التنفيذي تعرض للتهديد»، 5 أكتوبر 2011، ومتاح على bit.ly/2DMkl8s

[49] عبد الحق الريحاني، «المساواة والإرث: الفيزازي والزمزمي يهاجمان المجلس الوطني لحقوق الانسان»، الاتحاد الاشتراكي/ 23 أكتوبر 2015.

Human Rights considered CNDH recommendation suspicious "in terms of its goals and objectives which are clearly an attack on the identity of the Moroccan society. It raises a lot of questions: What is the goal of handing over this institution to a group of people, known to subscribe to this ideological orientation? To wage a war against the values of society in this vicious, almost systematic, manner? Not to mention, that it is exclusionary and isolates all differing ideologies". The centre also emphasized that "a call for equal inheritance rights reflects major ignorance of the bases of the legality of the current laws and their implications".

Despite their criticisms and reservations, members and branches of al-Karama Forum, as well as several other Islamist entities, especially women initiatives, attend Council activities and its regional committees. The Council, in turn, formally attends some of the Forum's activities (e.g. CNDH Secretary-General Mohamed Al-Sabar attended the last congress to elect the forum's leadership in 2016).

Islamists and human rights networks and coalitions

Moroccan Islamists face various challenges and questions when engaging joint action by a group of organizations which may not fully agree on common ideological underpinnings. These challenges are related to the difficulty of building required consensus, the credibility of representation within such an outfit, and a possible compromise of their Islamist anchors. The remainder of this section looks at the Moroccan Forum for Truth and Equity, the Moroccan Centre for Human Rights and the Moroccan Coalition for Human Rights as models that could elucidate some of these challenges.

The Moroccan Forum for Truth and Equity was established in 1999 in a context of political transition (the alternance government in 1998 and the accession of Mohamed VI to the throne the year after). A new era was ushered in with a series of reconciliation attempts to turn a new page and provide a closure to the "years of lead" by allowing space for victims' testimonies and for redress[50].

In this setting, the Forum was to provide a pluralistic framework that can address the needs and aspirations of various categories of victims of gross rights violations. The Forum was distinct in that it married the spirit of a trade union of its own members and targeted audiences with its substantive work in defence of rights and support of victims of violations in physical and moral ways[51].

As one prominent category of victims during the years of lead, Islamist detainees are present in the Forum alongside other individuals and groups of different backgrounds and ideological affiliations: leftists, Islamists, former military, and various parties and movements (e.g. the Socialist Union of Popular Forces, the Democratic Way Party, the Democratic Socialist Vanguard Party, the Unified Socialist Party, the National Congress Party, the Civilized Alternative Party, the Islamist Youth, etc.). The Forum also demanded the release of remaining Islamist detainees in Moroccan prisons as well as in opening files of kidnapped and/or disappeared Salafis as well as allegations about secret detention centres such as Tamara.

In view of the limited expertise in advocating human rights among Islamists compared to leftists, they only made a modest contribution to the foundation and operations of the Forum as well as its work to forge a path for transitional justice in Morocco. The representation of various political groups within the Forum was the outcome of negotiations aimed at creating an adequate consensus among victims and advocates on the way forward. In the absence of the Justice and Charity group, the Islamists within the Forum and its structures (the National Council and the Executive Office) had to compromise with other constituent groups and factions to enable such a coalition of varied elements to operate well.

Islamists also took part in two other complex networks; the Moroccan Centre for Human Rights and the Moroccan Coalition for Human Rights. These two organizations again showed that the frame of reference for varying components of a coalition can put it under a huge stress and even cause it to splinter. These networks also suffered from disagreements on representation, allocation of decision-making posts and responsibilities and creating a harmony among varying political ideologies.

The Moroccan Centre for Human Rights was founded in April 1999. Its founders included several activists and groups with roots in the Islamist movement (e.g. the PJD) or affiliated with some leftist parties such as the Unified Socialist Party or the National Congress Party) in addition to some independent activists. Islamists enjoyed a hegemonic position within the Centre for several years, especially through its president, Khalid Cherkaoui Semmouni, who had been affiliated with the PJD. The second Congress of the Centre in 2010 – specifically during negotiations over the composition of leadership – faced a crisis ending in a leftist withdrawal after allegations of 'imbalance in organizational roles as well as disputes over the Centre frame of reference' and with the leadership.

In July 2010, a preliminary committee, composed of the most prominent members of the withdrawing leftist cadres, composed a new human rights organization, the Moroccan Human Rights Institution in order to set themselves apart from the Centre. In reaction to their former Islamist colleagues, the documents of the new organization stressed how the Institution was based on "the principles of universality, democracy and independence, that it aims to promote and protect the comprehensive principles of human rights … and to raise awareness of these principles in accordance with international convention and protocols.[52]"

Finally, the Moroccan Coalition for Human Rights, founded in 2011, included more than 20 associations from various ideological

[50] On the context of establishing the Forum: Frédéric Vairel, "Le Maroc des années de plomb: équité et réconciliation? ", Politique Africaine, n° 96/2004, pp. 181-195.

[51] Services presented to the victims included health care by the Medical Association for the Rehabilitation of Victims of Torture that maintained strong links with the Forum.

[52] See more on their website at www.instance-mdh.org/page3.html

persuasions. This posed the usual challenge in such networks due to clashing frames of reference. The following disagreements were cited by Adala Association among the reasons for leaving the coalition as outlined in its withdrawal letter [53]:

> "One of the goals set by the Coalition in its organizational framework was to defend the principles of democracy, freedom, dignity, equality and social justice; and activating international human rights instruments. However… in Adala, we were shocked at several pivotal junctures of our struggle to see some human rights organizations - under the pretext of their different frame of reference - maintain reservations on certain cases and oppose issues such as abolishing the death penalty, decriminalizing abortion, ensuring equality and respect to individual freedoms. It has thus proven difficult, if not impossible, to work together to support rights and freedom in a comprehensive manner. We have often encountered a lack of acceptance of different points of view amid an exchange of accusations among members, both secretly and in public… [54]"

The centrality of clashing frames of reference and, the unbridgeable disagreements on how to compromise and how to accommodate all factions in networks and coalitions have been the Achilles heel of such undertakings. Thus, the inclusion of Islamist elements, such as al-Karama Forum and the Moroccan Centre for Human Rights, alongside other actors from a different ideological framework posed a set of challenges and tensions regarding joint human rights action in Morocco.

The evolution of Islamist position on human rights action

Four major stages capture the evolving position of Moroccan Islamists on democracy and human rights since the emergence of Islamist movements in the late 1960s. These stages reflect developments in their ideological approaches, their organizational structures and the positions of their actors on the Moroccan political scene.

- The first stage coincided with the emergence of the Islamists who were hostile to the principles of democracy, rights and freedoms. This logic was based on rigid ideological and religious concepts and reflected the political marginalization of Islamists in the 1970s. The Islamists then demonized the democratic system and human rights practices as heresy. Events and repercussions from his era still cast a shadow on the relationship between the Islamists and the democratic and human rights movement in Morocco – one such significant incident was the assassination of leftist trade union activist Omar Benjelloun in 1975[55].
- The second stage extended from the 1980s to the mid-1990s and was characterized by a cautious approach to human rights and democracy. In this period, Islamists attempted to exploit human rights to serve their interests in the ongoing confrontation with the state at a time of political change on the national, regional and international levels. On the national level, protest movements and social tensions were growing (the strikes of 1981, 1984, 1990)[56] and Islamist movements emerged as a balancing force, especially in the aftermath of the Iranian revolution and the ensuing restrictions, harassment and detention of its activists as a result. On the regional level, a coup d'état, reversing the sweeping electoral victory of the Islamic Front, took place in Algeria in 1991. The international scene saw the fall of the Berlin wall in 1989 and the globalization of democracy and human rights with the end of the Cold War. These developments influenced the Islamist intelligentsia which worked hard to harmonize Islamist concepts on political practice such as Shura with democratic principles practices and to anchor human rights in Islamic teachings[57]. This stage was prominently characterized by the selective way Moroccan Islamists dealt with the human rights system, which only emphasized the importance of political rights and freedoms.
- The third stage was one of relative normalization with the human rights system and the institutionalization of human rights action. It extended from the late 1990s to the Arab Spring in 2011 and thus chronicles the gradual integration of reformist Islamists in the political game[58], the political opening of the regime (with the alternance government led by the former socialist opposition in 1998) and the transfer of power to King Mohamed VI in 1999. This stage was characterized with the partial acceptance by the Islamists of universal human rights which "do not contradict the logic of religious and cultural specificity". They also established several human rights organizations and approached the human rights field as an arena of political wrestling with competitors. The "Plan of Action for the Integration of Women in Development" was the best publicized of these battles in addition to the Islamist usual opposition to individual freedoms. The nature of the relationship with the state influenced the rights institutions established by Moroccan Islamists. These institutions included several PJD-affiliated outfits in the legal, rights and women fields such as the Organization for the Renewal of Women Awareness 1995[59], Azzahrae Forum for Moroccan Women 2002[60], and al-Karama Forum for Human Rights in 2005. The semi-banned Justice and Charity Group established a rights organization and internal party units (women's, trade unions, students)[61], all working through JCG-affiliated lawyers organized by the Association of Justice and Charity Lawyers. Finally, rights organization were established in the form of committees, coordinated networks and associations to provide legal aid and defence to Islamist detainees.
- Finally, in the fourth stage, Islamist reformists moved from cautious integration to a position of governmental responsibility and authority. This was the stage in which Islamists formed their first government ever in Morocco when the PJD's Abdelilah Benkirane formed the cabinet (2012-2016). Given the Islamist history in Morocco, this final stage generated strong fears and concerns among non-Islamist factions and actors.

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[53] Adala had already frozen its membership in the Coalition on June 16, 2015.

[54] See the full text of the message at droitagadir.blogspot.com/2016/04/blog-post_77.html

[55] Testimonies by leftist writers attribute the assassination of trade union activist and socialist leader Omar Benjelloun to members and leaders of the Islamist Youth, which was the breeding grounds for most contemporary Islamist organizations and movements in Morocco. See:
محمد الساسي، «الأطراف السياسية بين تبادل العنف والاعتذار»، المساء، 23 أكتوبر 2008، و «في الذكرى 34 لاغتياله: تفاصيل الجريمة التي راح ضحيتها الشهيد عمر بنجلون»، الاتحاد الاشتراكي، 18 ديسمبر 2009.

[56] عبد الرحمان رشيق، الحركات الاجتماعية في المغرب من التمرد إلى التظاهر، منشورات منتدى بدائل المغرب، 2014.

[57] The literature that came out from these efforts included the International Islamic Declaration on Human Rights issued in 1991 and the Islamic Declaration of Human Rights issued by the Organization of Islamic Conference in Cairo in 1990.

[58] رشيد مقتدر، الإدماج السياسي للقوى الإسلامية بالمغرب، مركز الجزيرة للدراسات والدار العربية للعلوم: الدوحة وبيروت، 2010.

[59] See the organization's website at www.orcfmaroc.org.ma

[60] See the organization's website at www.fz.ma.

[61] هيئة التحرير، "الأستاذ عبد العزيز أودني يحلل الوضع الحقوقي المغربي"، جماعة العدل والإحسان، 21 ديسمبر 2005، ومتاح على www.aljamaa.net/ar/document/3124.shtml

Islamist practices and human rights action

In the context of political reconciliation and redress in Morocco, defending Salafi suspects in counterterrorism cases constituted a primary entry point into the field of human rights as well as a practical launching pad for former Islamist detainees. Former detainees finally managed to imbue human rights with an Islamist character after their stumbling efforts in the 1990s. Given the difficulties facing such Islamists in joining established human rights organization such as the AMDH or the relatively open coalitions such as the Truth and Equity Forum, these former detainees came together within Islamist circles and anti-leftist factions to counter the leftist hegemony in the field of human rights, especially after the normalization of relations between the regime and reformist Islamists (the PJD as well as the Unification and Reform Movement) to integrate them into the political arena (beginning with joining Parliament in 1997).

In order to study Islamist human rights initiatives, this section proposes a brief introduction of the actors involved in defending Salafi detainees on the one hand and a take on the experience of al-Karama Forum, on the other hand.

Islamist initiatives for the defence of Salafi detainees

These initiatives appeared as a response to rights violations by security agencies during a counter-terrorism campaign after the 16 May 2003, terrorist attacks in Casablanca. These initiatives are characterized by two features: expressing solidarity (with detainees and their families) and their single-issue work (legal defence of detainees). These initiatives increased with the rising number of detainees as well as the divisions among the actors in the field and competition over the legitimacy of representation and mediation whether among organizations or within one. Such competition was accentuated by political competition for Salafi votes and supporters among various parties such as the PJD, the Renaissance and Virtue Party, the Democratic and Social Movement, and the Independence Party. The human rights discourse of these initiatives is partly derived from concepts associated with the reconciliation process in Morocco, invoking "victims" of the new era, in addition to a language borrowed from the religious rhetoric infused with Quranic verses and other Islamic concepts about victimhood and solidarity.

1- Annasir Association for Solidarity with Islamist Detainees in Morocco

Annasir association was founded in the context of the Equity and Reconciliation Commission[62] in January 2004 as the first Islamist rights organization concerned with providing legal aid to Islamists, especially Salafis detained under the anti-terrorism laws[63]. In addition to families of detainees, one of the founders, Abderrahim Mouhtad, who presided over the organization, was himself a former detainee. Mouhtad had taken part in the work of several human rights organizations such as the Truth and Justice Forum. On why he worked to establish this organization despite the existence of other such outfits in the country, Mouhtad said:

> "We knocked on the doors of all human rights organizations that I have come across as a member of the Truth and Justice Forum in Casablanca and my experience with other rights associations. I presented them with the issue of Islamist detainees. Some replied with admonishment; they believed that Islamists deserved detention. Others claimed it was a pre-mature issue …existing bodies refused to adopt the issue. Every time we knocked at someone's door, no one opened. We faced a dead end and we had two options: either we establish our own independent entity, or we go away. This is the question we posed in the meetings prior to our foundation. In the end, the consensus favoured the establishment of a legal framework that is specially devoted to the defence of detainees[64]."

The lack of a legal status for the association, despite meeting all the necessary conditions, does not prevent it from organizing activities in a climate of relative tolerance on the part of the authorities. Despite modest human resources and capacity, the association was able to impose the Salafi detainees' issue on the Moroccan human rights agenda and in mass media. It was also able to draw attention to the suffering of another category of victims of the anti-terrorism law: the families of Salafi detainees. It mobilized them and provided them with a platform.

2- The Joint Committee for the Defence of Islamist Detainees

On its website[65], the Joint Committee for the Defence of Islamist Detainees is introduced as a Moroccan organization formed to defend the rights of Islamists detained under the anti-terrorism law through "all peaceful and legitimate means to put an end to all violations and abuses inflicted on Islamist detainees without discrimination." Established in May 2011, the committee brought together two organizations involved with Salafi detainees. The first was the Truth Coordinating Body for the Defence of Prisoners of Conscience and Belief, which represented families of current detainees under the anti-terrorism law. Founded in late 2010, this body was a measure of solidarity with Salafi detainees engaged in protest actions inside prisons. The second was also a coordination body for former Islamist detainees. The latter was set up after the March 25, 2011 agreement[66] to push

[62] الظهير الشريف رقم 1.04.42 الصادر في 10 أبريل 2004 بالمصادقة على النظام الأساسي لهيئة الإنصاف والمصالحة، الجريدة الرسمية عدد 5203 بتاريخ 12 ابريل 2004.

[63] Smaoui Selim, "Après la réconciliation, la mobilisation? Sociologie de la défense des ''détenus salafistes'' au Maroc", Mémoire de Master Recherche 2, IEP, Paris, 2010; "Bricolages moraux et transactions politiques: la ''réconciliation islamique'' au prisme de ses usages au Maroc", In Justice, Religion et Réconciliation, L'Harmattan, Paris, 2014.

[64] "President of Annasir association: In prison I realized the value of supporting a person behind bars", Al-Muslim, 18 November 2005, available at www.almoslim.net/node/86740 (in Arabic)

[65] See the Committee website at www.ccddi.org

[66] Thousands of suspects were arrested and/or tried under the 2003 anti-terrorism law. The detainees who came to be known as the "Salafi Jihadis" received the death penalty or sentences up to 30 years in prison. In February 2011, three days before the massive protests broke out, Salafi detainees went on strike in Sale prison, winning an agreement with the authorities on March 25. The agreement brought them together with representatives of the department of prisons, the Ministry of Justice, and the National Human Rights Council. It was observed by al-Karama Forum. Under the agreement, the government committed to investigate the condition of Salafi detainees and to release those it could gradually. In April 2011, it released 196 detainees in response to a request made by the National Human Rights Council. The released detainees included Mohamed Fizazi and Abdel Karim al-Shazli, the most prominent sheikhs of Salafi Jihadism.

for its implementation and to advocate for abolishing the anti-terrorism law and redressing the damage caused to detainees arrested under this law[67].

The Joint Committee paid great attention to mass media and public positioning through an active presence on social media platforms and mobilizing families of detainees to organize public protests, including hunger strikes, demonstrations and vigils outside mosques, the parliament, the Ministry of Justice, the CNDH headquarters, and PJD headquarters. As is the case with all human rights organizations defending Salafi detainees, the committee sharply criticized the PJD for not doing much despite overseeing the government including the Ministry of Justice and Freedoms. Justice minister Mustafa al-Ramid had been a prominent defender of their cause when he practiced law, as an opposition parliamentarian, or when he led al-Karama Forum.

3-The Moroccan Association for Integration and Reform

This association was founded in March 2016 by activists and a group of former detainees under the anti-terrorism law. Abdel Karim al-Shazli, one of the most prominent released Salafi detainees, led the Association[68]. The association works to reintegrate former Salafi detainees in society and to provide them with employment opportunities. It also works to raise public awareness about the challenges facing former detainees.

Considering how this organization was set up, its funding and location, many saw it as 'human rights arm' of the political party Democratic and Social Movement Party with which it was affiliated. This party was ironically founded and led by former police commissioner Mohamed Arshan who had been allegedly engaged in torture and other gross human rights violations.

Al-Karama Rights Forum

Six months after the emergence of Annasir Association, al-Karama Forum for Human Rights was founded in June 2005 as the first Islamist human rights association that aims to reconcile two distinct frames of reference in its approach to human rights; these are "primarily the Islamic teachings that dignify human beings considering the human to be the most supreme of all creatures" and, secondarily, the international references as indicated in the Universal Declaration of Human Rights and other international covenants and conventions[69].

In comparison to previous Islamist human rights organizations, al-Karama Forum attracted different and diverse activists and leaders and developed a wider reach and a broader scope of work. In addition to former Islamist detainees, other founding members largely came from the conservative religious middle class and included lawyers, professors, and journalists[70]. Their ideological persuasions included the conservative (e.g. al-Habib al-Fourkani), organized Islamist factions such as the Civilized Alternative, the veterans of Islamist Youth, the Unification and Reform movement, and the PJD[71]. The professional attitude of Karama is reflected in how they opened branches; professionalized jobs; managed partnerships, networks and alliances; and prepared shadow reports.

Although its media and human rights profile is primarily associated with the defence of Salafi detainees, the scope and fields of al-Karama's work have expanded since its establishment to include the justice system, security sector governance, combatting and preventing torture, observing elections, combating human trafficking, mediation and solidarity campaigns in several cases.

According to one of its statements[72], the main impact of al-Karama, in addition to services for Salafi detainees, included taking part in important rights campaigns such as opposing the trials of the 6 April detainees, of singer Moaz Balghawat, of some February 20 activists, and of journalists. It also opposed violent security interventions against peaceful protests and the pardoning

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[67] See a testimony by a former detained and a founder of the organization. Cédric Baylocq et Jacopo Granci, "20 février: Discours et portraits d'un mouvement de révolte au Maroc", L'Année du Maghreb, 2012, pp. 239-258.

[68] Al-Shazli is one of the most prominent Salafi Jihadist leaders in Morocco. Born in 1960 in Casablanca, he studied philosophy at Mohamed V University in Rabat and received his doctorate in 2000. His dissertation was on the theologian Ibn Taymiyyah. He's known to have been an activist in the Islamist movement since his youth. He was arrested in 1984-1985 and later in 1995 and interrogated over the formation of Islamist cells in the military. He had served in the Moroccan Administration of National Defence between 1989 and 1992 and in the International Cooperation in Moroccan American Military Relations Department, in addition to his work in the Processing department of the Administration of National Defence and the Directorate-General for Research and Documentation. After the terrorist attacks of May 2003, he was sentenced to 30 years in prison. He was released, alongside other Salafi activists, under a royal pardon in 2011. His work includes: «فصل المقال في أن من تحاكم إلى الطاغوت من الحكام كافر من غير جحود ولا استحلال»

[69] This duality in referentiality was present in the earliest human rights initiative in Morocco, the Moroccan League for the Defence of Human Rights, which was established in May 1972. Its goal was to "disseminate and strengthen the concepts and culture of human rights, in all origins and sources, as stipulated in Islam and confirmed in the Universal Declaration of Human Rights and international covenants and conventions". See the organization's website at www.lmddh.com

[70] According to its first press release, the Forum was founded by "an elite of academics, men of law and sciences of different specializations and former political detainees who share the same principles and perceptions of human rights based on an Islamic worldview that dignifies the human being and considers him the most supreme of all creatures and based on international covenants of human rights which are considered a human virtue." See: "Karama Forum Elects an Executive Office", Tajdeed, 20 June 2005 (in Arabic).

[71] The founding members included Mustafa al-Ramid, Abdelali Hamieddine, Abdel Malek Ziaya, Mohamed Hakiki, Mohamed al-Amin al-Rikala, Abdul Latif al-Hatimi, Mohamed al-Kashour, Khalil al-Idrisi, Jamila Masdar, Jamila Alamary, Mohamed al-Talabi, and Anas Mizawar.

[72] The statement emphasized that the forum was "one of the first actors seeking a just settlement for the detainees of the so-called Salafi Jihadism since it was established in 2005… [in] 2012 and 2013, it worked with two human rights associations (Adala and al-Wasit) in addition to working with Sheikh Abdel Wahab al-Rafiki Abu Hafs on organizing consultative meetings with human rights associations and former detainees through the Joint Committee for the Defence of Islamist Detainees, a number of parliamentarians and government officials. This effort was crowned by an important memorandum submitted to the prime minister …to follow up on the file". See: "Karama Forum: This is the Truth of the Disagreement with Hakeeki", Alyoum 24, 16 September 2009, available at www.alyaoum24.com/213047.html (in Arabic)

of a Spanish convicted paedophile and the banning of an Amnesty camp[73].

On another front, one of the incidents that cast a shadow on al-Karama was the arrest and conviction of some founders and members such as Mohamed al-Amin al-Rikala and Mustafa al-Hasnawi in terrorism-related cases[74]. The alleged links between al-Karama president Abdelali Hamieddine and the murder of leftist student Ayt al-Jid Bin Issa, a radical activist in Fez University in 1991, also came up in interviews and public meetings[75].

Like other Moroccan rights organizations, Karama's central dilemma revolved around navigating the overlapping area that mixed human rights, politics and partisan affiliations. Many saw al-Karama as the PJD human rights arm or even just an 'appendage' for this party. The shift from the opposition ranks to a supporter of the government after the PJD assumed power created tensions within al-Karama, in which power was transferred between two prominent party leaders, Mustafa al-Ramid and Abdelali Hamieddine. Al-Karama was criticized for a perceived shift in priorities and a tendency to support the agenda of the "ruling Islamist party" and its officials[76]. The internal Karama elections for leadership position became an occasion for some members to strongly criticize such shifts. For example, Ahmed Bu Ashrin al-Ansari, an al-Karama founder lamented that the changes, saying that this position would "end with a total takeover of the Forum and the exclusion of anyone who maintains an approach that diverges from the partisan approach of the president and his clique. The resulting outfit will be a purely partisan platform and that the human rights mission of al-Karama has ended, and its official party duty has begun. It will turn al-Karama into an appendage to the party and a vicious defender of the Ministry of Justice and Freedom[77]."

The internal conflict over this issue erupted in 2014 al-Karama's president and several members of the executive office, especially executive director Mohamed Hakiki, one of the most prominent rights activists in Morocco[78]. The crisis evolved into a rhetorical war of statements and trading of accusations between the two parties with threats of dismissal, withdrawal or corrective measures. The causes of this disagreement based on statements made by the opponents of president Hamieddine, who went to be re-elected in 2016, were[79]:

1. Complete independence from the state and political parties was compromised and became a bone of contention between the president and Forum members who outlined transgressions they insinuated were supported by the Forum president.
2. The president and the executive director clashed over the Forum position regarding detainees under the anti-terrorism law. The executive director criticized the government for reneging on commitments outlined in an agreement signed in March 2011. The dispute worsened when the executive director attended protests organized by the Joint Committee for the defence of Islamist Detainees against the government.
3. The director and other opponents accused the president of working to limit the Forum's role to enter partnerships and conduct research. This meant the Forum would distance itself from field work and from addressing complaints and violations. Such a modus operandi, the director feared, would strip the Forum of its solid contribution to the struggle for human rights.

In line with its Islamist anchors, al-Karama adopted a conservative approach vis-a-vis several human rights issues such as the position on the death penalty, women rights, abortion, etc. Such an approach deepened the rifts within several networks and coalitions in which al-Karama took part, and where human rights were uniformly held as universal and indivisible.

Benkirane's Islamist government and human rights

After the 2011 protests, Morocco engaged in a new and distinctive path to strengthen human rights. This was especially true on the legislative front, observing international conventions and cooperating with international fora and mechanisms. Assessing the human rights record under the Islamist PJD government since 2011 can be undertaken in two ways. The first is a pure repertoire of relevant legislation and success indicators as well as shortcomings and failures in managing human rights politics.

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[73] Rap singer Moaz Balghawat, known as the "Spiteful", was an activist in the February 20 movement, had been arrested by security agencies. The detainees of 6 April 2014 were young activists from the February 20 movement who were arrested in a march in Casablanca organized by trade unions to protest government policies. Daniel Calvin was a Spanish paedophile who was sentenced to 30 years in prison for cases of rape against minors and who benefited from a royal pardon that included several Spanish prisoners instigating a wave of protests in Morocco.

[74] The case of Mohamed al-Amin al-Rikala dates to 2008 when several political and Islamist activists were arrested in a case known publicly as the Belliraj cell. It was followed by several charges including "infringing on the internal security of the country, forming a criminal gang to collectively prepare and commit terrorist acts to disturb the public order through instigating fear, intimidation, terror, violence, premeditated murder, etc." These activists benefited from a royal pardon after the February 20 protests. See:
عمر الفاروق الركالة، "على هامش الذكرى الأولى لإطلاق سراح المعتقلين السياسيين الخمسة"، هسبريس، 13 إبريل 2012، متاح على www.hespress.com/opinions/51516.html

[75] أمال كنين، «انتخاب حامي الدين بـ«المستشارين» يغضب عائلة آيت الجيد»، هسبريس، 13 أكتوبر 2015، ومتاح على www.hespress.com/orbites/280518.html

[76] In response to critics, the Forum said "it was and will remain an independent rights association that works on rights cases from an objective standpoint based on checked facts, mediation and working with the responsible actors to resolve human rights cases and that its mission is neither to escalate nor to appease"

[77] أحمد بو عشرين الأنصاري، "الاستلاء الفاضح على منتدى الكرامة"، الأول، 23 يناير 2016، ومتاح على www.alaoual.com/opinion/4273.html

[78] Mohammed Hakeeki is one of Karama founders and served as its executive director. He is also a former Islamist detainee who was sentenced, among 71 others, to 25 years in prison in July 1984. He spent 11 years in detention before he was released in 1994. He joined the Moroccan Association for Human Rights as well as Morocco's Amnesty International chapter. He was also one of the founders of the Moroccan Forum for Truth and Justice in addition to working in the Equity and Reconciliation Commission from which he was expelled. He also contributed to several rights initiatives defending Islamist detainees such as the Committee for Solidarity with Former Islamist Detainees, the commission demanding the release of the journalist Mustafa al-Hasnawi, the Coordination committee demanding the release of the political detainees in Bellarij case. He played a role in establishing the Truth Coordination Committee for the Defence of Prisoners of Conscience and Belief and the Coordination Committee for the Defence of Former Islamist Detainees. The two outfits were merged into the Joint Committee for the Defence of Islamist Detainees where Hakeeki became the legal adviser. He is also one of the most prominent leaders of the Renaissance and Virtue party, a splinter group from the PJD.

[79] These reasons have been gleaned from statement made by Forum leaders and posted on badil.info as an annex to an article entitled, "Four Leaders Place Hamieddine in the Worst Moral Crisis, Portraying him as a Liar, Immoral and Uncivilized".

The second approach focuses more on the actual developments and relevant practices affecting the status of human rights considering the power relations within the Moroccan political system.

The official inventory provided by Benkirane's government could provide a primary entry point to an evaluation of the impact of the government in the field of human rights[80]. The government presented at length what it considered its success in advancing human rights and the protection of freedoms during five years in power[81].

According to this approach, the government has taken several measures and decisions to promote human rights and freedoms in Morocco, on top of which was the obligatory investigations into any torture allegations and that this crime and its penalty do not have a statute of limitation. The government strengthened guarantees for fair trial such as the right to a defence, making the presence of a defence lawyer an inalienable right during interrogations of minors and persons with disabilities, and the obligation to make audio and visual recordings of interrogations of persons in custody. Moreover, the government enabled independent national and international organizations to inspect prisons and detention centres.

The National Press Council adopted a code of ethics and recognized the legal status of online platforms as press organizations. The government relinquished the right to administratively shut down websites or newspapers and abolished prison penalties in freedom of expression cases involving media platforms. A judicial order is required for blocking websites. The government enshrined the right to assembly. It allowed citizens and CSOs to directly petition the authorities and ended the trial of civilians before military courts while military personnel could be referred to ordinary courts if they are charged with committing common law offences.

The Islamist government also signed and endorsed international human rights conventions such as the International Convention on the Protection of All Persons from Enforced Disappearance, and the Optional Protocol of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment. While in office, the Benkirane cabinet regularized the status of 19,000 illegal foreign residents and allowed 20,000 immigrants to benefit from a medical assistance program (RAMED). Meanwhile, foreign residents started to benefit from government-subsidized housing programmes.

Despite such a positive record of the government's performance, some criticism remained[82]. A president of a prominent leading newspaper, journalist Tawfik Bouachrin, writes, lamented in an article titled "What We Lost with Benkirane[83]" the losses incurred during the first years of Morocco's new democratic experience. He accused Benkirane of adopting a "non-democratic interpretation of the constitution … [and setting] normalizing relations with the palace above enforcing the constitution and respecting its structure which was a fruit of a long struggle by generations of activists[84]." Bouachrin surveys several shortcomings that afflicted human rights during this period:

> "we lost a few points in the global indicators for respect of human rights, freedom of expression, fighting corruption, the freedom of association, the right to peaceful protest and other individual and collective freedoms. Benkirane left himself little room for manoeuvre and distanced himself totally from the solid nucleus of power claiming that it was not his purview. As a result, Benkirane could not end corruption nor address security sector reform. He reformed neither the media nor the rotten diplomatic machine; he did not investigate the debt that has been accumulating over many decades … Benkirane had many cards at his disposal and yet he surprisingly wasted them all. He had in his hands a progressive Constitution of which he made no use. He also had in his hands the premiership institution and yet he failed to furnish it with an appropriate cast of experts. He enjoyed a huge popularity that he failed to turn into a fuel for many fundamental changes. Instead, his role was limited to denouncing the manipulation of media and public statements while his own hands were tied up despite being in power[85]."

The government procrastinated or failed to amend legislation in line with the new Constitution and to promulgate laws to regulate and protect rights. On the contrary, it attempted to sidestep the demands of human rights organizations and trade unions taking measures such as deducting the wages of workers on strike, not amending the strike law, and extending the retirement age at the expense of participants in the social security pension fund. The government violated the right of assembly and increasingly deployed security forces against demonstrators, including through the use of excessive force against peaceful

[80] In its parliamentary statement, the government pledged a "transition to a new phase of democracy building through the new constitutional arrangements to enhance confidence in a better future for the Moroccan nation, providing conditions for competition and collective action for the renaissance of the nation, its strength, sovereignty and unity and working for providing dignity, freedom, development and social justice for all citizens." Moreover, it pledged "commitment to the constitution and its legislative and institutional requirements, responding to the fundamental and urgent expectations of the Moroccan people in their different sectors and strata both at home and abroad as well as responding to the needs of economic and social actors and the institutions of civil society and fulfilling the international obligations of the country". See excerpts of the government's statement in:
رشيد مقتدر، "تأملات في التجربة السياسية لحزب العدالة والتنمية المغربي في الحكم"، سياسات عربية، العدد: 3 يوليو 2013، ص. 5 . 17.

[81] For more information, see a summary of this official governmental evaluation on the website of the ruling party:
عبد المجيد سحنون، "هذا ما قامت به الحكومة لتعزيز حقوق الإنسان والحريات العامة"، 17 أغسطس 2016، ومتاح على bit.ly/2DSn0NW

[82] See for example: Thierry Desrues et Irene Fernández Molina, "L'expérience gouvernementale du Parti de la Justice et du Développement: les islamistes au pouvoir?", L'Année du Maghreb, 2013, pp. 345-365; Thierry Desrues, "Le gouvernement Benkirane à mi-mandat. De l'art d'agiter les épouvantails", L'Année du Maghreb, 2015, pp. 195-222.

[83] توفيق بوعشرين، "ما خسرناه مع بنكيران"، اليوم 24، ومتاح على www.alyaoum24.com/504879.html

[84] In criticizing the modus operandi of Benkirane, an analyst pointed out that the premier's goal "was to satisfy the Royal institution and its circles, which often made him more royal in his approach than the king. He censored himself as well as his government excessively. This censorship was often backed by a royal interpretation of the constitution and not a democratic one as would have been required of truly democratic leaders. See:
محمد باسك منار، "التجربة الحكومية بقيادة حزب العدالة والتنمية في المغرب. السياق والمحصلة الاولية والمآلات المحتملة"، دراسات عربية، العدد 2، 2013، ص. 73 . 82.

[85] توفيق بوعشرين، "ما خسرناه مع بنكيران"، مصدر سابق.

protesters. Prison conditions worsened while unemployment rose and standards of living deteriorated. Critics pinpointed the discrepancies between rhetoric and reality and between the official discourse and the actual practices. Such a critical reading of the government record is backed by several reports issued by official state institutions including the High Commission for Planning, Bank al-Maghrib, and the Supreme Council of Accounts and by national and international human rights organizations.

With the repercussions of the global economic crisis and the unprecedented level of external debt resulting from public policies, the state of human rights in Morocco has deteriorated as security and other state agencies became more aggressive in handling collective socio-economic demands and protests. The increased use of excessive force was evident in many organized social protests, especially by the unemployed, street vendors, resident doctors, trainee teachers, etc.

Concluding remarks

While the Moroccan human rights movement evolved at the hands of socialist and leftist activists struggling for change and democracy, the Islamist actors engaged the field and discourse of human rights more recently and remain partially hostage to the conflict with the progressive and leftist activists who had long monopolized the field. Given "the experienced protest movements and the progressive character of the human rights struggle", democratic and progressive circles continued to suspect the Islamist commitment to human rights and freedoms.

The Islamist human rights experience faces a number of challenges, including, in particular, an uneasy relation with the concept of universality and indivisibility of human rights at a theoretical level and a tense relationship with long-established national human rights organizations and movements at an operational level. On the ideological level, one of the constraints of Islamist human rights work is embodied in the cost of reconciling the referentiality of religion with that of the universality of human rights. The Islamist human rights experience, to a large degree, is selective. Its starting points were the defence and support of Islamist detainees, and later prioritizing economic and political rights. Meanwhile, they still entertain various reservations on certain civil and social rights in which their moral anchor and identity politics leave them with little space to manoeuvre as in the case of women's rights, for example.

A deeply seated obsession with the preservation of Muslim identity and particularity continues to impede the relative normalization of Islamists with democracy and the universal system of human rights. This normalization is ultimately difficult to progress due to strong reservations emanating from the central referentiality of Islam as embraced by Islamist actors. Some analysts believe that "the future position of Islamists and the fulfilment of their reformist project will depend on whether they will able to democratize their political thought and re-establish the concepts of freedom, equality and popular sovereignty in their discourse in a way that facilitates and eases the process of integration into political modernity[86]."

[86] امحمد جبرون، "الاسلاميون في طور تحول: من الديمقراطية الأداتية إلى الديمقراطية الفلسفية"، مصدر سابق.

PART V:

Governance of Human Rights Action

Unsolved Dilemmas: Issues of Internal Governance in Egypt's Human Rights NGOs

Yara Shahin

Summary

This paper explores the state of internal governance in Egyptian human rights NGOs. It looks at their internal structures including; decision-making processes, the existence and role of governing boards, relationships with donors, levels of accountability and representation of constituencies along with the relationship with the government within a restrictive legal and political environment. It argues that while the restrictive environment for civil society in Egypt has hindered the development of stronger internal governance mechanisms in many organizations, the internal dynamics of these organizations have also contributed to the weak internal governance structures in most of them. The dilemmas that persisted through different generations and phases of Egyptian human rights organizations include balancing activism on public issues with bureaucratization and professionalization of vehicle organizations, the difficulty for and resistance from founders/directors to leave their influential posts, developing better participatory mechanisms of accountability towards the NGOs constituencies and addressing the "stigma" of foreign funding.

Introduction

The proliferation of NGOs as well as the growing debate around how to define them and their roles had raised several questions about their internal governance. In particular, NGOs, though independent from the public state-affiliated sector, are perceived as dependent on semi- "public" funds as they receive funding from either local or foreign sources for public interest issues.

As such, voices arose requesting more transparency and thorough scrutiny for NGOs, managerial structures, operations and mandates. Additionally, with the increasing number of NGOs engaging in advocacy for human rights, it becomes relevant to look into their claims of representation as well as their accountability to their proclaimed constituencies, donors and towards the state. These questions and controversies that dominated the international literature and the practices of NGOs in several countries have also been raised by Egyptian NGO, their detractors and their supporters.

Egyptian human rights NGOs, since the establishment of Egyptian Organization for Human Rights (EOHR) in the mid-1980s, have functioned in a restrictive political and legal environment. By late 2016, when the field work for this research was conducted, these organizations had been facing one of the worst crackdowns ever against civil society, particularly human rights NGOs.

Facing such a crisis, the questions of internal governance of these organizations – primarily issues of accountability, representation, and the stigma around foreign funding – resurfaced. Over 35 years of practices, various generations of human rights NGOs and defenders (HRDs) emerged while the political and legal environment changed, from the early years of former president Hosni Mubarak (1981-2011), to the few years before the January 25th 2011 revolution, to the major expansion from 2011 to the end of 2013 and finally to the last four years (2013-2017) which witnessed unprecedented levels of human rights violations in Egypt as well as the harshest crackdown against NGOs and HRDs.

Methodology and Profiles of Organizations

This study was based on semi-structured in-depth interviews with 10 NGOs, mostly with CEOs, three donor agencies, and two independent experts in the field of civil society in Egypt who had experiences as board members in several local organizations. CEOs interviewed came with diversified experiences as founders of several organizations, members of boards in other organizations; many also enriched the research with their "institutional memory" of several organizations within the human rights movement. All 10 organizations are registered entities with premises, hierarchy, staff, reporting systems and internal bylaws.

The selection of the different organizations took into consideration the variations in scope and mandate as well as history and years of establishment. In particular, two were established after 25 January 25 2011, three were established in the 1990s, and four established in the period between 2005-2010 and witnessed enlargement of scope and growth after January 2011 and until 2014. Additionally, three organizations interviewed were feminist organizations; the other seven organizations had diversified mandates with focus on social and labour rights, freedom of thought and expression and personal rights. A key gap in the methodology of this study, however, is the lack of enough primary data from donors and funding agencies, as many donors approached for interviews had been reluctant to cooperate and provide information needed for this research. This gap was overcome with a review of the available literature on donors' relation with the NGOs in general and within Egypt in particular. It is recommended, however, that for further research on this topic to encourage and push donors to share insights about their role and views on developing internal governance of human rights NGOs in Egypt.

Conceptual Framework

In order to conceptualize and look at the «internal governance» of NGOs and its elements, it is important to start briefly with the concepts of civil society and NGOs adopted for this paper.

• Civil Society

Civil society, according to the liberal school of thought, is defined as all types of organization between the family and the state[1]. Within this school, civil society is vital to counter the authority of the state and this goes back to the classical argument of Alexis de Tocqueville on the importance of having a vibrant and independent civil society that would enhance democracy and participation, counter the state domination of "natural rights" of human beings, and minimize state intervention[2]. This direct and classic relationship is often described in the literature as the "liberal" school of thought. It continued with Verba and Almond's concept of civic culture. Huntington adopts this same view in his theories on modernization and democratization as does Putnam with the concept of "social capital". Civil society was also addressed by the Marxist school of thought based on the works of Gramsci and Habermas on the public sphere. In this school of thought, civil society is not an independent space to counter state intervention but rather, for Gramsci, a "sphere that is occupied by the struggle for material, ideological and cultural control over the society, and this included for him, the state[3]."

• Non-Governmental Organizations, NGOs

The concept of NGOs is also controversial and used by various authors to refer to different things. Altan-Olcay and Içduygu refer to this controversy and the various typologies of NGOs based not only on the type of activities and membership, but also the differences between northern "autonomous" NGOs and southern NGOs dependent on foreign funding[4]. Pearce identifies two main factors in differentiating between NGOs: 1- NGOs which are usually made of middle class people who choose to work with the marginalized for a certain cause, and 2- grassroots organizations which are composed of people with specific identities and interests, dependent on their class, gender, ethnic origin, or cultural background who are in need for collective representation and organization.

Another important debate in the literature on NGOs focusses on its role. Pearce again refers to the variety of roles expected from NGOs including advocacy, mobilization, democratization, and reconstructing civil society and others. Holmen and Jirstrom refer to "great expectations" from NGOs, which could be explained by several reasons; the first is the assumption that the proliferation of NGOs as autonomous actors creates a voice for a wider number of groups, and a momentum for more pressure on the state. NGOs can also be seen as entities that work with grassroots organizations on the alleviation of poverty and the empowerment of communities, which in turn increases participation in the political realm[5]. Both arguments escalated within the rise of a global neo-liberal economic policy (adopted by the international financial institutions as well as many donors) that preached a limited role for the state, and the cutting of subsidies and welfare services for the poor. In this context, NGOs would play a role in empowering the poor, buffering the consequences of the retreat of the state and, in some cases, even become partners with the private sector in the provision of services[6].

• NGOs and Internal Governance

The concept of governance started first in relation to the government and public sector then moved to the corporate sector and the non-profit\NGOs sector. There have been different attempts to define good governance in NGOs. Most of the definitions and discussions of the concept emanated from voluntary governance codes adopted in various countries. The Code of Practice for Good Governance of Community, Voluntary and Charitable Organizations in Ireland defines governance as "how an organization is run, directed and controlled. Good governance means an organization will design and put in place policies and procedures that will make sure the organization runs effectively[7]". El Agati identified the key elements of governance as "authorization, transparency, accountability, participation, and empowerment[8]."

On the other hand, Renz defines governance as "the process of providing strategic leadership to a non-governmental organization. It entails the functions of setting direction, making policy and strategy decisions, overseeing and monitoring organizational performance, and ensuring overall accountability. Non-profit governance is a political and organizational process involving multiple functions and engaging multiple stakeholders[9]." Again Renz in his definition attributes governance to the existence of a board that pursues the functions of policy design, strategizing, and oversight. Such a board is normally made up of volunteers

[1] Henry Veltmeyer, "Civil Society and Social Movements: The Dynamics of Inter-sectorial Alliances and Urban-Rural Linkages in Latin America", UNRISD Program Paper Number 10, (2004), Maha Abdelrahman, "The Politics Of 'Uncivil' Society In Egypt", Review of African Political Economy, 29:91 (2007), pp. 21-35, and Jenny Pearce, "NGOs and Social Change: Agents or Facilitators?", Development in Practice, 3:3 (1993), pp. 222-227.

[2] Claire Mercer, "NGOs, Civil Society and Democratization: A Critical Review of Literature", Progress in Development Studies, January 2002.

[3] Lina Suleiman, "The NGOs and the Grand Illusions of Development and Democracy," International Society for Third-Sector Research and Johns Hopkins University: Voluntas, 24 (2013), pp. 241–261.

[4] Ozlom Altan-Olcay and Ahmet Icduygu, "Mapping Civil Society in the Middle East: The Cases of Egypt, Lebanon And Turkey", British Journal of Middle Eastern Studies, 39:2 (2012), pp. 157-179.

[5] Elizabeth Boulding, "Protest, Voting and Political Change: The Effects of NGOs on Politics in Developing Democracies," A Dissertation Submitted in Partial Satisfaction of the Requirements for the Degree, University of California, San Diego (2007).

[6] Maha Abdelrahman, "Civil Society Exposed, the Politics of NGOs in Egypt," Cairo: AUC Book Press, 2004, and Hans Holmén and Magnus Jirström, "Look Who›s Talking! Second Thoughts about NGOs as Representing Civil Society," Journal of Asian and African Studies, 44:42 (2009), and Ranjita Mohanty, "Civil Society and NGOs," The Indian Journal of Political Science, 63:2/3 (2002), pp. 213-232, and Jenny Pearce, (1993), op. cit.

[7] See code at www.governancecode.ie/about.php

[8] Mohamed El Agati, "Undermining Standards of Good Governance: Egypt 's NGO Law and its Impact on the Transparency and Accountability of CSOs," The International Journal of Not-for-Profit Law, 9:2, (2007), p. 10.

[9] David Renz, "Non-profit Governance and the Work of the Board," Midwest Center for Non-Profit Leadership, (2007), p. 1.

elected by the wider members of the organization.

For the purposes of this study, NGOs are defined as non-profit, non-governmental organizations based in urban centres, particularly Cairo, with a focus on advocacy, lobbying, litigation and documentation in the field of human rights. The study focuses on NGOs with an institutional structure in order to be able to explore efforts to establish a mechanism for internal governance. Based on the above overview, the key elements of internal governance include in particular: the level of internal democracy in the decision-making process, the existence of engaged boards that lead strategizing functions, internal & external transparency, and accountability towards donors, and represented constituencies. While the institutional structure in many of the cases includes NGOs registered as law or civil firms, the NGOs definition adopted for the purposes of this study applies to all researched organization regardless of their legal registration status.

Analysis of Findings

The above brief conceptual overview shows that most criticisms and accusations levelled against NGOs are focused on these key areas: dependency on foreign funding that would impact their agenda and priorities, NGOs claiming to represent marginalized groups or right bearers while they are not necessarily aware of the real needs and complexities of these groups (Holmen and Jristrom, 2009) and the accountability question at all levels – accountability towards its staff and teams, towards donors, towards the government and the state and more importantly accountability towards their alleged constituencies. Moore and Stewart stated: "NGOs set themselves as specialists and experts on problems that they define themselves, live entirely on foreign money, and can do what they want provided they keep their funders happy. They claim to speak on behalf of the poor, the disadvantaged, women, the disabled, AIDS victims or whatever, but how do we know that they are in any way representing or serving their clients?[10]"

This could be too harsh a statement but it is worth keeping in mind while researching issues of representation and accountability.

Through the following overview, the paper will address the various aspects of internal governance as discussed above, the different modes and levels of accountability, and how relevant are the various critiques in the literature regarding the situation of NGOs in Egypt.

The Decision-making Process: Relationship with Staff

The decision-making process in all organizations varied based on their internal structure and hierarchy. A key feature among all studied organizations is the strong participation of staff in shaping programmes in particular and also in discussions of the internal bylaws that governs their relation with the institution and its management. With an adequate structure in place, each organization had a programmes unit and a financial unit. The programmes unit is divided to different programmes based on the scope and mandate of each organization as well as its size. The same applies to the financial and administrative unit, which may include, in bigger organizations, several staff with several roles and only one leading accountant in the cases of small organizations. Another key feature is that managerial authorities and tasks are not fully centralized in the hands of the chief executive officer (CEO) but rather the CEO would share his\her authorities with a senior management team. These would include; Associate Directors, Heads of Programmes, and Head of Administration, in the case of large organization.

While all the interviewed organizations stated that there was an internal bylaws document that had been discussed among staff, in general meetings and retreats, the actual implementation of those bylaws differed from one organization to the other. Many CEOs stated that they face a major challenge to convince their staff to abide by the bylaws.

As one CEO said, "you are asking about bylaws. We have them, but how can I convince those "activists" to turn to act like "employees" given all the risks they face every day to perform their tasks". Another former CEO complained that while the bylaws were flexible enough for staff members to adhere to, he found it hard to implement the disciplinary actions against staff who do not adhere to it. "For example, one of my most competent staff, keeps on coming very late every day without a reasonable excuse, she also does not show up to work without calling or sending an email for no obvious reasons. We talked informally many times, and I counselled a lot. Finally, the admin would send the salaries report for my final approval at the end of the month, and I find that more than one third of her salary will be lost to disciplinary actions … I reduce it to only 5% cut of salary". Internal bylaws do not only include rules regarding attendance and annual leaves, it also includes codes of ethics and respect for privacy especially in the cases of women's rights organizations and feminist groups. It also provides rules and mechanisms for protections of employees/staff in cases of arrest or when facing any types of harassment from the state and its security institutions as well as recruitment procedures and a salary scale. In all organizations, the structure and internal dynamics were flexible enough to adapt the bylaws to their creative, non-bureaucratic staff as all CEOs were aware that NGOs in general and human rights organization in particular recruit not just "employees" but rather activists, advocates and defenders. But while the CEOs or executive directors and senior management of all interviewed organizations were conscious and persistent to engage staff in the decision-making process to various levels, the existence and roles of boards of directors was a more complicated dilemma in all organizations.

The Decision-Making Process: Boards

One of the main pillars of effective governance in NGOs is a functioning governance board of director, separate from the managerial team. The CEO is accountable to this board that performs key functions, which mainly include; 1) developing the organization's mission, vision, and core values, 2) recruit and select the organization's executive director, 3) support and assess the

[10] Mick Moore and Sheelagh Stewart, "Corporate Governance for NGOs?" Development in Practice Journal, 8:3 (1998), p. 336.

performance of the organization's chief executive, shaping the organization's future strategy, 4) ensure that the organization has financial and other resources adequate to implement its plans, 5) enhance the organization's credibility and public image, 6) represent the organization and advocate for it. The board of directors in some cases is called also, the board of "advisors" or trustees". Board members advise on strategies and develop vision; they should be the first accountability bearers within the whole accountability chain as they help to raise funds (or agree to fundraising strategies performed by the organization) and assess the performance of CEO and his/her team and finally they direct the organization as the main body that the CEO and team report to[11].

The existence of functional, engaged boards is one of the main challenges of the NGOs in Egypt in general and not only in human rights NGOs. There is usually a mix between the role of governance and role of management. As one experts on civil society and NGOs in Egypt said:

> "in big NGOs, it is the management which gets into the details of administering daily affairs but also dominates the board, whose role is minimized. While in the case of small NGO, especially community development associations (CDAs), the board is the management and all is mixed up. So, the equation between governance and management is problematic in the NGOs sector as much as it is problematic in the state, between an executive that has it all and a weak legislature".

Among the interviewed 10 organizations, only two had effective and engaged boards. In one of these two, the board members are not managing any programmes in the organizations. There are several reasons that could explain the dilemma of governance boards in the NGOs sector in Egypt.

Atop these reasons is the restrictive legal and political environment of the NGOs sector in Egypt. Law no. 84 for year 2002[12] has been a key obstacle towards a conducive and effective civil society in Egypt. The 2008 Human Development Report[13] had clustered the key areas of friction in the law. The first area of friction is the requirement that all civil society organizations "adjust" their legal status and register with the Ministry of Social Solidarity (MSS). But under the jurisdiction of MSS, NGOs can be seriously penalized for a number of infringements. This power to criminalize NGOs and their chairs is predicated on the basis of vaguely worded provisions, therefore, creating or managing an organization or a group whose purpose is to "call for obstructing the provisions of the Constitution" can result in a prison term. A second controversial provision is the right of the state to dissolve a civil organization, which should be only done under judicial jurisdiction and in cases of major violations even though through several procedural steps before dissolution, including appealing the legal decision according to Article 42 of the law. In general Law 84/2002 uses terminology that is open to interpretation; such as "the public order", "public ethics", and "threat to national unity". Explanations can vary according to time, place and circumstance, allowing the authorities a range of responses to NGO activities, and the tools to censor and oversee activities.

This restrictive law had pushed most NGOs to register as law or civil firms; where the legal structure of the organization does not require the establishment of a board. Even in the case of some NGOs that were willing to register under this restrictive law, they were denied the registration approval and had to resort to courts for years to gain the registration status. For example, the Egyptian Organization for Human Rights (EOHR) that was established in 1985, attempted to register under Law No. 32 of 1964 and was denied registration. It was also denied registration under Law No. 153 of 1999 and even after Law No. 84 of 2002 was issued, EOHR had to go to the administrative court to appeal the denial of registration by the government and finally gaining its registration status in June 2003 after 16 years of legal battles. Similarly, the New Women Foundation managed to register under Law No.84 in 2002 after a prolonged legal and bureaucratic battle[14].

In addition to legal restrictions, the political restrictions are even worse. The protest law, anti-terrorism bill and the current investigation in what is known as the "NGOs foreign funding case" along with the freeze of assets of prominent HRDs have all added to the deteriorating political and legal contexts of civil society structures in Egypt since 2013. It is not surprising that many of the interviewed NGOs stated that they all started some attempts to establish boards or activate their existing boards in the period between 2011-2013, when the political situation in Egypt was more conducive and open with fewer infringements on the right of association. The same period also witnessed a quick expansion and enlargement of several organizations, which sought to establish a board to support them in their enlargement efforts.

In addition to the restrictive legal and political environment, was the challenge of selecting and recruiting board members. Because most of these NGOs started as initiatives of human rights activists and evolved into institutions, they have around them a community of experts and supporters who are ready to provide technical advice but do not want to get involved in logistics, administration or finance issues. They are willing to offer time, networks, and connections, but not to the extent of assuming roles as members of governance boards. They prefer to have advisory rather than governance functions also to avoid legal liability.

One of those experts who was a member of several boards stated that "a dear friend and respected human rights activist would call me and tell me that he needs to put my name as member of the board in a new organization he is establishing, I accept of course, and

[11] Renz, op. cit., p. 2-3.

[12] In 29 November 2016, House of Representatives approved a new NGOs law. This paper was finalized before the president endorsed this bill into law on 29 May 2017. Maina Kiai, UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association had earlier said that "if the bill became law, it would devastate the country's civil society for generations to come."

[13] Heba Handousa, et. al., "Egypt Social Contract, the Role of Civil Society," UNDP: Egypt Human Development Report 2008, p. 92.

[14] Mariez Tadros, "A Battle Half Won," Al-Ahram Weekly, 30 October-5 November 2003, available at weekly.ahram.org.eg/Archive/2003/662/eg5.htm

I know it is more symbolic… I cannot remember when was the last time I attended a board meeting for any of these organizations."

Many CEOs' interviewed for this paper stated that it was a difficult task to find board members who have genuine interest in human rights, ready to bear the legal liability of an NGO in such a restrictive environment and also have the time to engage effectively with their responsibilities.

It is important to note that feminist organizations in particular were more cautious in the recruitment of new board members, as according to a CEO of a feminist organization it is even more difficult to find "like-minded board members who believe in feminist values…we even agreed as founding members and members of the board that our decisions should be by based on consensus and unanimity and not by majority voting…this helped the 'group' to continue and develop in full harmony."

But the restrictive environment and difficulty to recruit engaged board members are not the only reasons behind the weak NGOs' boards. The problem existed even in the period from 2005 to 2010 which was relatively less restrictive compared to the period (2014-2016).

As one CEO interviewed stated "we were very relaxed in the period from 2005-2010, although there was a very good chance to re-think and address the questions of governance and boards but we did not. We had the recognition of the international community and we were less harassed by the state. We surrendered to the more comfortable status-quo and lost a good opportunity to address this question."

Another CEO had a different view regarding the importance of a board. Based on the experience of this organization, staff members have been more capable of drawing the organization's strategy, and while they tried to recruit a group of outsiders, friends/advisors for the organization to help staff members during the expansion period of 2011-2013, the experience was not successful.

Another model for governance that was developed by one organization before 2011 was establishing a general assembly of staff rather than recruit independent volunteers to act as a board. This alternative model was adopted by some NGOs to evade a crisis similar to the one that hit the EOHR in 1993. The crisis led to the split in EOHR after several primarily politically motivated members infiltrated the general assembly[15]. In this model, the staff meets for an end-of-year retreat where they discuss the final report and budget, hold the COE to account and finally elect a new CEO for a one-year term. This model was described by most interviewees as lacking key governance elements, as the CEO is accountable to this assembly of his/her own staff one day per year, while they are accountable to him/her the rest of the year. This model also had its limitations as it created conflicting blocs among staff who are supporting one candidate for the post of CEO over another in a non-healthy managerial environment. In spite of the obvious limitations of this model, it was mainly seeking to limit the powers of the CEO in his/her relationship towards staff and ensuring a more participatory approach in decision making within the organization rather than holding the CEO and the whole organizations accountable to an external stakeholders group who supports and leads the organizations.

Decision Making Process: Founders and Chief Executive Officers

The lack of strong governance boards in most interviewed organizations resulted in decentralized managerial responsibilities while the ultimate authority lies with the CEO or the executive director. Most of the researched NGOs had a structure that included some form of a core senior group leading the organization. This core senior group had different names, its membership would include in some cases administrative staff members while in other cases it was only for senior programme officers. The CEO in some cases may have deputies or associate directors, while other NGOs may have a programmes manager that ensures synergy among all programs. These structures gave a consultative role to this core group and provided for a mechanism of delegation of authority in case the CEO was absent for any reason.

One key challenge that all NGOs faced has been related to the founder/s. As the case in most NGOs, human rights organizations start as an initiative founded by an activist or a group of activists who as founders exerted all efforts to develop and enhance the organization that started as a small idea. Founders devote years of their lives to the organization, face the risk of arrest and legal harassment and engage in several battles and hence become almost wedded to their organizations and do not leave the position of the CEO. Moore and Stewart addressed this dilemma in a succinct manner stating that, "individuals or small groups who are dedicated to the organization and the cause it represents, see their own dedication and commitment as the reason for success, and, perhaps, feel that they are entitled to reap the fruits of success, even if these fruits only come in the form of such intangibles as fame, respect, and status. Like small business people, the founders of NGOs may not want to share managerial authority and status with newcomers at the point where the organization has the potential to take off into rapid growth[16]."

Interviewees talked about both legal and moral responsibilities that impact their decision to stay in position or leave as the following quotes show.

> "I started a certain initiative and it is immoral just to withdraw and leave without ensuring its sustainability and that it will continue, but as for my future plans I don't want to continue in this position forever." – current executive director of an organization.

[15] Yasmine Shash, "The Formal Birth of the Human Rights Movement in Egypt," Arab Reform Initiative, 4 August 2017, available at www.arab-reform.net/en/node/1095

[16] Moore and Stewart, op. cit., p. 336.

> "I cannot let the organization fall apart after I leave. I am drained and unable to write or research. [But] before leaving I [should] make sure that funding is secured for some time in order for me to withdraw…the contract of the law firm is in my name...I am the legally responsible and accountable person in case the organization faced any legal difficulties…I cannot put my staff at risk." – former executive director of an organization.

> "Of course, I was afraid of taking the step to leave the post of CEO, but I was tired and drained. [Though] I also have grown embarrassed of having all these unlimited authorities." – former executive director of an organization.

Even if an executive director decided to leave to genuinely pursue another career or an academic aspiration, they face the challenge of finding a replacement. In the absence of boards, there is no clear mechanism for choosing of a new director. In spite of the attempts of some NGOs to empower many staff members and delegate certain authorities to some to attend meetings with donors and stakeholders, the founders are looked upon for advice and for articulating key positions and strategies that hold the institution together.

The founders' challenge and how it weakens internal governance of NGOs was described by "first generation institution" theory under which founders exert disproportionate level of control and make it unrealistic to have autonomous and effective boards[17]. This remains a serious challenge to human rights NGOs in Egypt, as it hinders institutional development and professionalization. In some cases, the influence and power amassed by founders had hindered the growth of the organization in dynamic and effective ways.

Foreign Funding and Accountability to Donors

Foreign funding is the subject of one of the most protracted debates in the literature of NGOs in general and in Egypt in particular. Research from Asian countries such as India and Bangladesh is full of critique to the so-called NGOs business model, blaming the international donor community for shifting what should have persisted as community-based, member-supported NGOs into professional, non-politicized entities[18]. Human Rights NGOs in Egypt have been also criticized for being too dependent on foreign funding, hence their precarious position in case the main donors change their priorities and agenda.

These critiques do not take into consideration, however, the legal context that imposes barriers to local fundraising. According to the 2008 Egypt Human Development Report, "NGOs have the right to receive donations only following the approval of the Ministry of Social Solidarity (MSS). Permission from the Ministry is required for all funding from foreign sources. Fundraising campaigns such as organizing fairs and public events to collect money also require prior approval and complex procedures that the MSS controls. The law gives MSS the Ministry exclusive authority to control NGOs' management of finances[19]."

In addition to these legal constraints, NGOs working in the field of human rights find it very difficult to seek funding from local businesses who are reluctant to help, even if indirectly, in exposing human rights violations as this could backfire on their business interests. Additionally, such business people often have strong relations with the ruling regime especially in a country where networks of corruption and cronyism are important for big business[20].

Additionally, there is no evidence that local/domestic funding could enhance NGOs, or make them more independent. In fact, experiences from some Eastern Asian countries like South Korea, where several corporations established local philanthropies, show poor governance and corruption. "A total of 45 philanthropic organizations established by South Korea's largest corporations were set up either to evade gift and inheritance taxes or to protect large corporations from hostile business takeovers… Over a third of the philanthropies' board members were linked to corporations or to founders' families"[21]. Even in a very restrictive setting like China, a series of cases of misappropriation of funds have discredited NGOs (in the field of community development) prompting the government to put in place fiduciary rules for GO-NGO (government-funded NGOs)[22].

All interviewees for this paper agreed that Egyptian NGOs cannot survive without foreign funding, but several HRDs have long voiced concerns that this funding was "the unfortunate necessity with the lack of sources of domestic funding[23]." This may be explained in light of the stigmatizing environment around foreign funding and "foreign intervention" as alleged by the pro-government and hyper-nationalist media.

But not all interventions in reality are motivated by agendas to serve external interests. One donor interviewed for this paper argued that, "funding coming from international donors is more transparent, it has clear rules, it requires clear financial and programmatic reporting… unlike funding coming from the governments of Libya and Iraq in the 1990s, for example."

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[17] Junki Kim, "Accountability, Governance, and Non-Governmental Organizations: A Comparative Study of Twelve Asia-Pacific Nations," a paper submitted to the conference on Governance, Organizational Effectiveness, and the Nonprofit Sector in Asia Pacific, organized by the Asia Pacific Philanthropy Consortium, 2003, p. 24.
[18] Mohanty, op. cit., pp. 213-232.
[19] Handousa, op. cit., p. 92.
[20] Nicola Pratt, "Human Rights NGOs and the 'Foreign Funding Debate' in Egypt" in Anthony Tirado Chase and Amr Hamzawy (eds.), Human Rights in the Arab World: Independent Voices (University of Pennsylvania Press), 2007, p. 119.
[21] Kim, 2003, op. cit., p. 5.
[22] Ibid, p. 14.
[23] Pratt, 2007, op. cit., p. 119.

As the debate and the stigma around foreign funding is complex, this section will focus on two main aspects relevant to the objectives of this paper: (a) accountability shifting and agenda setting, and (b) donors impact on internal governance

A- Accountability Shifting and Agenda Setting

Foreign funding is accused of shifting accountability of organizations towards their donors rather than their communities and domestic constituencies[24]. Donors, according to this view, impose their own agenda, trends or fashions, buzzwords that corrupts the field and the essence of the "cause". While this argument may be true especially in the case of funding directed towards community development, a different approach is in order when assessing the question of accountability in the case of human rights organizations.

According to the mapping of the International Council for Human Rights Policy (ICHRP), one key accountability relationships for NGOs was the one with their donors. "NGOs generally make great efforts to explain to their donors what they do and what they achieve and why the costs of their activity are justified, while donors normally attach conditions to their grants, related to financial reporting, impact assessment and evaluation. The clearly contractual nature of the relationship means that it receives the lion's share of attention in debates on accountability. Yet the view that NGOs are primarily accountable to donors is sustainable only on a narrow interpretation that reduces accountability to little more than financial probity[25]."

All NGOs interviewed for this study had asserted that they set their own agenda, draw their strategies with their teams and boards of directors or advisors.

A former executive director of one NGO stated, "we have ideas for projects and we decide on the right timing… to start a new program. Donors do not impose programmes on us. If they accept our new project, fine, but if they come with a ready-made one, we simply refuse". Another director stated that his organization had "very good relationships with donors." They, the director said, "listen to our needs, and if not we do what we want … for example they advised us to slow down in expanding in new governorates … while this was a very valid advice, I could not inform my team which has been working for two years in their governorate that we shall not start our programme there and we started it."

It is important to take into consideration that in cases where NGOs have a confrontational relationship with the state because of their work documenting and exposing human rights violations, for example, the organizations' staff members and victims of these violations could be at risk, and hence a transparency and accountability tool like publishing financial reports on the internet could become, in their view, counterproductive. As similar experiences from Latin America suggest, "it is essential to analyze the context before formulating generic demands for greater accountability… it is not possible to apply the same requirements for organizations that work in democratic environments to those that work in authoritarian contexts[26]".

B- Donors and Internal Governance

Donors are not made from the same mould. There are plenty and diverse types of donors, whose policies and procedures vary, which impacts the way they select and work with their grantees, the level and depth of communication they have with local NGOs, their reporting requirements, and their influence.

NGOs interviewed for this study differentiated between donors who perceive organizations as partners and others that perceive them as mere grantees. Partner donors in particular had better working relations with NGOs, as they share the same values and build the relationship on mutual understanding, transparency and dialogue. A majority of these donors were international human rights foundations and/or international feminist (or women-focused) organizations. Most NGOs in Egypt prefer funding from private foundations as compared to governments. All of the interviewed NGOs specified that they do not seek funding from the US Agency for International Development (USAID) in particular and that they would prefer to work with Scandinavian government agencies due to their neutral political positions and the absence of any "colonial" history in the Arab region.

There are also differences and variations among international philanthropic donors. These differences in approaches and types of partnership influence internal governance structures.

As one interviewed donor stated, "there is a responsibility upon donors to advise NGOs and work with them to develop their boards, to provide capacity building for better strategizing. They also request terms of references and job descriptions of project officers… All these efforts and mutual discussions help NGOs to become more institutionalized, effective and enhances the impact of their effort."

Some directors interviewed share this view and state that donors' requirements had helped NGOs in Egypt to develop better internal structures, adequate reporting mechanisms, bylaws, and more importantly, keep transparent and effective financial systems. One director said that, "donors' requirements enhanced NGO's public credibility and protected them when they were scrutinized by state regulatory bodies. Without these requirements, it could have been worse."

[24] Suleiman, op. cit., p.257, and Islah Jad, "NGOs: Between Buzz Words and Social Movements", Development in Practice 17:4/5, (August 2007), pp. 622-629.
[25] International Council on Human Rights Policy, "Online Discussion Forum on Human Rights Principles and NGO Accountability: An Approach Paper", available at www.ichrp.org/approach_paper.pdf, p. 5.
[26] Kweitel, "Experimentation and Innovation in the Accountability of Human Rights Organizations in Latin America", International Journal of Human Rights, 11:20, (June-December 2014), p. 313.

Other donors, on the other hand, opt for a more distant relationship with NGOs. They only request standard accountability mechanisms of programmatic and financial reporting but prefer not to be directly engaged in the efforts of NGOs to develop their internal governance.

The relationship between donors and NGOs is a very complex one. In essence, it is a power-relationship with donors holding relatively more influence tools because they are the givers. At the same time the shared values of "human rights" somewhat permeate this complex relationship. Donors "can play a supportive and positive governance role if they recognize the competing accountabilities that grantees must manage, respect the decisions of organizations that have sound and effective decision-making systems, and support efforts that organizations make to improve their accountability. On the other hand, bureaucratic and inflexible reporting requirements soak up NGO resources and time, and when donors impose their own priorities they could undermine effectiveness[27]."

Representation and Accountability to Constituencies

Donors-NGOs relationships are inextricably linked to the issue of "to whom" NGOs are ultimately accountable and what forms and mechanisms of accountability they have towards their own constituencies or the communities or groups they claim they are defending. ICHRP identifies the constituencies to which NGOs should be accountable as "the people for, with, or on whose behalf NGOs work." In the case of human rights NGOs, the core constituency would normally be the victims and survivors of human rights violations; for other NGOs, it would be the beneficiaries of their work, or members. Ensuring the participation of such beneficiaries and giving them a central role in the work of the NGO might seem only proper and normal[28].

In a famous liberal polemic, The Economist questioned the claims of representation of and accountability of NGOs to the "people". It wondered whether, "[t]he increasing clout of NGOs, respectable and not so respectable, raises an important question: who elected Oxfam, or, for that matter, the League for a Revolutionary Communist International? Bodies such as these are, to varying degrees, extorting admissions of fault from law-abiding companies and changes in policy from democratically elected governments. They may claim to be acting in the interests of the people – but then so do the objects of their criticism, governments and the despised international institutions. In the West, governments and their agencies are, in the end, accountable to voters. Who holds the activists accountable?[29]"

This polemic triggered a wave of relevant research and calls for NGOs to abide by certain accountability rules. Democratic states whose ruling institutions depend on voters may have an argument to make here, demanding voluntary organizations or associations to justify and prove how representative and accountable they are. But this argument disappears under authoritarian regimes which cannot question the representative credentials of these NGOs since these regimes themselves reply on restrictive laws and unaccountable regulatory bodies hoisted over the civil society.

The question of representation and accountability to constituencies preoccupied the human rights movement in Egypt since it evolved in the 1980s. The splintering of the EOHR in the early 1990s was caused by heated differences on these very issues of representation and legitimation. On the one hand, there were those who advocated for a wide membership organization to mobilize constituencies and integrate human rights action within "people's real struggles", like Hany Shukralla, while on the other hand, certain activists argued for a closed professionalized organization that drives its legitimacy from the universality of the international human rights bill. The latter included Mohamed el Sayed Saed and Bahey eldin Hassan, who went ahead to form the Cairo Institute for Human Rights Studies in 1993[30].

All the NGOs which were established before 25th January 2011 and were interviewed for this paper, have always operated as "closed" professional/expert organizations. However, they managed to build strong representational relations with several constituencies. These relations developed through NGOs activities and programmes of litigation, advocacy, capacity building, and summer trainings for students, etc. Over time, NGOs and HRDs connected with networks of workers suffering from and fighting the increasing privatization of the public sector. Workers approached NGOs seeking legal aid. University students disciplined for expressing their views on campuses, women seeking equal rights at the workplace, and victims of tortures, illegal detentions and their families, and others, found allies in Egyptian human rights NGOs.

The two years after the 25 January 2011 revolution witnessed an unprecedented opening of the public and political spheres in Egypt. NGOs welcomed and embraced this opportunity to expand their constituencies. Several NGOs expanded to many governorates outside Cairo, contesting the criticism posed against NGOs as being urban based and disconnected from the audience they represent. The geographical expansion was accompanied by expansion of scopes and programmes as well. It is within this new context that creating a "wide national human rights membership organization" returned to the agenda of the human rights movement in Egypt. The premises of many NGOs turned into hubs for new initiatives, groups, volunteers and networks of activists[31]. Reminiscing, the director of a human rights organization said that the "human rights discourse was then in the streets, people were chanting: Human Dignity, Freedom and Social Justice".

But this opening did not lead to clear claims of representation and better mechanisms for domestic accountability. There re-

[27] ICHRP, op. cit., p. 6.
[28] Ibid, p. 5.
[29] The Economist, "Angry and Ineffective", 21 September 2000, available at www.economist.com/node/374657
[30] Shash, op. cit., p. 10.
[31] Yara Abdel Wahed, "Egypt Post the January 25th Revolution: The Relationship between Non-Governmental Organizations and Networks of Activists," a Masters thesis submitted to the Public Policy and Administration Department, American University in Cairo, 2015.

mained limitations to how NGOs could become accountable to these constituencies. These limitations are not peculiar to the Egyptian case. A similar debate erupted within the Latin American human rights NGOs, where some institutions considered that defending international human rights standards gives legitimacy to human rights organizations, while others argued that NGOs represent unorganized groups that cannot give an express consent nor mandate. However, in this case, the obligation to be accountable is even greater and could happen through information sharing with constituencies and hence representation develops through accountability and a continuous practice that builds mutual trust[32].

Two of the interviewed NGOs were established after 2011. While both registered as "law firms", their initial structures were designed as membership organizations, with branches in several governorates. In each branch or office, there were three members and several volunteers. The new attempted structures did not evolve further due to the crackdown by the state and the forceful return to restrictive political and legal measures as of July 2013. The following years saw one of the worst crackdowns against NGOs since they evolved in the 1980s.

Some NGOs curtailed programmes or put them on hold. One director said his organization "had to put the volunteers programme on hold, it is a huge responsibility and we cannot put young students at risk of arrest or any other legal liability."

ICHRP elaborates further on the dilemma of representation and accountability to constituencies especially in a restrictive context. It argues that it was important "to acknowledge that reality is often far more complicated. For instance, access to this core constituency may be restricted or limited, as it is for NGOs that work on behalf of people who are dead or disappeared; or prisoners; or detainees held in secret. An NGO that works to better the situation of a group may also explicitly claim not to "represent" them or their cause. In other instances, some causes advanced by NGOs may involve a very broad or diffuse constituency (for example, advocacy to protect the environment or promote general rights awareness)[33]."

This can lead to tough decisions. An executive director of an NGO described one such decision in her interview. The issue was the relationship between the Cairo-based headquarters of this professionally-institutionalized organization and nascent feminist non-institutionalized initiatives outside Cairo. "[W]e worked with these groups and provided capacity building and mentorship. Many of them wanted to become chapters or branches for the organization in their communities. We collectively refused. We don't want the new initiatives to be us, we want them to develop independently, within their communities."

In spite of all these challenges, some interviewees still believed that it was possible to develop a membership organization that would enhance accountability of NGOs towards the society and their constituencies and address the question of representation.

One NGO director said he did not want "to swallow the new initiatives." "We are looking at a slow process of including members who believe and respect human rights. We need to capitalize on the momentum that January 25th created around human rights, in spite of all the difficulties. We could start including 10 members, then another 10 recommended others and so on."

Collective Action and Voluntary Regulation

Almost all debates about NGOs' governance, accountability, representation, claims of corruption and accusations of non-transparency have identified voluntary regulation and codes of conducts as one of the tools that could enhance internal governance in this sector. Examples include the 2004 Conference of NGOs in Consultative Relationship with the UN (CONGO) voluntary code of conduct that stressed the responsibilities attached to representation. In the same year, the World Association for Non-Governmental Organizations WANGO[33] issued a similar code of conduct. In 2006, 11 leading international NGOs adopted the International NGOs Accountability Charter[33]. All these documents and charters cover good governance, management, fundraising, and multi-stakeholder engagement; and refer specifically to respect for universal principles (such as the Universal Declaration of Human Rights), independence, responsible advocacy, effective programming, non-discrimination, transparency, and ethical fundraising.

In addition to international codes of conduct, there have been similar attempts on the national level in many countries in the same regard. In the Asia Pacific region for example, there are: Australia's ACFOA Code of Conduct, the Philippines' Code-NGO, Indonesia's LP3E, Japan's Codes of Ethics for development NGOs, and Pakistan's NGO Forum Code of Conduct[36].

Most of the collective action of human rights NGOs in Egypt focused on coordinating positions or activities. The most important coordinating body has been the 19-member Forum of Independent Human Rights Organizations (the Forum). One good example of a purpose-specific joint group has been the Front to Defend Egyptian Protesters (FDEP) that was established as an informal group of activists and national NGOs employees to defend citizens' rights to freedom of assembly and provide them with legal aid following the 2008 El-Mahala labour strikes.

The Forum held regular meetings to harmonize positions and discuss joint activities. The last major effort it undertook was a joint submission to the Human Rights Council in late 2014 on the occasion of the Universal Periodic Review of Egypt at the

[32] Kweitel, op. cit., p. 315.
[33] ICHRP, op. cit., p.5.
[34] World Association of Non-Governmental Organizations (WANGO), "Code of Ethics and Conduct for NGOs", 2014, available at www.wango.org/codeofethics/COEEnglish.pdf
[35] For the international NGOs accountability charter first drafted in 2005 and reviewed in 2014 and other ongoing efforts in this regard check accountablenow.org/
[36] Kim, op. cit., p. 25.

Council at the time[37]. The FDEP provides free legal assistance to detained protestors and disseminates information on the status of protestors especially when they are arrested or referred to trial across the country. FDEP has been active prior to 2011 and relies on volunteers rather than institutional co-ordination.

As explained by some of the interviewees, human rights NGOs attempted to draft a code of conduct in 2000, amid concerns over the 1999 restrictive NGOs law. Unfortunately, the attempt was not successful. Although there was not a public document or code of ethics of human rights NGOs, there have been always discussions and consultations on individual basis among various organizations as well as through the Forum.

Conclusion

Internal governance of NGOs is crucial for its efficiency, effectiveness, and credibility. However, it is difficult to assess the state of internal governance of NGOs without taking into consideration the very restrictive legal and political context surrounding them and affecting their work. Political accusations and security threats impacts the level of transparency and disclosure NGOs could allow as they have a moral and ethical obligation to protect both their staff members and constituencies from possible risk of arrest or other types of legal or extra-legal harassment.

A restrictive NGO law also discourages advocates of human rights from volunteering as board members for these organizations for fear of becoming legally liable. It also complicates the relationship with donors and hinders its development towards a mutual equitable partnership. Above all, a restrictive legal and political environment hinders outreach efforts, expansion and further engagement with larger numbers of stakeholders.

The legal and political environment, however, is not the only element affecting the internal governance of NGOs. The main structural characteristics of Egypt's human rights movement, and the way it has evolved also had affected the internal governance of NGOs. These evolutionary phases could be divided as follows:

1- The Establishment of the Movement and its Evolution (1985 and 2005)

During this phase, NGOs faced several challenges. The first was the split of the EOHR in 1993 and the second was the repressive Law No. 159/1999 that was later replaced by Law No. 84/2002. Within this establishment phase, the first generation of the movement faced several questions that continued to haunt NGOs later. On top of these questions was whether to set up open membership organization or to go for a closed structure made up of experts. The infiltration of several non-supporters of human rights to the membership of certain NGOs had pushed HRDs to opt for the closed organization model when establishing new organizations to avoid losing control or being compromised by pro-government members or by security agents. Instead of recruiting governance boards, organizations at this phase established distorted models of general assemblies, made of staff members rather than external members as an alternative for the challenge of internal governance. The second feature of this phase is the decision to receive foreign funding, after the initial tendency was more in favour of relying only on local donations and self-funding. The phase also witnessed an important model for co-ordinated action among the various organizations that succeeded in repealing the association law of 1999.

2- The New Generation of NGOs (2005-2010)

During this phase, new organizations were established by a younger generation of HRDs. Although the political and legal environment was relatively less repressive, the questions of internal governance were not adequately addressed. Organizations established learnt from the experience of their predecessors. On top of these lessons was the lack of participation of staff members in the decision-making process and the often-unchecked powers of founders and executive directors. Hence, there was more concern with internal decision-making processes, participation of staff members in decision-making and programme design. But there were no serious attempts to establish engaged and active governance boards. Bylaws were in place yet not activated or at least not all the time, and CEOs authorities were slightly limited by engagement of staff and involvement of a senior management team. In terms of scope, organizations in this phase were more professionalized and had specialized mandates such as academic rights, personal rights, freedom of expression, women's rights, etc. Regarding foreign funding, this new generation of organizations managed to build stronger partnerships with donors and funding agencies on more equal footing and overcame the stigma around foreign funding as one of the key dilemmas that faced the first generation of organizations.

3- The Expansion Phase (2011-2013)

In the previous two phases, organizations managed to build strong relations with their constituencies, but the question of accountability was not satisfactorily tackled. Organizations were seeking a wider outreach and expansion of their activities. The January 25th revolution opened up the public sphere dramatically; citizens became highly mobilized and politically engaged. Organizations started to rapidly expand their thematic and geographic scopes. Offices started to open in various governorates, staff members increased many folds, outreach and involvement of constituencies started to increase, and new organizations were established. During this rapid expansion phase as well as the concomitant fast political developments, questions of governance boards and accountability towards constituencies started to surface back into the discussion among organizations. Some started to consider activating their boards and enhancing their roles, others decided to revisit the "membership organization" model. Unfortunately, the crackdown against the organizations that started in late 2013 hindered a possible progress on issues of governance.

[37] CIHRS, "In a Report for the UN Universal Periodic Review: 19 Rights Organizations Declare: A Dramatic Deterioration in the Status of Human Rights in Egypt over the Past Four Years," 29 October 2014, available at www.cihrs.org/?p=9589&lang=en

4- The crackdown (2014-2017)

Human rights organizations faced one of the most severe crackdowns that threatened the continuation of the organizations while several key HRDs faced a serious risk of imprisonment and had their assets frozen or were banned from travel. Several organizations had to downsize programmes and cut down staff. Staff members reported that they were highly engaged in decision making regarding the future of the organizations and its impact on their freedoms and lives. While it was expected in such a crisis that organizations intensify collective action in order to be able to resist the crackdown of the state, the reactions of organizations varied. Some preferred to follow the international advocacy path, other preferred to speak up domestically against the state's crackdown and a third group decided to register under the NGOs Law No. 84\2002 or in some cases activate an existing registration under this restrictive law that was replaced by even a more draconian one in mid-2017. Some organizations adopted a mix of these strategies, but the diversity of actions weakened their collective impact on the state.

Through all these four distinct phases, human rights NGOs continued to face unsolved dilemmas that had a direct impact on internal governance as comprehensively overviewed in the analysis of the findings. Those are:

- Creating a balance between professionalization and bureaucratization; how to activate bylaws, set up a hierarchy and structures, enhance mechanisms for recruiting staff and developing their skills, etc., within a framework of flexibility that would leave a space of creativity for HRDs and activists. Most of these organizations are to a large extent staffed and/or led by activists who have an automatic negative reaction to bureaucratization and professionalization. On the other hand, to be able to secure foreign funding, which became the lifeline to many, they had to professionalize!
- Accepting foreign funding, even if mostly unconditional and in response to projects designed by the organizations themselves, automatically creates accountability measures towards donors. How to manage this accountability and ensure autonomy or independence stays a challenge. Additionally, when some human rights NGOs and HRDs received foreign funding they remained unable to overcome the related stigma and could not publicly defend their independence except by admitting that such funding was "a necessary evil". Local funding is not the only answer. Rather, in many cases it would come from the local business sector and would likely be tied to political or social agendas that contradict the very causes human rights organizations advocate for, such as the environmental rights of a certain community suffering from industrial pollution or the right to housing for communities facing business corporations involved in real estate development.
- Additionally, donors have to provide capacity building and support to their partners regarding the development of their governance structures without fearing that they are intervening in NGOs strategies or agenda. Many NGOs are seeking partnership relations with donors, based on mutual trust, which should make donors act like partners and provide tools and mechanisms to NGOs to grow strategically, establish boards and create a healthy managerial environment in their organizations. The balance between intervention and support, however, is very delicate.
- Limiting CEOs authority through actively engaged governance board is necessary. Most executive directors are also founders who are unwilling or incapable to exit the organization and this impedes the ability of organizations to develop and grow. The so-called "sweat and blood" phenomenon of the founders who are unable to leave the organizations they exerted huge efforts to establish, in some cases, kills the potential for the organizations to grow and leave them stuck with the balance of power forged by the relationships among the founding members. Meanwhile, where founders and CEOs are willing to exit, it is not easy to recruit a new CEO or rely on an actively engaged board.
- Building constituencies and expanding outreach but without real channels of accountability. The dilemma of engaging constituencies in the strategizing and policy formulations processes, agenda and priorities setting in the context of the power relationship between the "benefactors" and "beneficiaries" remains the most difficult dilemma to be solved. NGOs also face the challenge of creating a balance between empowering the emerging human rights initiatives and networks of activists while at the same time giving them the space to grow within their local contexts and communities. While several NGOs were able to mobilize networks of volunteers in several places outside Cairo especially after January 25th uprising, ensuring that those volunteers truly believe in and respect human rights values and principles remain a difficult task, though indispensable if an organization wants to be ultimately accountable to these very volunteers or members.

The Problematics of Governance in the Human Rights Movement in Tunisia

Hafidha Chekir

Summary

Independent civil society organizations (CSOs) have played a prominent role in the field of human rights in Tunisia especially after the 2011 revolution. After the adoption of a new law to regulate associations in September 2011, CSOs have increased in number and flourished even more when four organizations together received the Nobel Peace Prize in 2014. By late 2017, the number of registered CSOs neared 21,000, including about 350 working on various human rights issues. This paper focuses on the legal framework in which these organizations operate in Tunisia to show how their own governance was consequently affected. It emphasizes several governance issues related to management and funding. To that end, the paper highlights the experiences of organizations that have been active in the field of human rights for a long time as well as those that were established after the revolution.

A number of structural and financial hurdles prevent Tunisian rights associations from carrying out their activities in a manner that is more democratic and in accordance with the principles of good governance: accountability; transparency; and the engagement of all association members in managing its affairs and deciding on its approach and priorities.

Because the work of associations in Tunisia is primarily based on volunteers, especially young women and men, the pervasive reluctance in Tunisia to work with civil and political associations has a negative effect on the democratic development of these associations causing them to remain elitist. Moreover, the difficulty and unpredictability of securing domestic public or foreign funding makes it tough to stick to schedules and programmes as planned. Finally, this paper will also explore how funding availability, sources, mechanics and conditionality affect the internal workings of these organizations, their programmatic priorities, and their internal decision-making processes.

Introduction

Independent civil society organizations have played a prominent role in Tunisia, especially after the revolution of 2011, in all areas related to human rights. They increased in number after Decree 88, issued 24 September 2011, to regulate associations[1] and then the constitutional guarantee under Article 35 enshrining the right to association[2]. Thus, the activities of associations and their number multiplied and intensified during the first years of the democratic transition. The number of CSOs reached 20,858 in late 2017, among which there were 352 rights organization and 175 women's organizations[3]. CSOs flourished even more after four associations together received the Nobel Prize in 2014 for their role in preserving and enhancing the democratic transition.

The concept of civil society first emerged in Greek thought, albeit only vaguely, as Aristotle made no distinction between state and civil society. At the end of the 18th century, this concept became more entrenched in modern Western political thought with the increasing discussions of the necessity to limit the state's dominance by a civil society that is able to control its own affairs. In the 20th century, the Italian thinker Antonio Gramsci introduced the concept of civil society as one of the two mechanisms capitalism deployed to manage the burgeoning class struggle: 1) direct control through the state machinery, and 2) ideological and cultural dominance/hegemony through social formations (or the civil society) in which individuals voluntarily address sectoral or social problems and provide solutions to problems to improve their economic, cultural, social living conditions and defend their common interests.

Evidently, civil society did not emerge in liberal political thought as a saviour for the state but in a theoretical and historical association with the concept of state and authority; civil society doesn't exist in the absence of the state. But what kind of state? The state invoked here is one that guarantees human dignity, citizenship, freedom, democracy, and gender equality[4]. It is also a strong state; for a strong civil society could not arise within a weak state – the two are complementary components with distinct, but not completely separate, roles.

Civil society, however, can effectively achieve its goals only when it is independent and able to operate freely away from any undue intervention of political parties and the state. Civil society is, therefore, characterized by independence, spontaneous organization, a spirit of individual and collective initiative, self-denial, voluntary membership, and enthusiasm for serving the public interest. With this concept in mind, civil society becomes one pillar of democracy that plays an important role in its construction and in supporting its development.

[1] The Official Gazette of the Republic of Tunisia, "Decree Number 88 for the year 2011 pertaining to the regulation of associations", Issue 74, 30 September 2011, p. 1996.

[2] See article 35 of the new Tunisian constitution dated 27 January 2014, which stipulates that: "The freedom to establish political parties, unions, and associations is guaranteed. In their internal charters and activities, political parties, unions and associations must respect the provisions of the constitution, the law, financial transparency and the rejection of violence" issafrica.org/ctafrica/uploads/TunisiaConstitution2014Eng.pdf

[3] According to the October 2017 report from Centre d'Information, de Formation d'Etudes et de Documentation sur les Associations (IFEDA). See www.ifeda.org.tn/stats/arabe.pdf

[4] Abdul Elah Belakziz, On Democracy and Civil Society, Rabat: Ifriqiya Al-sharq, 2001, p. 29.

Consequently, an ideal civil society rests on four main tenets:

1. Being a voluntary act free of force or pressure
2. Independence from political parties and state institutions
3. Working with other organizations or associations that accept a certain level of diversity and differentiation
4. Not seeking to assume formal political authority, unlike parties whose activities primarily aim to control political institutions.

In Tunisia, the emergence of NGOs dates back to the 19th century. Initially, NGOs took the form of charitable religious entities aiming to assist the poor and the needy and to subsidize students and provide teachers for Islamic religious institutions in mosques, zawyas and katatib[5].

The Khaldounia association that emerged in the 19th century (1896) was no doubt the most prominent organization of its period. It promoted cultural exchange between Tunisian and French people and organized meetings, seminars and classes on Islamic Arabic cultural heritage[6]. From the outset, the Khaldounia worked to disseminate a contemporary reformist culture. In 1905, a second socio-cultural association emerged to help graduating students from Sadiki School to integrate in Tunisia's economic and social life[7]. The Sadiki Alumni Association worked to promote and popularize modern sciences.

With national independence, a constitution was adopted in June 1959 stipulating in its Article 8 that "freedom to establish associations is guaranteed and exercised according to the terms defined by the law". The relevant law, promulgated on 7 November 1959, created several obstacles to the general work of associations but stayed in force until 2011. With the change in the political situation and the fall of the dictatorial regime of president Zine El Abidine Ben Ali, there was a clear need to introduce a new law. This is why Decree 88 was issued on 24 September 2011 in order to regulate the work of associations, their management and financing.

Today, the operation of these associations and their current structure is subject to many questions: does the current situation guarantee the continuation of the struggle for human rights? To what extent do these associations, and those active in the rights movement respect the principles of good governance? This paper views good governance generally as a democratic approach to conducting public affairs by involving all stakeholders. It is concretized in laws, systems and decisions that aim to achieve quality and excellence in performance in accordance with the goals of transparency, accountability, responsibility and equality[8]. For CSOs, good governance means a transparent democratic process that involves all stakeholders and participants, ensuring their contribution in the decision-making process, in achieving the goals of the organization and in the general promotion of human rights.

This paper focuses on the legal framework in which Tunisian CSOs operate and how it affects their management, their funding as well as the achievement of their goals in the field of human rights. To that end, it highlights the experiences of organizations that have been active in the field of human rights for a long time as well as those that were established after the revolution.

I. Running the organizations: Between Democratic Management, Centralization and Attempts of Control by Political Parties and Institutions

One of the factors affecting how organizations are managed is the existence of a number of laws that regulate the establishment of these associations, hinder the free conduct of their activities and that are dependent on the relationship between the association and the state.

1. The Legal Framework Regulating Associations between 1959 and 2011: Cementing Centralization and Restricting the Work of Associations

For a long time before 2011, associations were subject to the 7 November 1959 Law that stipulated that associations can only be established after obtaining a permit or license from the Minister of Interior who enjoyed absolute discretion in granting licenses as well as the authority to monitor associations[9].

The law was revised in 1988 in order to support the functioning of associations and facilitate their establishment. It

[1] The Official Gazette of the Republic of Tunisia, "Decree Number 88 for the year 2011 pertaining to the regulation of associations", Issue 74, 30 September 2011, p. 1996.

[2] See article 35 of the new Tunisian constitution dated 27 January 2014, which stipulates that: "The freedom to establish political parties, unions, and associations is guaranteed. In their internal charters and activities, political parties, unions and associations must respect the provisions of the constitution, the law, financial transparency and the rejection of violence" issafrica.org/ctafrica/uploads/TunisiaConstitution2014Eng.pdf

[3] According to the October 2017 report from Centre d'Information, de Formation d'Etudes et de Documentation sur les Associations (IFEDA). See www.ifeda.org.tn/stats/arabe.pdf

[4] Abdul Elah Belakziz, On Democracy and Civil Society, Rabat: Ifriqiya Al-sharq, 2001, p. 29.

[5] Al-Ogaily Al-Tlili, Sufi Orders in Tunisia and French Colonialism, Tunis: Faculty of Arts, 1992, p. 55.

[6] Tlili Béchir, Crises et mutations dans le monde Islamo – Méditerranéen contemporain (1907-1918), T1, Fondements et positions des réformistes, Tunis : Publications de la faculté des lettres et des sciences humaines, 1978, pp. 38-40.

[7] Sadiki school was the first contemporary secondary school established in Tunisia in 1875 by reformist Khayr al-Din El Tunisi.

[8] Olivier Paye, "La gouvernance: D'une notion polysémique à un concept politologique", Études internationales, 36:1, 2005, pp. 13-40.

[9] Haykel Ben Mahfoudh, Le phénomène a associatif en Tunisie et au Maroc, Mémoire DEA, Faculté des sciences juridiques, politiques et sociales de Tunis, 1995, p.113.

ruled that if the state failed for three months to respond to a request for establishing an NGO, then this lack of action should be interpreted as an approval. Still the amendments denied citizens the right to associate in entities after only notifying the state. For an association to function it needed to seek permission from the competent authorities and the Minister of Interior, who have the right prior to the expiry of the three-month period from the date of submitting the request to disapprove the establishment of the association. The disapproval decision should be reasoned and notified to the concerned individuals. Such decision may be challenged (under Law 40 of 1972 articles related to abuse of power) in the Administrative Court[10].

At the same time, and to restrict the freedom to set up associations, every planned CSO was required to receive a receipt when it applied for a license at the Ministry of Interior. In most cases, this procedure was a mere formality that documents the application process and determines the beginning of the three-month period during which a decision must be made. However, the authorities came to consider the receipt as an additional requirement turning it into a new tactic to monitor and control associations. Gradually, they began to refuse to deliver a receipt in an attempt to delay the beginning of the three-months period necessary to initiate legal status. This was more common with applications made by independent citizens who are not affiliated with the ruling party or when the association applying for registration is promoting human rights or providing legal aid.

The Terms of Establishment of Associations

Article 3 of the previous law of associations laid down the conditions necessary for the establishment of associations. Applicants wishing to form an association shall file in the provincial head offices or the district in which the social department exists a statement including the name of the association, its main cause, objectives, head office address, a list of the names and titles of the association founders as well as all those entrusted with management and administration, and the Association StatutesAssociation Statutes.

The most challenging part of that process is the submission of the Association Statutes as its stipulations form the bases of the association itself; it is issued by the founding members in line with their choices and principles. It governs the internal workings of the association including the relationship among members and office holders as well as the interaction with the competent authorities and other civil society actors.

However, founders are not permitted to freely write the Association Statutes. Rather, they have to adopt a model text set by the competent authorities at the Ministry of Interior that mimics the hierarchies prevalent in governmental organizations. Submitting Association Statutes that do not abide by this model results in the rejection of the application.

Subordination to the Central Authority and Excluding Membership

The model of Association Statutes imposed a certain hierarchical structure on associations starting with a steering committee that represents the highest authority and holds the ultimate decision-making power. The steering committee must have a president, a general secretary, a finance secretary and certain number of members selected by the founders of the association. The Association Statutes should also determine the specific task of each office holder. The association's president is its legal representative and the one who leads the steering committee and executes its decisions. The general secretariat is in charge of the administrative issues of the association. The financial secretariat is in charge of the association's finances and all its financial dealings. All of these positions are imposed upon the associations. The Association Statutes also required the association to have a general plenary that involves all members who meet once a year and could exceptionally convene when needed. The plenary elects office holders every two or three years. However, while any member is an active unit in the general plenary in smaller associations or those without any provincial branches, the situation is different in associations with several branches such as the Tunisian League for the Defense of Human Rights (Ligue Tunisienne pour la Défense des Droits de l'Homme, LTDH) that currently has 28 branches all over the country[11]. For the LTDH, the members takes part in decision-making through branches, as Article 7 of its Statutes stated: "the league consists of participants active in the context of the League's branches". A participant is not permitted to attend the national council or take part in the general plenary, the general electoral session or the congress composed of the members of the steering committee and office holders in the branches.

In some associations, an intermediate body, such as a regular or an exceptional congress, that includes representatives from the branches (if present) and members of the steering committee could present a certain issue to branch representatives in order to engage them in the decision-making[12].

All of these factors hindered a democratic conduct of associations and restricted their activities. Gradually, the president became the most important member of the association. As its legal representative, the president came to enjoy an almost absolute authority in decision-making, thus removing middle layers in the association from the process. This resulted in the alienation of members in some associations, especially the ones with large representation and many branches in the country or those subjected to constant security scrutiny or opposing the ruling party.

[10] See Article 5 of the law regulating associations as revised by Law 1988/90 dated 2 August 1988.

[11] According to the opening speech by the League's president in the opening session of the League's 7th national congress held in Tunis in September 2016.

[12] See the LTDH's Statutes ratified in the 6th National Congress held in Tunis in September 2011 where Article 19 states that "the congress is composed of members of the steering committee and heads of the branches ... The steering committee can exceptionally call on former heads of the League, advisors, members of the disciplinary board and honorary members of the League as observers."

Due to all these factors, associations faced several limitations on how freely they could carry out their activities. Moreover, these regulations and structures undermined good governance. When a high commission was established after the revolution to supervise the democratic transition, the Law on Associations was reviewed and replaced by the High Authority for the Realization of the Goals of the Revolution, Political Reforms and Democratic Transition[13]. The current legislation was issued under a decree from this body to free the establishment of associations from the restrictions that hindered their work and to ensure the availability of a set of guarantees that enable associations to function under the best possible conditions[14].

2. The Independence of Civil Society Organizations between Law and Practice: The Law as a Mechanism to Disempower and Weaken Independent Associations

Although CSOs are based on the principle of independence from political parties and state institutions, the history of Tunisian CSOs shows ceaseless attempts of control from these two sides. We will use the LTDH as an example of the state's behaviour towards independent organizations.

The LTDH had been the main human rights organization in Tunisia and among the first associations of its kind in Africa and the Arab world. Established in May 1977 under an authoritarian political regime, but at a time characterized by relative openness after the trials of left-wing political organizations ended in harsh sentences by a State Security Court on charges of affiliation with an unlicensed organization[15].

The LTDH suffered from attempts of control by politicians as its establishment was based on an agreement reached among political parties, both in power and in opposition, and some independent candidates, under a quota system. The LTDH formation in this manner was a compromise between the ruling party and some opposition parties, to enable it to perform its role in defending human rights and mediating between the state and victims of human rights violations. The LTDH constantly monitored the human rights situation in the country to the extent that the ruling party once accused it of becoming an opposition party[16].

With Ben Ali's accession to power in 1987, and particularly after the 1989 elections that gave him legitimacy, freedoms, especially those related to associations, were severely curtailed. The LTDH was especially affected as it continued to address and condemn human rights violations and to demand compliance with human rights norms from state institutions, leading the ruling party to attempt to infiltrate it to undermine its independence, especially after the trials of Islamist politicians. At the same time, some prominent human rights activists made it to the steering committee and the presidency of the organization such as Moncef Marzouki, which made the regime more anxious.

After a crisis in the early 1990s, the government acted to weaken the League. In 1992, it amended the Law on Associations requiring that CSOs be categorized according to the nature of their work. In that regard, the first article of the law stated that "associations are subject to categorization in accordance with their activities and goals as follows:

- Women Associations
- Sports Associations
- Scientific Associations
- Cultural and Arts Associations
- Charity, Emergency and Social Associations
- Development Associations
- Amicable Associations
- General purpose Associations[17].

This amendment introduced a new restriction on the conduct of associations. This restriction lacked specificity, however, because the legislation only presented a list of categories without clarifying the criteria for each. At the same time, the legislation necessitated that the founders select one category from this limited list but deliberately overlooked one important category: human rights, despite the existence of long-standing human rights associations in Tunisia such as the LTDH and the Tunisian branch of Amnesty International.

This new categorization was meant to limit an association's activity to one specified area and ensure associations do not carry out any activities under a different category than the one selected at registration.
The categorization of existing CSOs, on the other hand, was to be decided by the Minister of Interior which enjoyed full freedom and discretion in that regard. The minister categorized some associations in an arbitrary manner. For example,

[13] From February 2011 to October 2011, the Authority prepared six important texts to regulate political life in the country after the revolution and to introduce reforms to the most important laws relating to civil liberties. This was important especially after the suspension of the Constitution and the decision to set up a constituent assembly to write a new constitution. These new laws were the bills for the election of the national constituent assembly, the Independent High Authority for Elections, political parties, associations, freedom of visual and audio communication and freedom of the press. See Minutes of the Authority from March to October 2011, in 2 parts, Tunis, January 2011.

[14] Decree 6 of 18 February 2011 pertaining to the introduction of the High Authority for the Realization of the Goals of the Revolution, Political Reform and Democratic Transition.

[15] Hafidha Chekir, « Quelques réflexions sur la cour de sureté de l'Etat », RTD, 1980, p. 189.

[16] Larbi Chouikha et Eric Gobe, « Les organisations de droits de l'homme dans la formule politique tunisienne : acteurs de l'opposition ou faire valoir du régime », L'année du Maghreb, 2009, pp. 163-182.

[17] The categorization rule was introduced in Articles 3 and 4 for Chapter 1 of the Law on Associations pursuant to Decree 25/1992 of 2 April 1992.

he categorized some amicable associations as development associations and some medical associations as scientific, development or social associations. The general-purpose category continued to be the most problematic due to its vague nature and because it is subject to a special set of conditions related to accountability and membership regulations. This left the door open for the government to impose arbitrary categorization on human rights associations as general-purpose entities, subjecting them to these strict but ambiguous conditions. As a result, the LTDH filed a suit at the Administrative Tribunal in order to annul the Minister of Interior's categorization[18].

To further restrict the work of human rights organizations, such as the LTDH, the conditions on general-purpose associations included not to "refuse to admit as member any person who is committed to its principles … unless the person in question does not enjoy full civic and political rights, or if the person in question engages in activities or practices incompatible with the objectives of the association." In the event of a dispute arising over the right of membership, the applicant can file a case at the Court of First Instance at the municipality of the association's headquarters. With regard to accountability, the legislation considered that general-purpose associations cannot elect individuals assuming functions or responsibilities in the central governing bodies of political parties as members of the association's steering committee, as well as to sections, branches, related organizations or secondary groups…"[19]. Since then, the LTDH activities have been frozen by a decision issued on 13 June 1992 on the grounds of non-compliance with the Law on Associations.

In 2000, following the LTDH's 5th Congress, that created a steering committee that did not include at least one representative of the ruling party, several League participants affiliated with the ruling party filed around 30 cases at the courts. As a result, on 27 November 2000 the steering committee was suspended by a court order. The court appointed a judicial guard and banned the December 2000 congress from taking place. The government also launched a vicious media campaign against the LTDH whose offices were attacked and vandalized several times. For the following 10 years, the authorities continued to block the LTDH's congress[20].

The League was only able to obtain an actual acknowledgement of its activities and regain its full rights to work independently of the state after 14 January 2011 when it regained control of its headquarters, resumed its activities and held its 6th Congress in September 2011[21]. The 28 LTDH branches throughout the country function and a steering committee was re-elected in 2016 during the 7th Congress comprising nearly 30% of women and youth.

A long-standing organization such as the LTDH was not able to freely stand up to a dictatorial regime and guarantee respect for human rights without grabbling with restrictions by the ruling party and the security agencies. Even though the League was established by members both from within and outside the ruling party, and despite the fact that it only accepted independent candidates recommended and approved by the parties represented in the League's bodies, it rapidly became embroiled in a conflict with the authorities and the ruling party. The LTDH continued to experience crises that would erupt whenever the authorities sensed signs of too much independence; they would then intervene claiming that the League is not respectful of the political consensus among the ruling party and the remaining recognized or unrecognized parties.

The League continues to experience attempts of control by political parties even after the 2011 revolution. For example, in its last conference in September 2016, divisions erupted when some opposition politicians from parties affiliated with the Popular Front (leftist opposition represented by 15 members of parliament) disputed responsibilities and quotas at the core of the steering committee. A number of members supported by the Tunisian General Labour Union won the majority of seats in the steering committee. The crisis escalated with the temporary withdrawal of some members in rejection of the distribution of posts claiming that certain party affiliations were treated more favourably. Howev-

[18] Case 13918, dated 13 May 2003.

[19] These provisions were added to Law 25 for the year 1992 dated 2 April 1992.

[20] Statement of The Tunisian League in its regular session as it continues to consider the difficulties preventing its congress, 3 December 2009.
"The LTDH steering committee met for its regular session the evening of Wednesday 2 December 2009 and continued to look into a number of issues relating to the internal state of the League with the aim of overcoming the various difficulties preventing the holding of its congress. After reviewing important relevant information, the steering committee is relieved to announce that if the news reports and promises it received were true, this might open the door for a final settlement to the issues facing the association and protect its independence and existence. On that occasion, the board renews its pledge to cooperate with different stakeholders who believe in the League as a national asset deserving of protection. Accordingly, the following decisions have been taken:
First: Resolving to hold the 6th Congress no later than next March and the willingness to hold it before then if the right circumstances existed.
Second: Continuing the dialogue with all the League's members without exception including the complainants, with whom initial meetings have already been set, and working to engage everyone in the ongoing dialogue on making the circumstances appropriate for the Congress.
Third: Believing that a conciliation congress, that excludes no one and that is supported by all League members, is the ideal solution to resolve the crisis facing the League for years.
Fourth: Setting up a committee to run the internal dialogue and lead negotiations headed by Mokhtar Trifi and including Slaheddine Jourchi, Khalil Zaouia, Anouar Kousri, and Mustapha Tlili.
In conclusion, it is hoped that the conditions will be made appropriate for the steering committee to communicate with all the branches by lifting the imposed blockade – as a first step – on its main headquarters to enable it to receive members, and that the same blockade would be lifted off LTDH branches.
The Tunisian League for the Defense of Human Rights
The Steering committee
President
Mokhtar Tarifi

[21] Yassine Bellamine, "The LTDH: Another Victim in the Political Swamp", 21 April 2015, Nawaat, available at: nawaat.org/portail/2015/04/21/

er, interventions by several senior League activists to resolve this problem helped in overcoming the divisions and in accepting the redistribution of responsibilities and tasks, especially with regards to assigning the general and finance secretariats to the dissenting group after the congress. This highlighted once again how fragile the LTDH governance systems and independence are and the difficulty of operating in a democratic manner without political interference. Such issues are not confined to the past nor caused by the existence of obstructive and restrictive laws but also continue in the present as a result of the political conflicts taking place within these associations.

3. Advantages of the New Decree Pertaining to the Freedom of Associations: Enshrining the Right to Establish Associations

On 24 September 2011, a new decree was issued pertaining to the regulation of associations, thus eliminating the law that governed associations since 1959[22]. This decree guarantees, according to its first article, the freedom to establish and join associations and the freedom to conduct activities within its framework. It also supported and further developed the role played by CSOs and enhanced their independence.

No More Licenses Needed!

One advantage of the new decree was the elimination of the previously required license to establish an association. An association now is established the moment a request or a statement is submitted to the government. An association is almost automatically then given permission to operate. Associations no longer have to wait to obtain a receipt as proof of application or to wait for a license to be issued to function normally as a new legal entity. Moreover, to avoid the absolute and unchecked authority that the Ministry of Interior previously enjoyed in vetting applications, candidates now could file their applications to the Government's General Secretariat through a registered letter at the post office.

However, the decree specifies information that should be included in the application. These include the name of the association, its purpose, objectives, address, the locations of its branches, if any, a copy of the national identification cards of the founders of the association (for Tunisian founders) or copies of the residence permits (for foreign founders) and original copies of the Association Statutes signed by the founders or their representatives. When the registered letter is sent, the authorities have a period of 30 days to return the registered letter receipt, after which an announcement should be submitted to the Official Gazette providing the name, purpose, objectives, and address of the association in seven days after the receipt of the registered letter or within 30 days of the letter's mailing in case the registered letter receipt is not returned.

The official publication is required in the Official Gazette within 15 days of the date of submission. In some cases, however, the official publication does not take place in the Gazette despite the expiration of the required period, placing the association in an ambiguous or probably illegal situation. This was the case with Shams association formed in January 2015. In spite of Shams' compliance with all procedures when its founders announced its establishment on 18 May 2015, its formal registration has not been published in the Gazette as of late 2016, when this paper was being finalized. Shams has been unable to open the door for membership nor to apply for funding to carry out its daily activities. The State Attorney General submitted a complaint to suspend the association based on a newspaper article[23]. The complaint claimed that the association had changed its name from "Shams Association" to "Shams Association for the Defense of Homosexuality" and that it opened an office in Sousse (140 kilometers south of Tunis) without notifying the Government's General Secretariat. When Shams objected and insisted that its name has not changed, nor had it opened a branch in Sousse and that its objectives included the defence of sexual minorities, mitigating risks of suicide and working peacefully to eliminate laws that discriminate against sexual minorities[24], the suspension was dismissed on appeal. Nevertheless, the announcement has not been published in the Official Gazette as of this paper going to print.

In contrast to the situation before the 2011 revolution, the new decree does not dictate the content of the Association Statutes, stipulating only that they include the official name of the association, its address, a statement of objectives and method of implementation, a membership and termination criteria and the rights and duties of each member, a statement of organizational structure, method of election, and the powers of each administrative body of the association, identification of the body within the association which has the power to amend the internal bylaws and make decisions regarding dissolution, merger or division, decision-making procedures, dispute resolution, and the value of monthly or annual membership dues, if any.

Running the Associations

Tunisian associations are now run according to a set of rules drawn by the members and included in its Statutes, the internal bylaws or a charter in some cases. The Association Statutes are of great importance because they stem from the will of participants and are not subject to the supervisory government authority. The internal bylaws guarantee the smooth internal operation of an association and act as a form of moral bond among the members of an association. This is the case with the internal bylaws of the LTDH that includes several chapters relating to participation and membership in the League, the organization of the branches, the general plenary and the congress[25].

[22] Decree 88 of 24 September 2011 pertaining to the regulation of associations, the Official Gazette of the Republic of Tunisia, Issue 74, 30 September 2011, p. 1996.
[23] Information obtained from Mr. Bouhdid Belhadi, one of the founders of the association and member of its founding authority and spokesman, in an interview conducted on 2 November 2016.
[24] Cited in Article 3 of Shams' Statutes.
[25] See the Internal bylaw ratified by the Congress held on 8-9 April 2012 in Tunis.

The Charters of the Association
A Tunisian association may adopt a charter that sets out the goals and ethical and moral principles agreed upon by the members when founding an association or when a new member joins the association. A number of Tunisian associations have drawn a charter such as the code of ethics by the Association of Tunisian Journalists and the charters of the Tunisian Association of Democratic Women (Association Tunisienne des Femme Démocrates, ATFD) and the LTDH.

Removing the Requirement for Legal Categorization of Associations
The new decree removed the categorization requirement introduced by the 1992 amendment that placed restrictions on association, enabling them to conduct their activities without fear of legal violations that would restrict their work or subject them to suspension or even dissolution in some cases.

Despite its advantages, the decree was criticized for shortcomings that affected the actual application of some of its rules. These shortcomings and loopholes relate specifically to issues of establishment and funding procedures and the penal code, which are discussed in Mounir Snoussi's 2013 study[26]. With regards to establishment procedures, some associations found the period given for filing and publishing an announcement in the Official Gazette of the Tunisian Republic, stipulated in Article 11, too short and insufficient especially for associations outside the capital. Other associations questioned the legal consequences for not publishing or making an announcement in the Official Gazette and considered the decree to be vague on the issue. Moreover, various associations raised the issue that the decree does not indicate the consequences for the Official Gazette's refusal to publish an announcement and suggested that the decree should commit the official publisher to a specific timeframe. Another concern was the vagueness on the possible legal consequences when the General Government Secretariat fails to return a registered letter receipt[27].

III. Funding: Almost non-existent public funding and limited self-financing

Before 2011, the Law on Associations of 1959 regulated the associations' resources in its Article 8, enabling legally established associations to acquire, own and expend its funds. The law also limited members' contributions to no more than 30 Tunisian dinars and permitted donations for emergency and charitable associations upon the approval of the state secretariat at the Ministry of Interior.

Article 9 dealt with the issue of public funding; it monitored every association benefiting from regular state subsidies, regional or local groups or public institutions, and required it to present its annual accounts, budgets and supporting documents to a supervisory body. All funds provided by the state or a public group that is not spent within 12 months for its specified purpose should be transferred back to the state's Treasury[28].

It's worth noting that while the law does not distinguish between associations when it comes to the right of use of public funding, the application of the law is selective. In reality, funding was particularly allocated to associations that are aligned with the ruling party, which is in control of state resources. In contrast, the government occasionally allocated public funding to independent associations upon the pleading of members of their steering committees. However, these associations could later have their funding suspended or interrupted whenever they took positions against the state's violations of freedoms or human rights. This was the case with the Tunisian Association for Democratic Women that enjoyed financial support to the value of 50m Tunisian dinars twice – the first in the early years of its establishment in 1990. This financial support ceased when the association demanded that the state respect human rights, cease to torture detainees and comply with criteria for fair trials. The association received funding a second time after applying in 2008 to coincide with the first UPR (Universal Periodic Review) report submitted by the Tunisian state to the UN Human Rights Council.

In this manner, the state employed double standards in its allocation of public funding by taking into account political affiliations and loyalties and disregarding transparency and independent standards, leading to the shrinking of the activities of independent associations that were made dependent either on limited self-financing or on seeking foreign funding from the European Union or European foundations. Nevertheless, the state still intervened to freeze accounts of associations and prevented them from accessing such funds. Such was the case with the LTDH and the ATFD where the state intervened on several occasions to prevent their access to foreign funding, suspended their accounts in Tunisian banks or forced them to return funding, all in an attempt to weaken these associations and hinder their work. Thus, public funding generally became conditional upon loyalty to the ruling party.

[26] Mounir Snoussi, "The Legal Environment for Civil Society Institutions in Tunisia: Status and Prospects", (in Arabic) available at goo.gl/dM7zF9

[27] Some associations argued that assigning the establishing authority to the General Government Secretariat turns the process into a licensing system in disguise and restricts the freedom of association. Some rights associations believed that it is better to assign more powers to the establishing authority in order to allow for a rejection of some applications specially those made by associations that reject the general principles set out in Articles 3 and 4 of the decree, arguing that these associations should not obtain a license for legal establishment. Similarly, with regard to the rules of establishment, the decree contains some shortcomings such as the necessity to add clear and precise cases for the procedures for a rejection of an application of establishment: the public authority in question should resort to the courts in accordance with Article 21 of the International Covenant on Civil and Political Rights exercised in other states such as France, the USA and Britain. Similarly, the decree does not lay down clear procedures for the public authority to undertake when the requested data is incomplete, such as a form for completing data – an issue that was highlighted by the International Center for Non-Profit Law. In other states when the requested data is incomplete, the competent authority can proceed with the necessary legal procedures to dissolve the association. The decree contains some other loopholes such as the failure to address public interest associations and foundations. See Mounir Snoussi, op. cit.

[28] The law of 7 November 1959, mentioned above, pertaining to the regulation of associations. Article 8. In Article 9 (revised in Basic Law No. 90 of 1988 dated 2 August 1988) – every association that benefits from regular subsidies from the State, regional or local groups or public institutions has to present its annual accounts, budgets and supportive documents to an annual audit by the Ministry of Finance.

Private funding, on the other hand, was based on the associations' request to organize educational or solidarity events, cultural and awareness campaigns of various purposes[29] or on presenting parallel reports to international organizations regarding the implementation of international human rights treaties in the country[30]. Foreign donors funded meetings or campaigns for specific issues in line with their agendas or to conduct specific activities. For example, when an association's objective is the elimination of violence, some donors such as Oxfam (The Tunisian office), suggested organizing a campaign to urge the parliament to adopt a law against violence against women in 2016.

Tunisian associations may seek funding from embassies of foreign countries. However, this depends on the nature of the request as well as the politics of these countries. Some associations, for example, request funding from the Scandinavian embassies, such as Sweden and Denmark, to conduct specific activities. However, many organizations declined funds from the US embassy and its affiliated Middle East Partnership Initiative (MEPI) provided by the US State Department in protest against US foreign policy in the Middle East, especially regarding the Palestinian issue or its support for dictatorial regimes in the region.

This did not apply to all organizations. For example, the Lamechaml[31] association has accepted US funding and conducted a number of activities on decentralization and local democracy, while the LTDH and ATFD, despite limited financial resources, declined such funds.

After 2011, according to the provisions of Chapter 6 of the new decree regulating associations, the association's resources were composed of subscriptions of its members as specified in its Statutes; public assistance; donations, grants and wills whether domestic or foreign; and revenues resulting from the association's assets, its activities, and its projects. The decree required that the state allocate necessary funds to support and assist associations on the basis of their efficiency and the impact of their projects and activities. It also permitted associations to accept foreign funding more freely. This was the case with the LTDH, which for a long time was unable to gain access to funds allocated to it by the European Union but which remained blocked in accounts in Tunisian banks. The decree prohibits accepting foreign funds from states that have no diplomatic ties to Tunisia or from organizations that defend the policies and interests of these countries.

When associations obtain foreign funding, they are required to publish information on their source, value and purpose in the press and on their website within one month of the date of accepting the grant. Associations are also required to inform the Government Secretary General of the same in a registered letter within the same period to ensure transparency inside the association and towards various stakeholders. All associations are required to disburse their funds on activities that achieve their objectives.

With regard to public funding, Government Order 5183 of 18 November 2013, on criteria, procedures and terms for public funding sat the standards for the allocation of public funds to associations, its procedures, terms, and expenditure monitoring mechanisms. This Order defines the concept of public funding in its Article 2 as "money allocated within the state budget, or local community budges, institutions of an administrative nature, public establishments and institutions, public shareholding companies where public funds exceed 34% of the capital, or establishments with a public majority, in order to support associations and assist them in implementing projects and developing activities in an efficient manner for feasible projects[32]." The decree also obliged associations to appoint external auditors through the plenary. The auditor must submit a regular report to the General Government Secretariat and to the head of the association's steering committee.

However, by facilitating access to foreign funding, the new regulations opened the door to possible violations, especially from political parties or groups, officially prohibited from receiving such funding by Decree 87 of 24 September 2011 pertaining to the regulation of political parties. Some of these parties started to rely on loyal organizations to channel foreign funding. The increasing number of huge and well-funded charitable associations raised doubts about their relationship to political forces and links to foreign donors. Some complained about weak or absent monitoring by the Ministry of Finance, the Tunisian Central Bank and the Department of Accounting. Observers even suggested that foreign funds might have been previously used by some organizations to purchase and distribute arms and carry out acts of violence[33].

The issue of foreign funding had been raised during the discussions of the High Authority for the Realization of the Goals of the Revolution. Some activists demanded prohibiting associations from obtaining foreign funds as they could influence national interests and undermine the independence of these associations. However, the High Authority even-

[29] The Tunisian Association of Democratic Women received funding to organize a seminar marking the 60th anniversary of the Tunisian Personal Status Code from the German Heinrich Böll foundation in August 2015.
[30] NGOs affiliated with the Alliance of Independent NGOs (the Tunisian League for the Defense of Human Rights and the Tunisian Association of Democratic Women) received funding from UN Women to prepare and present a report to the concerned committee.
[31] Lamechaml association was established after the revolution in 2011. It is specifically active in the areas of local democracy, decentralization and local elections: www.lamechaml.org
[32] Order 5183 of 2013, dated 18 November 2013, on controlling criteria, procedures and terms for public financing of association, The Official Gazette of the Tunisian Republic, No. 102, 2013.
[33] Dorra Gharbi, "Religious Associations involved in Terrorism: Smuggling arms, funding Sharia supporters and sending youth to Syria", Akher Khabar, 18 September 2013.

tually allowed foreign funding for local CSOs together with adequate monitoring mechanisms to ensure transparency. The High Authority decision was motivated by a desire to comply with international standards, including a broad understanding of Article 13 of the UN General Assembly Resolution adopting the Declaration on human rights defenders which stipulates that "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration[34]."

In general, despite some violations, several CSOs regularly publish in mass media and the Official Gazette the foreign funds they receive. Foreign donors, in turn, disclose in their annual reports the financial assistance they provide for CSOs in Tunisia. Additionally, several organizations including, for example, LTDH, ATFD, La Association Tunisienne pour Intégrité et la Démocratie Des Elections (ATID), Al-Bawsala, and the Arab Institute for Human Rights report foreign funds they receive on their websites[35]. Their donors include Oxfam, the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Population Fund (UNFPA), the European Union, the EuroMed Rights Organization, and the Arab Human Rights Fund as well as some German foundations such as Friedrich Naumann, Heinrich Böll, and Friedrich Ebert. All these international and regional organizations fund activities in the field of human rights training, legal education, capacity building of rights activists, advocacy campaigns and programmes, and documentation and reporting on human rights violations.

The working conditions of human rights organizations in Tunisia remain volatile and fragile. Contributing to this situation is the absence of adequate public funding and lack of self-financing mechanisms. There are private funds, but they seem to be channelled disproportionately in favour of more recent and younger associations to allegedly enable them to survive and consolidate. The major issue for funding (foreign or local) remains how to install effective monitoring mechanisms to register flows, expenditures and administrative costs. This would be, for example, very important when it comes to associations affiliated with various political parties such as Musawah (Equality) which is close to faction of the Tunisian Labour Party, Horra (Free) which is close to the Democratic Patriots Party or the International Organization for the Support of Political Prisoners believed to be close to the Ennahdha Party.

Conclusion

Tunisian human rights associations certainly face several structural and financial obstacles that prevent them from freely conducting their activities in line with principles of good governance, such as accountability, transparency and the engagement of all members of an association in managing its affairs, determining its direction and setting main priorities. CSOs' work is primarily based on voluntarism demanding the commitment of members to the goals and principles of the association. This explains the general reluctance in Tunisia, especially among young women and men to volunteer in CSOs. This has had a negative impact on the democratic development of these associations which remain largely elitist.

No doubt, the difficulty and arbitrariness human rights organizations face in obtaining public and foreign funds hinder their activities and undermines their programmes. There is a need to examine in more detail the question of how funding sources, availability, mechanisms and conditionality affect the governance of Tunisian CSOs and their very programmatic priorities.

Despite their shortcomings and challenges, Tunisian CSOs remain important actors in monitoring state policies and actions, pressing state actors to respect and guarantee human rights, raising awareness among citizens about the significance of defending their own rights as citizens without any discrimination. Developing the legal framework, improving governmental practices towards associations and creating stable and transparent funding environment, should all improve governance within these associations, enhance internal democratic mechanism, protect their independence and bring more and more members into various circles of decision making, therefore, enabling them to help set priorities and devise strategies to effectively advance human rights in Tunisia.

[34] TUN General Assembly, "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", 8 March1999, available at goo.gl/eKkpq7. See also the International Principles Protecting Civil Society at goo.gl/zG3b2U issued by World Movement for Democracy in 2009 on the rights of CSOs to secure foreign funding from legal sources.
[35] Mounir Snoussi, op. cit.

Governance and the Human Rights Movement in Morocco

Mohammed Tariq

Summary

This paper presents a preliminary analysis of the issues of governance in human rights organizations in Morocco. These organizations have increased several folds since the late 1990s and especially after the 2011 wave of Arab uprisings. Such a research faces methodological and practical impediments stemming from the paucity of information on funding and other governance issues.

Research, in general, about human rights issues and actors in Morocco is often difficult for several reasons: information is often lacking including data on funding, programmes and decision-making processes. It is tough to have regular indicators or establish trends. Additionally, research is made more problematic by the conflicting positions of the government and human rights associations regarding governance and funding.

This paper concludes that human rights associations in Morocco face several specific challenges when it comes to financial governance and independence. In the area of financial governance, associations are very under-funded and lack steady, sustainable financial resources. Associations also struggle to maintain their independence from the state and political parties or other influential groups. Given the strong link between funding and independence, rights associations risk deviating from initial goals and principles in favour of a donor's agenda. Finally, they have to deal with the challenge resulting from the absence of an efficient and clear legal framework to regulate funding and public accounting for NGOs in general. The state has long turned monitoring mechanism and protocols of accountability into tools to control rights organizations.

The paper looks in depth at two specific organizations which differ in how they emerged and evolved and the geographical scope of their work. These are the Moroccan League for the Defence of Human Rights (LMDDH), Ligue Marocaine pour la Défense des Droits Humains, established in 1972, and the Human Rights Forum of Northern Morocco (FDH-NORMA), Forum des Droits de L'Homme au Nord du Maroc, established in 2011.

Introduction

The public freedoms laws enacted soon after Morocco's independence in the second half of the 1950s, regulated association, assembly and the press. There were seen as a victory and a step towards laying down the foundation of a pluralistic democratic system. Although restrictive amendments were made to these laws especially during the political conflicts of the 1960s and the 1970s, the political openness of the late 1990s, as a result of the political reform and concession made by the dominating palace and the increasing activities of civil society and democratic forces, led to a political transformation in the country.

Various successive initiatives and reports undertaken in the context of the reform and reconciliation process that Morocco underwent since the late 1990s[1] emphasized the importance of liberating and empowering Moroccan citizens, strengthening the rule of law and the legal institutions and cementing trust between state institutions and the different components of society, as well as preserving and developing national unity and social cohesion. They also stressed the centrality of civil society and the importance of citizens' engagement in public affairs to foster democratic and developmental reforms.

The transformations in North Africa, as a result of popular waves of massive protests since 2010 in what became known as "Arab Spring", derived their slogans largely from the visions and approach of civil society organizations that have long rejected despotism and corruption and worked for people's right to bread, freedom and dignity.

The recent movements in the region highlighted the role of civil society organizations (CSOs) as political and social initiatives that made up for the state's failure to adequately manage economic, social and cultural policies and services. The communal networks and CSOs were strengthened by new communication technologies which multiplied the impact of voluntary associations and individuals through the use of social media platforms such as Facebook and Twitter as well as personal blogs among other communication channels. These technologies created new virtual citizen networks with strong symbolic power[2].

The 2011 Constitution, enacted in the midst of the democratic uprisings in Morocco and the region, enhanced the role of civil society and met some of its demands to strengthen participatory democracy and enshrine universally recognized human rights. This was clear in the preamble of the constitution, its general provisions and in the provisions on fundamental rights and freedoms[4].

[1] Equity and Reconciliation Commission Report (2006) and 50 Years of Human Development in Morocco Report (2005).
[2] Bayadi Mohyi-eddine, "Civil Society in the Arab Maghreb States and its role in Political Development", Master's thesis in Political Science and International Relations, Université Mohamed Khider de Biskra, Algeria, 2011/2012, p. 23.
[3] Moroccan Constitution of 2011, issued by Royal Decree No. 1.11.91, 29 June 2011. Published in the Official Gazette, issue 5964, republished 30 July 2011, p. 3600.
[4] Articles 1, 12, 13, 14, 15, 33, 139, 6, 37, and 170 of the Moroccan Constitution of 2011.

This paper provides a tentative analysis of the governance of human rights organizations through a review of existing literature, published testimonies and interviews with relevant actors. It concludes with some preliminary findings related to internal governance, transparency, national and foreign funding and the conflicting views of the states and human rights actors regarding these issues.

1. How Do CSOs Perceive Themselves?

(organizational and professional approaches)

The number and goals of CSOs and the complexity of their activities have risen since the late 1990s and especially after 2005 when the National Initiative for Human Development was launched. The number of CSOs increased from around 4,000 in the early 1980s to around 118,000 according to the latest available data in 2014[5]. A total of 5,150 of these CSOs are active in the field of human rights in general or advocate for women's rights, child rights, rights of immigrants or rights of persons with disabilities.

This paper focuses on two organizations; the Moroccan League for the Defence of Human Rights (LMDDH), Ligue Marocaine pour la Défense des Droits Humains, and the Human Rights Forum of Northern Morocco (FDH-NORMA), Forum des Droits de L'Homme au Nord du Maroc. It compares the context in which they emerged, the geographical scope of their work, and how they operated to realize their common goal of defending human rights.

The LMDDH was the first CSO dedicated to defending fundamental rights and freedoms. Established in May 1972, when such an activity called for great courage, it took 40 years of struggle for the organization to obtain the "public benefit" status in 2012[6]. The LMDDH built its strategy and focussed its work on:

- Disseminating and deepening awareness about human rights;
- Defending victims of human rights violations;
- Working on eliminating the legislative and regulatory provisions infringing on public and individual freedoms;
- Advocating for a stronger judiciary
- Advocating of the rule of law as a necessary condition for effective guarantees for rights.
- Harmonization of national laws with international human rights conventions[7].

As to the FDH-NORM, it was established in April 2011 amid growing awareness of issues of comparative regional approaches in addressing rights issues. This was an entry point to integrating previously silenced sensitive human rights issues related to cultural, social and historical rights as well as the collective rights of the north (the historical countryside) and to highlighting relevant particularities as a dynamic and unique domain. The FDH-NORM, by addressing and highlighting rights issues and the particularities of the Rif in northern Morocco, avoided a centric view of human rights issues and emphasized, instead, the dialectic relationship between the universality and comprehensiveness of human rights while retaining regional specificities. The FDH-NORM's goals can be summarized as follows:

- Protecting the universality and comprehensiveness of human rights;
- Disseminating and promoting the culture of human rights and citizenship and including it in pedagogy;
- Defending human rights and supporting victims;
- Preserving cultural, historical and social particularities in the Rif/northern Morocco;
- Consolidating the values of cultural pluralism in Moroccan identity;
- Deepening research on human rights issues[8].

2. The Internal Systems and Hierarchies in Rights-Based Associations

The 1958 Law on public freedoms (reviewed in 1973 and 2000), which has long regulated the work of associations and other CSOs, suffers from loopholes and ambiguities, thereby enabling governmental manipulation under the pretext of security prerogatives, good conduct, or public order to obstruct CSOs' work[9].

The law allows CSOs to organize and create internal systems and structures provided that they respect democratic principles of governance. The LMDDH has branches that are spread all over Morocco. Its national Congress, held every four years, is its highest governance authority. A number of intermediary structures exist between the leadership body and the branches including the National Council, which meets twice a year, and the Central Office that regulates and facilitates the daily League operations and programme implementation. The league has elected provincial and local bodies.

On the other hand, the FDH-NORM's highest governing body is the Congress, which should be held every three years and exceptionally when necessary as determined by at least two thirds of the members of the Coordinating Council. This Council, which meets quarterly, elects a General Coordinator and a General Coordination Body from amongst its members and holds both accountable[10]. The Coordination Body consists of 11 to 19 members and serves for a three-year period. The FDH-NORM has

[5] Ministry of Relations with Parliament and Civil Society Report, during a discussion of the budget of the ministry at the Moroccan parliament for fiscal year 2013/2014.

[6] According to Decree 2.12.395 issued 13 Ramadan 1433/1 August 2012: the Moroccan League for the Defence of Human Rights acquired benefit public status (an official governmental document granted to associations on specific grounds, through this document the association benefits from tax and customs exemptions).

[7] Paper presented to the founding conference of the LMDDH, 11 May 1972.

[8] Article 8 of the basic law of FDH-NORM, ratified in the first congress held in Chefchaouen on 22-24 April 2011.

[9] Mounir Abdelkader El Alami, "Civil Society", in Arabic available at www.elalami.net/?p=10398

[10] Article 13 of FDH-NORM basic laws.

branches with its own local coordinating committees in the North of Morocco, or among the Rif diaspora overseas.

These two organizations present two models of governance and scope of work and how to organize vertically. The former is a national organization, with the headquarter in Rabat, which can work everywhere in Morocco though provincial and local branches. The latter is focussed on one part of the country, the Rif, that has for long felt abandoned and occasionally repressed by the centre, in addition to chapters among the diaspora from this region overseas.

3. Main Systems of Governance, Effectiveness and Operationalization

The internal structures and systems of rights CSOs determine their approaches and priorities. Several CSOs are still defending their right to exist and operate independently. Moreover, they lack capacities and technical skills needed to enhance and broaden their impact and effectiveness within the currently relatively open political system in Morocco. Many CSOs lack a strategic vision necessary to lay out operational priorities, goals and work plans. CSOS are generally better at providing services and raising capacity compared to their relatively weaker work on advocacy, documentation, collaborating together and networking with social movements[11].

Many CSOs, including rights organizations, lack effective internal democratic governance mechanisms. Some suffer from bureaucratization and the absence of effective internal representation systems (which leads to conflicts and divisions), lack of renewed leadership, nepotism and the personalization. The lack of transparency and democratic practices within CSOs make them appear less credible, and hence less capable of pushing for reforms or social change or of advocating with the state for different policies and practices[12].

A research project by the High Commission for Planning in Morocco[13] on governance and management of CSOs in Morocco revealed that 95.9% of associations are run by only an executive bureau, 1.1% by an administrative board, and 3% by both an executive bureau and an administrative board. Women make up 12.7% of CSO executive leadership. In leadership positions, about 16.9% were executive or professionals, 14.8% were mid-level professionals and 14.6% wageworkers. About 9.6% were elected members of legislative bodies or government officials and 8.2% are technicians/craftsmen and workers qualified in traditional occupations.

A comparative study of the Maghreb countries showed the difficulties and weaknesses facing rights CSOs[14]. They include a lack of a transparent relationship between CSOs and the government. Government officials and institutions do not consider CSOS to be interlocutors and partners. The allocation of public funds to CSOs is non-transparent and takes place without any institutionalization or formalization of the relationship between the state and civil society. CSOs and individual civil society actors did not appear to have the freedom, even under reasonable restrictions, to accept donations or funds from abroad.

It became evident by studying the LMDDH administrative and financial regulations and structures that it has a complex system for accountability and monitoring. For example, the LMDDH basic law requires a National Congress to convene every four years[15] to discuss and approve the organization's narrative and financial reports. A National Council, which meets twice a year (April and October), discusses and approves reports submitted by a Central Bureau on the work of the organization during the period between meetings and a work plan for the upcoming period. It also discusses and approves the financial report submitted by the Central Bureau including expenditure and income during the period between meetings. The Central Bureau oversees the day-to-day operations. Article 18 of the internal bylaws stipulates that the Bureau takes decisions by a simple majority of attendees where a presidential vote determines the result in the case of a tie.

In reality, however, these systems are not fully in effect. During the 45 years since it was established, the LMDDH had only four presidents of its Central Bureau. Mohamed Bin Abdelhadi al-Qabab served the longest from 1980 to 2006. Mounir Abdelkader el Alami and Mohamed Zhari took over between 2006 and 2015. During the seventh LMDDH Congress on 24-25 October 2015, Abdelrazak Ghanbour was voted as the fourth president. The Conference was never regularly held, hence the delays in rotating senior positions leading to holders of senior and leadership positions to stay in their posts for far too long. The National Congress, which should meet twice a year, met only once a year in the past five years. The Central Bureau never met with a reasonable regularity thus dropping the ultimate executive authority and decision making into the hands of the president who takes decisions after separate consultations with some Bureau members[16].

The FDH-NORM basic laws provide for several governance levels, at the top of which is a Congress, which considers and approves narrative and financial reports presented by a General Coordination Body. The Congress takes decisions through a majority vote of half-plus-one. Between Congresses, the executive authority over the FDH-NORM rests with a Coordinating Council, which monitors the work of the General Coordination Body.

However, as was the case with the LMDDH, the FDH-NORM Congress had not met regularly. After the founding Congress on 24 April 2011, it took more than four years to hold the second Congress on 19 May 2015. Additionally, the rate of member turnover

[11] Al-Kabir al-Shenawy, "Associations in Morocco: between issues of Freedom and Capacity", IMPRIMATK, 2nd ed., 2014, p. 76.
[12] Ibid, p. 80.
[13] High Commission for Planning, "Results of national research on non-profit associations", Arabic, December 2011.
[14] ABHAT, «Étude sur le renforcement du rôle de la société civile maghrébine dans la mise en oeuvre des PAN et du PASR », available at goo.gl/PV4D8u and Fatma al-Zahraa Heirat, "Civil society in the Arab Maghreb Countries: Goals, Opportunities and Challenges after the Spring of Democracy", Afaq Center for Research and Studies, 4/2/2014, Arabic, available at is.gd/j5PZxz
[15] Article 5 of the LMDDH basic law.
[16] Interview with Mohamed Zhari, former LMDDH president, 2 February 2017.

after the second Congress concluded its elections did not exceed 5% of the members of the founding Congress. Moreover, the organization did not submit to record the proceedings of its other governing bodies as stipulated in its basic law[17].

4. Financial Stability, Control and Donors

4.1. Legal Regulations of CSOs Funding:

A. International Legal Regulations for CSO Funding:

The sixth principle of the International Principles Protecting Civil Society affirms the right of associations to seek and secure funding from legal sources including individuals, companies, civil society, international and governmental organizations in addition to local, national and foreign governments[18].

International law limits the scope of state actions because unnecessary restrictions could be an infringement on the right to association. Unjustifiable state restrictions that undermine the ability of CSOs to achieve their objectives could thus constitute an unwarranted infringement on freedom of association[19]. Public domestic donors should not exclusively fund CSOs that support their policies. This is why the UN Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association stressed governments should not control CSOs access to public funding as this prevents an important block from establishing democracy and plurality. The Rapporteur also emphasized the importance of authorities undertaking the appropriate measures when necessary to support associations that face unwarranted restrictions. Moreover, the Rapporteur insisted that governmental regulation for reporting foreign funding should not undermine the independence of associations or place discriminatory restrictions on potential funding sources[20].

b. National Legal Frameworks for CSO Funding:

Article 29 of the Moroccan Constitution protects the "freedoms of meeting, assembly, peaceful demonstrations, establishing associations and joining trade unions and political parties." The constitution requires the state "to comply with the international conventions duly ratified … within the framework of constitutional provisions, the laws of the Kingdom … [and] once these conventions are published they take precedence over national legislations … [the government] must work to amend relevant domestic legislations to be harmonized" with ratified international conventions. Hence, Morocco's commitment to CSOs right to obtain funding as stated in international conventions specially the International Covenant on Civil and Political Rights is guaranteed and is a commitment that supersedes all pertinent national legislations.

Article 6 of Dahir (royal decree) No. 1-58-376 issued on 15 November 1958 states that each legally established association has the right to acquire and administer funds from both public and private sources, from domestic and foreign parties as well as from international organizations. Chapters 32, 32 bis and 32 ter include posterior measures to regulate the receipt of such funds or subsidies.

Moroccan laws guarantee the right of associations to funding from local and foreign sources and the posterior measures do not restrict this right, but the first paragraph of Article 6 of the relevant royal decree requires that associations be properly established, i.e. legally registered, to benefit from these resources. This could be seen as an infringement on the first principle of the International Principles Protecting Civil Society since the right of association should not be constrained by a government approval or registration.

Though the law in general, and the constitution in particular, empower associations to seek funding and mobilize members domestically or overseas, most CSOs rely on local funds (ranging between 10,000 and 20,000 USD) obtained from local communities, the National Initiative for Human Development, ministries, the Social Development Agency, and other public institutions.

Non-governmental organizations do not benefit from tax exemptions without securing a registration as a public interest non-profit entity with the state. This is a long and complicated legal procedure, successfully engaged by a small number of CSOs, thus leaving the burden of taxation (income, VAT, municipal and registration fees) to be borne by most CSOs. These obligations place a heavy financial burden on CSOs and affect their ability to hire skilled employees on a full-time basis[21].

4.2. Sources of Funding of Human Rights Organizations

a. Financial Sources and Expenses of Rights Associations

In 2015, Moroccan CSOs raised about 8.8 billion Dirhams (USD880 million) for about 45,000 CSOs. This means that each CSO on average received USD20,000. However, the distribution is very skewed according to available government data[22]. One in five CSOs had an annual budget under USD500 while one in three CSOs had an annual budget below USD1000. On the other hand, only 5.4% of registered CSOs had a budget over USD50,000 while 2.5% of them had a budget exceeding USD100,000. This means that 2.5% of all CSOs received about 63% of the total funds for the sector. In contrast, CSOs that had an annual budget less than USD10,000 (about 80% of all CSOs) together received 10% of all funds available to the total number of associations.

[17] Interview with Abdelwahab Tadmouri, FDH-NORM General Coordinator, 27 January 2017.
[18] The movement to Defend Democracy, International Principles Protecting Civil Society, available at goo.gl/1PU5cW
[19] Paragraph 2, Article 22, the International Covenant on Civil and Political Rights, full text available at goo.gl/Tiu7f
[20] UN Human Rights Council, "Report of the Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association", 23rd session April 2013, para. 14, available at goo.gl/pmcQiL
[21] USAID, "Report on the Sustainability of Civil Society in MENA in 2013", Arabic, available at goo.gl/Xt996T , p. 40. The ministry in charge of relations with parliament and civil society claimed that only 5.3% of registered CSOs had accounting systems that were up to standard.
[22] Ministry of Relations with Parliament and Civil Society, statistics presented to parliament in 215 during annual budget discussion.

About 32% of CSO funding came from grants or transfers made by individuals (12.7 %), the state (6.1 %), contractors (5.7 %), from abroad (5%) or from other CSOs (2.5 %). Membership fees remained the main source of income for CSOs whose annual expenditure did not exceed USD1,000, representing almost half of their total income. The higher the expenditure of a CSO the lower was the proportion of proceeds from membership fees into its total income. For example, membership fees represent only 4.3% of the funds received by CSOs whose budgets exceeded USD1million.

From 2011 to 2016, the LMDDH entered into partnerships with governmental sectors led by the Ministry of Justice and Freedoms which funded the organization's programme to disseminate and advocate for human rights culture. The organization also benefited, as part of the Moroccan Coalition of Human Rights Organizations, from EU funding of certain activities[23].

The FDH-NORM did not receive domestic public funding and relied on its own resources. The organization's basic law (Article 25, Chapter 3) stipulates that its funding comes from annual membership fees, subsidies, grants, revenue from own activities and from legally admissible donors[24].

b. Public Funding as the Main Source of Funding

With regards to the capacity of associations for practical mobilization of financial resources, the Moroccan Treasury, according to the Ministry of Relations with Parliament and Civil Society, reported that 1,214 CSOs, or around 1.35% of the total registered CSOs, received around 650 million Dirhams/USD65 million in domestic public funds in 2011 while 352 CSOs, less than 1% of licensed associations, received about USD14.5 million in foreign funds. Government reports that only 2.5% of all CSOs accounted for around 63% of all CSO funding while 94.6% of all CSOs do not exceed an annual budget of 500,000 Dirham/50,000 USD and do not conduct their accounting according to established standards[25]. Financial contributions from local communities and associations have doubled from 330 million Dirhams/33 million USD in 2008 to 670 million Dirhams/67 million USD in 2014[26].

Government statistics indicate that 534 CSOs benefitted from public funding from government ministries in 2013. It is difficult to reasonably assess the timeframe, trends, and various programmatic expenditures of these funds over a period of time because of gaps in available data and base information. Funds are allocated to CSOs which are registered as public interest organizations either through direct allocation or after applying in a tender process. These specific CSOs (only a small proportion when compared to all CSOs) also get tax exemptions or tax breaks and partial or comprehensive discounts[27].

c. Foreign Funding: Conflicting Positions

A combination of political and economic factors led to the expansion of CSOs and in size and roles in the past few decades as a majority of states increasingly withdraw from service provision and either entrusted some of it to the private sector or relied on CSOs to step up to a good part of the job.

International non-governmental organizations also developed fast with some of them working with budgets exceeding those of the counterpart governmental sector in developing countries. International NGOs often work with national CSOs on development, aid, and rights issues.

External funding is subject to a negotiation processes, and conditions agreed by donors and grantees, dependent on the kind of project and duration. Donors can be governmental or non-governmental, national or multinational, or a mix thereof. The EU is a regional governmental donor while the UN is a governmental multilateral donor. Donors have programmatic priorities and they vary but can include human rights in general, women rights, children rights, freedom of belief, cultural rights, and minority rights.

According to the General Government Secretariat, 96 CSOs foreign funds totalling 145 million Dirhams/USD14.5 million in 2011 (55 local, 23 regional, and 21 national CSOs). In 2012, a total of 154 associations declared foreign funding (30 local, 38 regional, and 37 national) amounting to 244 million Dirham/USD24 million. In 2013, only 149 CSOs applied for permits to receive foreign funds (51 local, 26 regional and 70 national) for a total amount of 222 million Dirhams/USD22 million. The number fell to 128 CSOs in 2014 (until October) (30 local, 16 regional, and 82 national) for 158 million Dirhams/USD15 million[28].

- Human Rights Actors and Foreign Funding:

A variety of actors working within human rights CSOs in Morocco assert that the financial support they receive from foreign foundations or governments fund projects that these organizations were already engaged in implementing. In other words, they do not receive core or generic funding but rather funding for project partnerships with foundations and/or governments to promote and defend human rights in specific ways[29]. Therefore, they view this funding as partnership projects implemented with donor institution[30].

[23] Interview with Zhari, op. cit.
[24] Interview with Tadmouri, op. cit.
[25] Ministry of Economics and Finance, presentation to the Committee of Public Expenditure Review, "Public Funding of Associations", 26 January 2015.
[26] Ministry of Interior, presentation to the Committee of Public Expenditure Review, "Public Funding of Associations", 29 February 2015.
[27] Introductory memorandum by Ministry of Relations with Parliament and Civil Society, "reviewing civil society associations and organizations funds", Public Expenditure Review, 13 July 2014.
[28] Report on funding associations in Morocco. Case study: Foreign financial assistance and public philanthropy (General Secretariat of the government), 2015.
[29] Interview with Mr. Abdel-Elah Abdelsalam, deputy head of the Moroccan Association of Human rights, Rabat, 13 September 2016.
[30] Interview with Boubakr Largoi, President of the Moroccan organization for Human Rights, Rabat, Thursday 22 October 2016.

- The German Experience

Germany is considered one of the most important donor countries for Moroccan civil society, especially human rights organizations. German diplomacy views civil society support as an integral part of its approach[31]. This support is provided through the Ministry of Foreign Affairs, the German Corporation for International Cooperation (GIZ) or through foundations affiliated with political parties that receive funding from the state budget through a parliamentary budget allocation. Though the bulk of the financial resources of these foundations come from German state allocations through the parliamentary annual budget decisions, the state of the Foreign Ministry do not intervene directly in the programmatic allocations by these foundations overseas. Despite this autonomy, several studies analyse the complex relationship between them and the state, especially the foreign policy institution to determine how they influence each other and in what way. These foundations include Friedrich Naumann Stiftung, which we will use as an example in this paper[32].

Freidrich Naumann supported several projects. For example, it supported the Citizenship forum to help enhance the influence of CSOs through trainings on petitions and lobbying in local communities and Parliament. A budget of 60,000 Euros was allocated to the project over a two-year period (2013/2014). Another project in the field of media and human rights was funded to support freedom of the press in a partnership with Ibn Rushd Center for Studies and Communication. The project was allocated a budget of 60,000 Euros disbursed in two instalments of 30,000 Euros each in 2013 and 2014.

The GIZ funded a project by the Centre for People's Rights (Centre des Droits des Gens) in Fez in 2014. The funds were used to organize training courses for teachers, parents' associations and students, to form human rights clubs in their educational institutions. The allocated budget was 120 million Dirham/USD12 million.

Friedrich Naumann funding to Moroccan CSOs is not provided in advance but rather disbursed against invoices of actual expenditure. Sometimes the Foundation settles activities cost directly to third party vendors and service providers.

Like all other big donor foundations, Fredrich Nauman transfers or payments are paid directly or deposited through established Moroccan banks with legal accounts for local organizations or service providers. Consequently, all funding coming from these foundations pass through the Bank of Morocco - thus ensuring transparency and state monitoring.

5. Financial Integrity Standards

Government figures show that less than 10% of CSOs receive more than 80% of public funding allocated to all associations, which raises suspicions regarding transparency and equal access to funding opportunities. Less than 45% of CSOs submit detailed and accurate records of their accounts to explain how they disbursed the funds they had received. This raises questions about the actual use of these funds that were allocated for specific projects or programmes. More than 97% of CSOs that received public funding failed to comply and present all required financial statements. Additionally, many CSOs lack a clear evaluation system that links resources to specific outputs and outcomes. There is also a need for a simplified accounting system for non-profit organizations[33].

A national research conducted on non-profit organizations in 2011 revealed that the majority of associations (94.7%) do not conduct their accounting in line with the set standards[34]. Many of these CSOs lack an evaluation system linking inputs with expected outputs and possible impact that all can be reasonably measured. These figures and findings pose serious questions regarding minimum governance standards inside Moroccan CSOs They illustrate two interrelated issues:

- First: The allocation of public funds to CSOs did not follow clear standards which raises suspicions about the independence of these CSOs and whether they are indirectly part of state institutions;
- Second: Failure to present detailed narrative and financial reports about the implemented programmes indicate a shocking lack of professionalism and, more important, of any monitoring and evaluation. This turns the public funds that these CSOs received into private funds to be spent as individuals running these organizations deem fit. Thus, not a small number of what should be non-governmental organizations could be in fact governmental tools or GNGOs, as have been labelled in critical literature, run by notables and influential individuals who work without accountability[35]. The available data does not distinguish between aid, development and rights organizations, but the GNGOization of CSOs is arguably more present in the first two organizations whose budgets and programmes are much vaster and could be more easily measured in terms of inputs, outputs and impact.

6. Challenges of Financial Governance of Rights Based Associations

Civil society in Morocco faces several challenges that include poor levels XXXX and limited sources of funding, interference in the independence of its organizations whether by state, political parties or by other influential groups.

Given the strong link between funding and independence, rights CSOs face the risk of deviating from their goals and principles in favour of what donors dictate (especially domestic governmental donors). This challenge is made more palpable by growing doubts about the credibility of CSOs' work and their integrity in defending human rights and values of citizenship especially

[31] Interview with Mr. Abdelwahed Bourgine, representative of the German Friedrich Naumann foundation, Rabat, Thursday 29 October 2016.
[32] This is not the focus of this paper. For more details on this issue see Alexander Mohr, "The German Political Foundations as Actors in Democracy Assistance", 2010, dissertation.com
[33] Presentation by the Minister of Economy and Finance to the Parliamentary Committee of Public Expenditure Review, "CSOs Public Funding", 26 January 2015.
[34] High Commission for Planning, op. cit.
[35] Yahia Yahyaoui, "The Lie of Moroccan Civil Society", Jazeera Net, 3 May 2015, Arabic, available at goo.gl/HA9CgL

when these clash with specific interests of national or foreign donors. This challenge was far less observed with rights groups which more often than not had relatively more effective systems of governance even if not systematically applied.

Another main challenge was an inadequate legal framework lacking efficient but uncomplicated measures and procedures to allow CSOs to operate effectively and still comply with tax, disclosure and other measures that can instil good governance and transparency. Additionally, Moroccan financial legislation ignores the role of civil society in the management. A clear and precise legal framework that specifies the mechanisms and ways to benefit from public funds (such as financial support or a programmatic partnerships) remains absent, while the current fiscal framework governing taxes, customs, and local taxes remains unsuitable to non-profit CSOs. The current system lacks clarity and effectiveness to enable good monitoring of public funds allocated to CSOs (domestically or from foreign sources) and how to hold them accountable for their expenditure. Thus, the current situation perpetuates negative practices that limit the social impact and penetration of CSOs that ultimately rely on voluntarism and public support. The negative results of the existing legal frameworks include:

- Public funding for associations is subject to non-objective considerations unrelated to open competition while influenced by political, electoral, and ideological issues.
- The allocation of funds takes place in the absence of specific programmes or projects thus creating a situation where financial support to CSOs is treated as unconditional revenues.
- The absence of clear standards for financial reporting due to the lack of a commonly agreed accounting system for CSOs.
- Associations can barely cope with the complexity of fiscal and customs regulations.

Therefore, for the sake of good governance, Moroccan CSOs need unconventional but balanced financial, tax, and accounting systems that take into consideration the way CSOs work and their limitations but lay deep roots for transparency and accountability. At the same time, these improved systems should motivate and energize CSOs rather than become additional restrictive hurdles to cope with[36].

Conclusion

The goal of building a more equitable, participatory, representative and just society is a strategic ambition for many people and groups in contemporary Arab societies. In this context, CSOs in general and rights organizations in particular can play a significant role in helping enhance democratic practices as a foundation for these ambitions. Their starting point, however, is internal, since they need to guard and foster their independence and enhance their ability to mobilize social forces and frame their struggle for participation, equitability and justice as indispensable pillars for development, democracy and the consolidation of human rights.

Moroccan CSOs represent the richness and diversity of their society and communities in a balanced way. They provide a site for enhancing the freedoms, rights and responsibilities of citizens. They are an actor in sustainable development, and partners on the road to addressing social, environmental and rights challenges. They have the power to lobby for good democratic governance.

On the other hand, rights CSOs suffer from a number of gaps and obstacles related to the inadequate legislative, political and organizational environment in which they operate, and the nature of their relationship with the state. Moreover, a number of practices on the part of the executive and legislative authorities impede the freedom of action for CSOs and undermine their autonomy. CSOs in general suffer weak resources and poor governance systems and lack institutional capacity.

To improve governance in CSOs, there is a need to bring the legislative and institutional frameworks in which they operate in line with existing constitutional guarantees and international treaty commitments in the field of human rights in general and freedom of association in particular. There is also a need to take various political and institutional measures and strengthen human, administrative and financial resources to improve the transparency and accountability of CSOs.

[36] The Ministry of Parliament and Civil Society, "National Dialogue on Civil Society and New Constitutional Roles: Synthetic Report", April 2014, pp. 80-81, available at goo.gl/wuc9dX

PART VI:

The Impact of Human Rights Action

Making Use of a Revolutionary Moment: The Impact of Human Rights Organizations in Post-revolutionary Egypt

Soha Abdelaty

Summary

On 25 January 2011, Egypt's National Police Day, massive protests took to the streets in response to calls by activists, widely supported by various movements and groups, and then later by the majority of the public. The unprecedented public mobilization that 2011 witnessed created the perfect opportunity for human rights advancement. In post-2011 Egypt, there was more public space than had ever existed during Mubarak's three-decade rule for all stakeholders to engage freely: media, political parties, the judiciary, and human rights organizations, in the absence of the usually domineering state security apparatus. Human rights organizations were dealing with a vulnerable regime that was keen to appease, willing to listen, and open to reform and dialogue, regardless of how genuine its intentions were. In the aftermath of the 2013 military coup, which followed massive demonstrations against the Muslim Brothers-led government, some of the gains made by these organizations proved to be fragile, and within a few months a security state was back in full force. Despite a general agreement that the human rights conditions in Egypt quickly became far worse than during Mubarak's years, there remains some elements of success that were reaped in the short "revolutionary" years from 2011 to 2013, and especially in the early months following Mubarak's downfall.

Introduction

"At the beginning, General Hamed Abdullah, head of the new National Security Sector, spoke briefly about the new sector which he insisted … will start its work under a new philosophy, and a majority of new officers and employees. I was pleased to hear in his opening remarks the expression 'institutional corruption' in describing the [former] State Security sector which he admitted had worked independently of and even above the Ministry. After we watched a presentation about the new sector, its philosophy, structure, and its oversight mechanisms, I asked for a copy of the presentation and I was surprised a few minutes later when a public affairs officer came and gave me a CD with the entire presentation."

The above are excerpts from a blog written in 2011 by Hossam Bahgat, founder and former Executive Director of the Egyptian Initiative for Personal Rights (EIPR), about an unprecedented forum he attended at the Ministry of Interior[1], along with journalists, other human rights activists, politicians, writers and activists. Many promises were made at the meeting, including that the old officers would be vetted, and the new officers get an induction training, including on human rights and that there would be a new law to ensure accountability, end impunity and encourage women and Christian Copts to join the new service. What Bahgat describes above is a very different atmosphere than the one that is visibly present in Egypt in 2018, almost seven years after an uprising that erupted to demand dignity, freedom, and social justice[2].

On 25 January 2011, National Police Day, massive numbers of individuals took to the streets in response to calls by activists. The calls were widely supported by various movements and groups. The unprecedented public mobilization that 2011 witnessed created the perfect opportunity for human rights advancement. It is clear from Bahgat's blog and many other political developments that year that activists were dealing with a vulnerable regime that was keen to appease, willing to listen, and open to reform and dialogue, regardless of how genuine its intentions were. In post-2011 Egypt, there was more public space than had ever existed during Mubarak's rule for all stakeholders to engage freely: media, political parties, the judiciary, and human rights organizations, in the absence of the usually domineering state security apparatus. In some instances, human rights organizations were able to successfully take advantage of this opening to push through reforms. There were clear advocacy efforts on a range of human rights issues (under the umbrellas of economic and social justice, criminal justice reform, civil liberties protection and upholding democracy and political rights), but not all the efforts were successful.

This paper will examine a number of human rights initiatives and issues championed by human rights organizations in the aftermath of the 2011 uprising in order to gain a better understanding of the impact these organizations had in post-revolution Egypt. While there were a number of other initiatives led by various groupings (not necessarily formal human rights organizations), we will examine only a select number of case studies led by human rights actors in order to analyze the patterns that led to their success or failure. This will a better understanding of the impact human rights organizations had during that period. Most importantly, however, is that this approach should assist us in understanding what could have been done differently – if anything – to maximize successes and minimize the losses for these organizations[3].

[1] Hossam Bahgat, "About My First Visit to the New National Security Sector (Previously Known as State Security Nasr City)". 16 June 16. Available in Arabic at eipr.org/blog/post/2011/06/16/1179

[2] In 2015, the state arrested Bahgat for a couple of days and later, in 2016, it banned his travel and froze his assets due to investigations in a case in which security agencies accuse him and several other human rights defenders of receiving foreign funds to destabilize the state and harm national security. For more information, see bit.ly/2roNuhb and bit.ly/2FQ688d

[3] In this paper, human rights organizations are defined as non-governmental institutions with an internal governance structure and a hierarchy working towards advancing human rights as derived from the international bill, and monitoring, documenting and reporting on abuses committed by the state or other actors. The paper deals with these institutions as NGOs regardless of whether they are officially registered with the government as such. Some of these organizations undertake certain initiatives or campaigns to advance a particular issue they are working on. This is different from non-structural movements, groupings and campaigns launched and organized by individuals working within a loose horizontal structure.

This will be achieved mainly by carefully discussing selected initiatives and issues presented through firsthand accounts of researchers at the organizations which led work on these causes. The author will assess impact based on the successful achievement of the objectives as set by the stakeholders (including the researchers at the organizations, whether it is the adoption of a law, policy changes, a change in attitudes and perspectives by the public at large, etc.). The author will also gauge the impact of these organizations through the way various media outlets covered their work, whether in a supportive, neutral, dismissive or hostile manner.

The period under examination will be from 2011 to 2013, with the summer of 2013 marking the beginning of a fast erosion of the enlarged space for civil society action as a result of the military takeover and the removal of Muslim Brotherhood president Mohamed Morsi, thus bringing to a quick end Egypt's least repressive period probably since 1952. In the aftermath of the 2013 return of the military to directly and visibly hold the reins of power in Egypt, some of the gains made by human rights organizations proved to be short-lived, and within a few months a security state was back in full force. Despite a general agreement that the human rights conditions in Egypt quickly became far worse than during Mubarak's years, there remains some elements of success that were reaped in the short "revolutionary" years between 2011 and 2013, and especially in the early months following Mubarak's downfall.

Gender Issues: Initially Ignored, Gradually Pushed to the Top of the Agenda by Public Momentum

On 8 March 2011, International Women's Day, a group of young women, feminists and activists took to the street to demand that the ruling Supreme Council of the Armed Forces (SCAF) include women in ongoing efforts to reconstruct the state. Though the march was joined by a small number of people, the protestors were attacked in Tahrir Square by 'bystanders', some of whom mocked their demands[4]. Some of the demonstrators were sexually harassed, by then an increasingly common act of aggression against women in the streets in Egypt, and especially during mass gatherings. A study conducted in 2008 and published in 2010 claimed that 62% of Egyptian men admitted to having sexually harassed women, while 83% of Egyptian women in the study sample reported being harassed with half of them saying that it occurred on a daily basis. Furthermore, 98% of foreign women reported they had been harassed during their stay in Egypt[5]. Despite such alarming figures, there were no serious efforts by the government before the revolution to address the issue of rampant sexual harassment. In fact, the whole issue was dismissed by Suzanne Mubarak, Egypt's then First Lady, who commonly spearheaded most of the policy changes around gender issues during her Mubarak's rule[6]. Furthermore, the state itself was accused of orchestrating some of the sexual violence crimes as a weapon against female demonstrators[7].

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"Before 2011…there was this widespread disease within Egyptian society of acceptance of sexual harassment crimes and violence in public spheres, and finding excuses for the harasser….women who spoke up were told to shut up and not to shame themselves, or were accused of asking for it by the way they dressed, and sometimes even witnesses denied they saw anything," says Dalia Abdel-Hameed, Gender and Women's Rights Officer at the Egyptian Initiative for Personal Rights[8]. The media also contributed to this smear campaign against women who dared to speak up, she added.

Shortly after the 8 March incident, the SCAF used its legislative power and issued a law which increased penalties for sexual violence crimes, and attempted, but not with much success, to better define sexual harassment to increase protection for individuals – a long-standing demand by human rights groups[9].

What brought the issue of sexual harassment back to the forefront after 2011 however was the increased number of documented cases of more frequent and more violent mob assaults during demonstrations, thereby dispelling the myth that that phenomenon had all but disappeared from mass gatherings[10]. By June 2012, "it was very difficult for revolutionary groups to continue to deny that this was happening on a large scale, as a lot of people from our own circles were violated in this way," says Abdel-Hameed. But still, not all political forces were on board; some asked that they continue to be silent about this issue so as not to "smear the square's image [Tahrir Square]"[11].

The government itself was in complete denial initially. It made no attempt to secure the demonstrations or even engage with human rights organizations to gain a better understanding of the magnitude of the problem, similar to the reaction of the Mubarak regime. The way the attacks were organized and orchestrated further reminded many of the way the Mubarak regime had hired thugs as early as 2005[12] to attack female demonstrators. These allegations however were difficult to prove, but what is clear from the study conducted in 2008 and mass attacks since 2011, is that we are facing a social phenomenon that needed to be addressed by the state.

[4] Kristen Chick. "In Egypt›s Tahrir Square, Women Attacked at Rally on International Women›s Day." The Christian Science Monitor. 8 March 2011. Available at bit.ly/2w2OvkP

[5] The Egyptian Center for Women's Rights. "Clouds in Egypt's Sky". 16 March 2010. Available at egypt.unfpa.org/publications/clouds-egypts-sky-en

[6] BBC Arabic Online. "There is No Sexual Harassment Phenomenon in Egypt". 8 November 2010. Available at news.bbc.co.uk/hi/arabic/middle_east_news/newsid_7730000/7730616.stm

[7] The Egyptian Initiative for Personal Rights. "Egypt held to account for failing to protect women demonstrators from sexual assault". 14 March 2013. Available at bit.ly/2w4GaNp

[8] Interview with Dalia Abdel-Hameed, 27 September 2016.

[9] Al-Akhbar. "The SCAF Issues a Decree to Increase Penalties for Rape, Harassment and Kidnapping Crimes." 1 April 1, 2011. Available at www.masress.com/elakhbar/33397

[10] The first documented case was that of Lara Logan, CBS correspondent, who spoke out a few months later. See www.cbsnews.com/news/lara-logan-breaks-silence-on-cairo-assault/

[11] Supra note 8. Interview with Dalia Abdel-Hameed.

[12] There was a massive coverage of such incidents but for the main one of 2005 see bit.ly/2rdrl6k

In June 2012, when human rights groups started working on documenting these cases, what they discovered was that the mass assaults had taken on a more violent and severe nature than those documented before the revolution, and all they could do at the time was to provide the survivors with psychological and medical support and at times, publish their testimonies[13]. In a change of strategy, in November 2012, EIPR recruited a limited number of volunteers for an upcoming demonstration, mostly staff members from the organization but also members from Mosireen – a collective working at the time to document the revolution and has a lot of video footage[14] – to organize them around reporting the incidents and physically removing the women who were being attacked from the demonstration. They shared the hotline number for reporting incidents on Twitter and Facebook to encourage others as well. "We only wanted to rescue the girls, and we weren't very hopeful," Abdel-Hameed said.

After that initial attempt, the group monitoring demonstrations in Tahrir started organizing themselves a bit more efficiently, dividing themselves into smaller groups each entrusted with specific tasks and became officially known as Operation Anti-Sexual Harassment/Assault (OpAntish). Other women's rights groups joined in this effort. They published a call for volunteers and got 80 applicants, much to the surprise of the organizers. That initial public meeting of its kind was quite heated, with men who came with preconceived notions about telling women not to go to the demonstrations, or telling the group that it should encourage the women to dress in a certain way. It turned into an interactive debate about women's rights issues; "a grass-root fight about the language we were using"[15].

Starting 2013, the struggle led by these organizations started engaging the media and the public at large in an unprecedented manner. After the demonstration commemorating the 25 January revolution, members of OpAntish started appearing on TV shows to speak about their findings[16]. They also issued their first press release condemning political parties, which had been largely silent until then and did not take any responsibility for the horrific assaults that occurred in demonstrations they called for[17]. It was at that 25 January demonstration, and the public protests that took place in the following days, that the assaults were the most severe[18]. A call for testimonies was put out by the group. The testimonies that were gathered and published, and the severity of the incidents, garnered even more media attention and sought out the survivors to speak about them[19]. OpAntish also started reaching out to groups across the region and received a number of solidarity statements at the time[20].

"The survivors wanted to publish their testimonies in their names, with their faces. It was a real battle against stereotyping. I will not hide and be ashamed, a real revolutionary moment. It suddenly became part and parcel of the revolution and not an elitist issue. It managed to end the denial," concludes Abdel-Hameed.

While the issue was also getting support from political parties, the Muslim Brotherhood-dominated Shura Council[21] attempted to dismiss these incidents in a hearing by its Human Rights Committee on February 11, 2013, but it had very little impact against the rising strength of the testimonies[22]. The volunteers themselves started seeing the issue from a feminist perspective, acknowledging for instance that it is not their place to dictate to the women whether or not they should attend demonstrations or advise them on a 'proper' attire when they take part in public gatherings[23].

According to Abdel-Hameed, while this started as a civil society initiative and continued to be supported by these organizations (including financially), what made it take a life of its own were the people themselves on the street. The success of the work also led to individual donations, from inside and outside of Egypt.

On 5 June 2014, Interim President Adly Mansour finally issued a decree which amended the Penal Code to include the term "sexual harassment" for the first time in Egypt's legal history, although it was accompanied with sexual intent (Article 306 bis (b). It also increased the penalty for an assault in Article 306a and replaced the word "female" with the word "other" thereby making it a neutral offence regardless of the gender of the victim[24]. The draft law had been previously discussed at meetings organized by UN Women. The then Deputy Prime Minister Ziad Bahaa el-Din had also invited many of the NGOs engaged in this effort for consultations around the bill. A lot of the language used in the amendments was proposed by human rights organizations[25].

The group was not only successful in getting the law to be passed. A lot of the other non-penal demands, like a comprehensive

[13] Supra note 8. Interview with Dalia Abdel-Hameed.
[14] For more information on Mosreen, see mosireen.org/
[15] This group did not work alone on this issue at the time. There were other groups like Tahrir Body Guards doing similar work in Tahrir Square. More about the mission statement of Operation Anti-Sexual Harassment/Assault is available at www.facebook.com/opantish/about/
[16] Reem Magued. Baladna bel Masry, OnTv. 30 January 2013. Available at www.youtube.com/watch?v=iShZH74JQdE
[17] The press release is available at www.facebook.com/notes/202877116522855/
[18] Supra note 8. Interview with Dalia Abdel-Hameed.
[19] See www.youtube.com/watch?v=DRy6csquRBM for a video by Al-Masry el-Youm TV of material gathered by OpAntish. 3 February 2013, and www.youtube.com/watch?v=BGYWWe41brQ where TV presenter Lamis el-Hadidi airs testimonies from survivors on her show, Huna al-A'sema, showing at the time on CBC Extra. Posted 3 February 2013.
[20] Supra note 8. Interview with Dalia Abdel-Hameed.
[21] Egypt's Shura Council was the upper parliament's chamber. It was established in 1980 but brought to an end as part of the legislative structure under the 2014 constitution.
[22] See OpAntish statement on 16 February 2013. Available at bit.ly/2rnOqT7
[23] Supra note 8. Interview with Dalia Abdel-Hameed.
[24] The Egyptian Initiative for Personal Rights. "Mob-sexual Assaults and Gang Rapes in Tahrir Square during Celebrations of the Inauguration of New Egyptian President is Sufficient Proof for the Inefficiency of the Recent Legal Amendments to Combat these Crimes". 9 June 2014. Available at eipr.org/en/pressrelease/2014/06/09/2144
[25] Supra note 8. Interview with Dalia Abdel-Hameed.

national strategy to combat violence against women, and a medical protocol for dealing with survivors, were also adopted by the government. The government also set up a sector in the Ministry of Interior for combatting violence against women[26].

The mass assault incident which took place at President Abdelfattah elSisi's inauguration on 3 June 2014 was also a turning point in giving more momentum for the law to be respected by government agencies. What was a huge celebratory moment for el-Sisi and his supporters was tarnished by this incident, especially as it was documented live[27]. El-Sisi had to admit the gravity of the incident and took the symbolic step of visiting the survivor in hospital[29]. This was an obvious show of interest by the President and a strong signal to the rest of the government agencies that this is an issue to be prioritized – unlike Mubarak whose wife had completely dismissed the issue. Shortly thereafter, there followed the first court convictions for mass sexual assaults[29].

In a country where statistics are hard to come by, and not widely shared by the government, measuring respect for the law and the extent to which it is enforced is difficult. However, Daftar Ahwal, a research center for "archiving, documentation, statistics and studies" published a study in 2015, one year after the law was passed, indicating that the number of those arrested under the law amounted to 2,259 individuals, not including those who have been sentenced, as a result of 402 security campaigns across the country[30]. While the law has by no means ended the phenomenon, more women have become clearly more encouraged to report incidents, more people willing to assist in apprehending assailants, and the police have actually started to file complaints and take them more seriously[31].

Even though the problem of sexual harassment and gender issues at large were clearly nowhere on the agenda of many stakeholders in the immediate aftermath of the revolution, the demonstrations in Tahrir Square and the government's tolerance for them, focused attention on sexual harassment and how widely spread it had become, in addition to such incidents 'tarnishing' the image of Tahrir square which had acquired a great symbolic value for almost all parties. But it was the public mobilization around the issue, the people who took ownership of the initiative that were the catalyst for the real reform to occur in terms of policy, public attention and legislation.

The gender groups' struggle for women's rights and gender issues tremendously slowed down and almost halted in some aspects with the return of authoritarian rule, the crackdown on civil society organizations, and the successful actions to silence almost all forms of dissent (from enforcing severe penalties for demonstrations, to harassing independent media and political figures, as well as human rights organizations, etc.). Long-term structural changes, such as introducing sexuality education in national curricula to changing gender perceptions, require much more time than what was allowed the activists in this short relative democratic opening in the period 2011-13. It therefore should not be surprising that TV presenters, and politicians after 2013 deployed a very crude misogynistic language on gender issues – even if their behavior produced a public outcry largely by activists on social media[32].

Police Brutality: Limited Success, No Long-term Changes Despite Public Momentum

Torture to death and brutalization by policemen of suspects and detainees was probably the direct trigger that brought people to the streets of Cairo in 2011 according to many analysts. One of the groups that called for the demonstrations on 25 January was a Facebook group called "We Are All Khaled Said", named after a young man who was beaten to death by police officers in June 2010 and his before and after pictures shared widely on social media networks. And on 28 January, when the police forces withdrew from the streets of Cairo and other cities, many across the country burned the police stations in their neighborhoods.

At first there was a lot of momentum and demand to push for security sector reform. The withdrawal was taken as a defeat and a recognition that the security sector will not be able to resume business as usual. This was also acknowledged by the governing authorities at the time. As torture accounts started to resurface after the resignation of Mubarak, it became clear that this was an issue that will require a lot of hard work and real pressure. One such incident of police abuse was first discussed by TV broadcaster, Yousry Fouda only a few months after the battle of 28 January, on his widely-watched TV show, Bedoun Kalam[33]. Furthermore, the issue of reform was not only being discussed by human rights organizations and the media, but also by police

[26] See an interview with Lieutenant Nashwa Mahmoud, by Mona el-Shazly on CBC. Published 12 October 2014. Available at www.youtube.com/watch?v=wlrFJRz_Hko

[27] See an interview with the girl who was assaulted on June 3 by Ahmed Moussa on his TV show, 'Ala Mas'ouleety, on the channel el-Balad www.youtube.com/watch?v=EtvaqEJgxI8. Posted 10 June 2014.

[28] See video footage of the visit at www.youtube.com/watch?v=yFNfXVeEc4w. Posted 11 June 2014.

[29] The Egyptian Initiative for Personal Rights. "The First Court Decision Against Mass Assaults in Tahrir Square is Just the Beginning, and There Needs to Be Investigations into All Previous Cases of Mass Assault." 20 July 2014. Available at eipr.org/pressrelease/2014/07/20/2161

[30] Daftar Ahwal. "Arrest Campaigns One Year after the Adoption of the Harassment Law". 15 November 2015. Available at daftarahwal.wordpress.com/2015/11/15/harassment-arrests-fullreport/

[31] There are numerous videos captured by news agencies during Eid festivities when mass assaults are more common, of women dragging men to be reported and demanding justice, being supported by those around them, and of police forces taking action to support these women. See www.youtube.com/watch?v=VOC2dwBbuTQ ,
www.youtube.com/watch?v=qmoOwwxi0xw and www.youtube.com/watch?v=MVRFoX9jYQ0

[32] In May 2016, a court acquitted a prominent TV broadcaster, Reham Said who had shared private pictures of a girl she was interviewing about a sexual harassment incident. Said showed the girl on the beach in a bikini, using that to justify why the girl was harassed at a commercial mall in Cairo! Her TV show was suspended and she was sentenced to a year in prison and fined LE15,000 for violation of privacy, and an additional six months in prison and LE10,000 for libel and slander after a huge social media campaign using the hashtag #موتي_يا_ريهام (Die, Reham). The show resumed few weeks later, the sentence was dropped and the case closed in an out-of-court settlement.

[33] Yousry Fouda. Bedoun Kalam. OnTV. 24 May 2011. Available at www.youtube.com/watch?v=WoScD3smIqw&feature=share

officers, some of whom had left the service, but who wanted to see genuine reforms introduced to the institution[34].

In July 2011, a group of individuals from human rights organizations, academia, artists, businessmen and other professionals published the first comprehensive roadmap for security sector reform[35]. "Since the Ministry of Interior after the Revolution did not adopt a clear strategy to fix [the institution]… we… took the initiative... to form an independent working group that would put forward a complete vision for the procedures, legislative amendments, and restructuring that are sufficient to rebuild the police force on sound grounds... we propose this initiative, whilst looking forward to an exchange and participation and support from all individuals and society at large, so we can reach consensus around it that would lead to it being adopted - at both the popular and official levels - as a roadmap for rebuilding the security sector," reads the mission statement[36]. The official launch of the initiative[37], which became known as Police for Egypt, came in October 2011, and received wide coverage in the media, both TV and print[38] and continued to be publicized for some time thereafter[39].

"From 2011 to 2013, our main achievements were that we [Police for Egypt] were present, influential and had access to government bodies," says Karim Ennarah, Security Sector Reform Officer at the Egyptian Initiative for Personal Rights, which was one of the founding organizations of the initiative. "For the first year, we had constant presence in the media ... There was always recourse to us when someone [from the media] wanted to speak about the police"[40].

The initiative's first serious interaction with any official body was with Parliament after the Port Said tragic incident in February 2012, also a few months after the initiative was launched[41]. According to Ennarah, the Parliament reached out to the group because of public pressure. The group drafted a bill and sent it to the Defense and National Security Committee, based on the principles and priorities in the initiative. But despite the fact that there were three bills presented by MPs at the time (somewhat based on the Police for Egypt bill), none of them were adopted and eventually Parliament made limited amendments to the Police Law related to the wage structure to appease the growing resentment at the time from junior officers, the "boots on the ground"[42].

In June 2012, Parliament was dissolved after the law on elections was found to be unconstitutional but shortly thereafter Mohamed Morsi of the Muslim Brotherhood was elected President. Police for Egypt continued to engage with the new government, and in particular, the Minister of Justice, Ahmed Mekki and a Presidential Advisory Body. "We used to sit with Mekki in person (given the role he played during Mubarak's time in the independence of the judiciary campaign) and many of us had high hopes pinned on him. We asked him directly to be our liaison with the Ministry of Interior, and told him we would be willing to meet with them," recalls Ennarah[43]. "During that time, we also started adapting our initiative to political changes, with the first draft being the most radical," he adds.

"Police for Egypt" also worked very closely with political parties, and even presidential candidates during their campaigns leading to the elections in 2012. Many of these parties used the language in the document in summarizing their position on police reform. Khaled Ali, one of the candidates and a human rights lawyer, used the entire initiative as the section of his platform on security issues; Amr Moussa and Abdel-Moneim Aboul-Fotouh took large parts of the initiative to integrate in their platforms. "We spent a lot of time with their campaign managers," says Ennarah. "And the police reform issue was an important one[44]."

Even after the military overthrow of President Morsi in June 2013, and the reinstatement of a military-dominated regime, the group continued to engage the government and other official bodies. They met with then Prime Minister Hazem Beblawi[45] and were invited to hearings by the Shura Council over the draft anti-demonstrations law. The arbitrary passage of that law, and its highly restrictive nature, however, ended all attempts to engage with the government[46].

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[34] Gamal Hussein and Hossam Abdel-Aleem. "Security Sector Reform: an Urgent and Inevitable Matter before the New Interior Ministry." Al-Akhbar. 8 March 2011. Available in Arabic at www.masress.com/elakhbar/31099

[35] Egyptian Initiative for Personal Rights. "National Initiative to Rebuild the Police Force: A Police for the People of Egypt". 13 July 2011. Available at eipr.org/en/pressrelease/2011/07/13/1216

[36] "A Police for Egypt". Available at: www.policeforegypt.org/index.php and Reem Magued. Baladna bel Masry. OnTv. Published 12 July 2011. Available at www.youtube.com/watch?v=mXLt-Od7ciM&feature=youtu.be

[37] There have been three versions of the initiative's text to date. The latest version is available at www.policeforegypt.org/docs.html

[38] Mohamed el-Bahrawy and Ahmed Mamdouh. "Police for Egypt Initiative: A Popular Initiative to Reform the Police. " Al Youm al Sabe'a. 25 October 2011. Available in Arabic at bit.ly/2Ib2yK0

[39] Shaimaa Adel. "Al Watan Publishes the National Initiative to Reform the Police Force." Al Watan. 21 October 2012. Available in Arabic at www.elwatannews.com/news/details/65019 But also: Mostafa Imam. "After the Appointment of a New Interior Minister: The Popular Initiatives Restructure the Ministry of Interior." Al-Ahram. 9 December 2011. Available in Arabic at ahram.org.eg/archive/741/2011/12/8/3/117676/219.aspx

[40] Interview with Karim Ennarah, Security Sector Reform Officer. Egyptian Initiative for Personal Rights. October 19, 2016.

[41] Almost 100 soccer fans were killed in Port Said on February 2, 2012 after clashes between supporters of the two opposing teams. The police did not attempt to interfere to stop the clashes, leading to a high fatality rate and leading some to believe the police orchestrated the clashes. In any case, it is considered a huge failure of the police force. See: "Witness Accounts Around the Port Said Tragedy." The Egyptian Initiative for Personal Rights. February 2, 2012. Available at eipr.org/en/pressrelease/2012/02/02/1364. See also: "The Port Said Massacre: The State Secures Safe Environment for the Murder of Innocents." Cairo Institute for Human Rights Studies. February 5, 2016. Available at www.cihrs.org/?p=1144&lang=en

[42] Supra note 39. Interview with Karim Ennareh.

[43] Supra note 39. Interview with Karim Ennareh.

[44] Supra note 39. Interview with Karim Ennareh.

[45] Al-Bedaiah. "The Police Reform Initiative Meets with Beblawi and Asks that he Restructure: The Ministry of Interior." 16 July 2013. Available in Arabic at albedaiah.com/node/43805

[46] Egyptian Initiative for Personal Rights. "In its Commentary on the Demonstrations Law, Human Rights Organizations: The Government Considers Demonstrations a Crime" 31 October 2013. Available at eipr.org/pressrelease/2013/10/31/1859

During that period, there were a limited number of cases where the public momentum led to accountability. One such case was what came to be known as the "eye sniper case". In November 2011, during demonstrations that resulted in clashes with police forces, a journalist managed to videotape an officer targeting demonstrators' eyes with a rifle[47]. The case triggered a huge outcry[48] and eventually led to the sentencing of the officer Mahmoud el-Shinnawy to three years in prison[49].

Despite the strengths of the initiative and the significance of the issue, security sector reform did not occur after the fall of the Mubarak regime. What was seen by several quarters as "pressing security concerns" was one main factor that impeded the "Police for Egypt" initiative and made it almost impossible to bring about real structural reform and legislative changes, despite public momentum and support. These "concerns" were born after the withdrawal of police forces on 28 January 2011, and their ceasing to perform regular security activities. This became a real concern for many, as they felt that crime rates were increasing, and prevented them from pushing whole-heartedly for reform. It also led to contradicting positions: the same people from diverse demographic sectors and different areas in the country who angrily burned down police stations on 28 January also wanted the police to contain crime. This began as early as 2011, thus putting the brakes on any real push for security sector reform.

This contradiction played out differently throughout the years following the fall of Mubarak. Incidents like the Port Said stadium returned the issue of security sector reform to the forefront and placed pressure on all stakeholders to act. But the state successfully managed to take back control over situations like this, with fear mongering tactics. The public momentum for police reform gradually faded. "It was a decisive moment because it divided many of the revolutionary groups and civil society organizations," recalls Ennarah[50].

Long-term structural changes require time, as was the case with the struggle against sexual harassment in public spaces. And time was a luxury human rights organizations did not have, as the tide against reform and human rights was turning quite quickly.

There is no denying that after mid-2013, the magnitude of human rights abuses, and the severity of conditions in places of detention became unprecedented, as documented by several human rights organizations[51]. There had been moments, however, when it seemed like there was a return of the public momentum witnessed in the early days of the revolution, and a government that feels pressured enough to respond.

One such incident was when police officers assaulted doctors at the Matareya Hospital in Cairo on 28 January 2016[52]. Thousands of doctors took to the street to protest, led by the Doctors' Syndicate which called for a General Assembly on 12 February and adopted some radical decisions, including a call on all doctors to stop from providing all paid medical services starting 27 February, and only providing emergency and free services in all public hospitals and for all doctors to shut down private clinics on 19 March[53]. The officers were charged and indicted, and on 20 September a misdemeanor court sentenced them to three years in prison[54]. The speed by which the case was prosecuted can be largely attributed to the momentum created by the doctors and the public support they garnered[55].

Another case that also had a great ripple effect was that of the truck driver who was killed by a police officer after a dispute over the fare charge in February 2016. Hundreds surrounded the Cairo security directorate and marched from the building to Ahmed Maher Hospital where the corpse was moved[56]. In April, the police officer was sentenced to life in prison[57]. Shortly after this incident, President el-Sisi called upon his Minister of Interior to amend the Police Law, in statements that were considered an acknowledgment of the problem, but also, and more importantly, the first such acknowledgment by a state leader in Egypt. El-Sisi said that these irresponsible acts must be held accountable, which entails introducing amendments to the law that would regulate the security performance[58].The amendments were passed in 10 August 2016.

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[47] Video footage of the incident is available here www.youtube.com/watch?v=wGNLkHwTMTM. Posted 26 November 2011.
[48] See sample coverage of the incident by TV shows at www.youtube.com/watch?v=nZpr1wi6yPo and www.youtube.com/watch?v=FpSwGLkZ1D0
[49] Egyptian Initiative for Personal Rights. "The Egyptian Initiative for Personal Rights Welcomes the Court Decision in the Eye Sniper Case." 5 March 2013. Available at eipr.org/pressrelease/2013/03/05/1650
[50] Supra note 39. Interview with Karim Ennareh.
[51] See Amnesty International,"Egypt: Hundreds disappeared and tortured amid wave of brutal repression". 13 July 2016. Available at www.amnesty.org/en/latest/news/2016/07/egypt-hundreds-disappeared-and-tortured-amid-wave-of-brutal-repression/ and also Human Rights Watch. "Egypt: Serious Abuses in Scorpion Prison". 28 September 2016. Available at www.hrw.org/news/2016/09/28/egypt-serious-abuses-scorpion-prison
[52] AP. "Thousands of Doctors in Egypt Protest after Police Accused of Attack on Two Medics". 13 February 2016. Available at www.theguardian.com/world/2016/feb/13/thousands-of-doctors-in-egypt-protest-after-police-accused-of-attack-on-two-medics
[53] A full list of the decisions can be found at www.ems.org.eg/our_news/details/3931
[54] Alyoum Al-Sabea'. "Nine Police Officers Sentenced to Three Years in Prison for Assaulting Doctors in Matareya". 20 September 2016. Available in Arabic at bit.ly/2rcTavI
[55] See Ibrahim Eissa's analysis of the case on his TV show, even before the officers were sentenced at www.youtube.com/watch?v=7Rwgf8viJCg&feature=youtu.be. 14 February 2016.
[56] DW. "Deadly Police Shooting Sparks Egypt Protests." 19 February 2016. Available at www.dw.com/en/deadly-police-shooting-sparks-egypt-protests/a-19059634
[57] Middle East Eye. "Egypt Sentences Policeman to Life for Killing Taxi Driver after Fare Dispute". 2 April 2016. Available at www.middleeasteye.net/news/egypt-sentences-policeman-life-killing-taxi-driver-after-fare-dispute-264903699
[58] Al-Arabiya. "Sisi Proposes a Bill to Curtail Police Brutality". 19 February 2016. Available at bit.ly/2KsighU

Ironically, but expectedly, the amendments did not contain any accountability mechanisms or meaningful structural reforms[59]. But on the other hand, there was also the introduction of unprecedented language. "The Police Law had always been about the obligations of police officers towards their superiors. And the rest of the law governs salaries, pensions, etc. This was the first time you have language around the police officer's constitutional obligations to respect freedoms and rights," says Ennarah[60]. "Overall, they were very limited [amendments] but you have to consider that they took place during the peak of el-Sisi's rule – during which no one expected legislative or institutional reform – and how that must have happened after [him] feeling pressured."

These sparks and incidents where the people at large take back the streets, while quite significant, have been few and successfully contained by the government. The "Police for Egypt" initiative and other human rights efforts and successes have been limited to ensuring accountability for individual and sporadic cases. This could be largely attributed to the public momentum and support on these cases even before the revolution, as well as support from political parties, public figures and the independent media in the early days following the revolution. Ultimately, however, there was clearly never any intention or will by dominant political powers to actually embark on real structural reform in the security sector; even before the return of authoritarianism in July 2013. The regime and especially security agencies and supportive (or manipulated) media were able to abuse people's fears around the lack of security and to quickly contain any anger that spilled to the street about police violations and transgressions.

Freedom of Religion and Belief: How the Manipulation of Religion Led to a Severe Deterioration in Respect for Religious Freedoms

Religious freedom is a prime example of an issue where not only were there no successes to reckon with but much to the stakeholders' dismay, there was a serious deterioration in the immediate aftermath of the fall of the Mubarak regime and primarily during the time when the SCAF was running the country[61]. Sectarian violence increased during that period in a very violent manner.

"There were two new and compelling trends during this period governing sectarian conflicts: burning down churches even if the matter or source of the conflict was not over the church building itself, like for example, if there was a love affair between a Muslim woman and a Coptic man. And the second was the escalation by the Coptic side in the face of all this. In a lot of these incidents, the Copts used weapons resulting at times in higher fatality rate from the Muslim community," says Ishak Ibrahim, Freedom of Religion and Belief Officer at the Egyptian Initiative for Personal Rights[62].

One such incident took place in Imbaba on 7 and 8 May 2011[63], when Muslims attempted to storm the Mar Mina Church after claiming it was harboring a Muslim woman who had run away in 2010, and then ended up torching another church, the Virgin Mary Church. The incident was largely instigated by religious fundamentalist groups. Despite a large military presence on the streets at the time, there were no attempt by either the military or the police to prevent the clashes or even contain them. This incident was also quite remarkable in the reaction of the Coptic minority to the attacks on the Church buildings. The "use of firearms and violence by both sides that left several dead and many wounded may signal violence on a broader scale or herald the return of acts of terrorism as Imbaba saw in the late 1980s and 1990s," warned a statement by EIPR based on findings by its fact-finding mission[64].

There was also an upsurge in the number of cases of religious defamation filed by individuals[65]. In a report analyzing 19 such cases, two years after the revolution, EIPR found that these incidents were largely against regular citizens, and not just media or public figures as had been the case during the Mubarak regime. They were also accompanied by attacks against the accused individual, his family and his property, after incitement largely by religious fundamentalist groups. When such individuals were indicted and convicted, judges' decisions took on a very conservative outlook and interpretation of relevant penal provisions.

Finally, the period also witnessed an escalated state aggression. The Maspero incident is a startling case in point of such state violence. On 9 October 2011, a march which began in Shubra, Cairo, ended abruptly in front of the State TV building, Maspero. The demonstration was organized against the backdrop of the demolition of a church in Aswan, which the Muslim community claimed did not have a proper license even though it had been servicing the Coptic community there for 80 years. Video footage was taken of the violent dispersal by the military police and central security forces of the demonstration, using live ammunition and military vehicles to run over protesters[66]. The security forces were later joined by people from the neighborhood, amidst

[59] "Amendments to the Police Law: Limited and without Accountability Mechanisms." Egyptian Initiative for Personal Rights. 12 March 2016. Available at eipr.org/pressrelease/2016/03/12/2559

[60] Supra note 39. Interview with Karim Ennareh.

[61] "Copts Under Military Rule: One and a Half Years of Violations during the Transitional Period." Egyptian Initiative for Personal Rights. 9 October 2012. Available ateipr.org/sites/default/files/pressreleases/pdf/copts_under_military_rule.pdf

[62] Interview with Ishak Ibrahim, Freedom of Religion and Belief Officer at the Egyptian Initiative for Personal Rights. 29 September 2016.

[63] Egyptian Initiative for Personal Rights. "Street Justice: Report by the Fact-Finding Mission into Sectarian Conflict in Imbaba in May." Egyptian Initiative for Personal Rights. 14 May 2011. Available at eipr.org/report/2011/05/14/1158

[64] "EIPR Releases Findings of Field Investigation into Imbaba Events." May 14, 2011. Available at eipr.org/en/pressrelease/2011/05/14/1166

[65] Egyptian Initiative for Personal Rights. "Besieging Freedom of Thought: Defamation of Religion Cases in Two Years of the Revolution." 11 September 2013. Available at eipr.org/sites/default/files/pressreleases/pdf/hsr_ltfkyr.pdf

[66] See www.youtube.com/watch?v=4GqUCt38ByI

clear incitement from official media against the Coptic demonstrators to take to the streets to protect the army[67]. Inflammatory language was also used by some print media[68], as well as members of religious fundamentalist groups who wished to portray the matter as an attack by the Coptic community and an attempt to delay the upcoming parliamentary elections[69].

The incident unleashed a huge outcry by numerous media outlets[70] and political actors[71]. A lot of the criticism was directed towards the role the media played[72], but also, against the official denial[73] and reaction[74]. An official investigation was launched, and three army officers were indicted by a military prosecutor, but nothing came out of the investigation and a military court exonerated the officers.

In analyzing why this issue in particular deteriorated in this manner, it is important to understand the role religion played in post-Mubarak Egypt and how religion was manipulated by all political actors. This started as early as March 2011, with the SCAF-proposed constitutional amendments which were supported by the Muslim Brotherhood and other religious political groupings and was spun to be a vote over the state identity as stipulated by Article 2 of the constitution even though that particular article was not being proposed for an amendment[75]. Following the ouster of President Morsi by the military in 2013, supporters of the befallen regime attacked churches, and private property owned by the Coptic minority[76]. This turned the religious freedoms issue from a rights and freedoms issue to a political one, and also a bargaining chip at times.

Another part of the problem was that the call for respect for religious freedoms was limited; it did not engage a lot of other stakeholders, media and official attention was given to it largely and solely after huge incidents like the Maspero protest. Furthermore, like with police brutality, it largely lay in the hands of the political elite and the political environment to determine how much respect for these rights would be ensured. However, amidst a weak public momentum around the issue. Unlike with the issues of sexual harassment and even police brutality, there was not enough public pressure on the government to act. And oftentimes, as witnessed in numerous sectarian incidents and in particular during the SCAF rule, the military and security forces failed to act and prevent what at times could have been avoidable escalations[77]. "The issue was largely lost and not given due attention. This was because for many stakeholders, [religious freedoms] came at the end of the priority list. Whether political parties, civil society organizations and the ruling authority," says Ibrahim[78]. In fact, EIPR was possibly the only human rights organization with a standing program on religious freedoms that regularly documented and monitored this sensitive issue.

But even human rights organizations and political parties who supported or worked on this issue from time to time, were largely ineffective, had no support on the ground, and it was mainly left to the religious groupings, oftentimes the extreme ones, to resolve or handle the issue at the expense of the Coptic minority, using the absence of the security apparatus to their advantage. It was therefore quite easy to manipulate sectarian sentiments and mobilize the people against respect for religious freedoms, using the openness in the public space – the fact that many of these groups could establish their own TV channels and public parties for example. "We had an authority that needed these religious groups to consolidate its power, and religious groups with very different components which played a role in street politics and wanted to prove themselves, at both popular and official levels," says Ibrahim.

So, what if any can be counted as successes in this issue? The momentum that was often led by Coptic youth in opposition to the Coptic Church was the first such protest against this religious institution, which more often than not opted to cut deals with consecutive ruling regimes to maintain its powerful position within the large Coptic minority. "With the outbreak of street demonstrations, and public mobilization, a number of Coptic entities were created that were able to create some momentum on the streets, even around political events like the voting against the 2013 constitution or the

[67] See Rasha Magdy, Channel One, state TV. Available at www.youtube.com/watch?v=E7m08JJdxao. Posted 10 October 2011.
[68] See, for example, "Two Dead and 100 Injured in Front of Maspero as a Result of the Use of Force by the Copts." Al Youm al Sabea'. 9 October 2011. Available in Arabic at bit.ly/2HOMGsT
[69] See Sheikh Mohamed Abdel-Maqsoud. "A View of the Maspero Events." Al Naas TV. Available at www.youtube.com/watch?v=O0XuIndYiL4
[70] See, for example, "Hossam Bahgat on Bedoun Kalam to Speak about Maspero." Yousry Fouda. Bedoun Kalam. OnTV. Published 24 May 2011. Available at www.youtube.com/watch?v=JRwJkMRL-pA
[71] Hossam Sadaka and Mohamed Abdel-Kaddar. "Political Parties Call Upon the Military to Announce a State of Mourning for the Martyrs of Maspero." Al-Masry al-Youm. 11 October 11. Available in Arabic at www.almasryalyoum.com/news/details/117293. See also: Al Youm al-Sabea'. "17 Political Party, Movement and Coalition Accuse the Military of Conspiring to Massacre the Maspero Demonstrators". 13 October 2011. Available at bit.ly/2IaXntl
[72] Inji el-Qady. "Accusations of Incitement against Official Egyptian Media in Handling the Maspero Events." Al-Arabeya. 14 October 2011. Available at www.alarabiya.net/articles/2011/10/14/171788.html. Also see: Yousry Fouda. "Official Media and Maspero Events." Bedoun Kalam. OnTV. Published October 10, 2011. Available at www.youtube.com/watch?v=ZG1Sdeik6B0. A documented analysis of the role the media played in inciting the violence is included in a report by the Association of Freedom of Thought and Expression. "Maspero a Criminal." Association of Freedom of Expression and Thought. December 2011. Available at afteegypt.org/media_freedom/publications-media_freedom/2011/12/22/484-afteegypt.html
[73] See, "The Press Conference by the Military Supreme Council about the Maspero Events." Rassd Network. October 12, 2011. Available at www.youtube.com/watch?v=YWJiQlfwz7o
[74] See, "Ibrahim Eissa Comments on Reactions to Maspero." Al Tahrir Channel. Available at www.youtube.com/watch?v=0fhS35oL1Zw. Published October 11, 2011.
[75] See www.youtube.com/watch?v=tnOxAQGFSHU
[76] Egyptian Initiative for Personal Rights. "Wave of Attacks on Copts and churches: EIPR: authorities must take immediate action to protect citizens and houses of worship, bring perpetrators and inciters to justice." 15 July 2013. Available at eipr.org/en/pressrelease/2013/07/15/1762. See alsom Egyptian Initiative for Personal Rights. "Unprecedented spike in scale of sectarian violence and reprisals against Copts; interim president and prime minister must protect Egyptians' lives and property and their houses of worship." August 25, 2016. Available at eipr.org/en/pressrelease/2013/08/25/1791
[77] Supra note 61. Copts Under Military Rule.
[78] Supra note 62. Interview with Ishak.

demonstrations that led to the ousting of the Muslim Brotherhood," says Ibrahim[79]. The temporary breakdown of the security sector which had been largely responsible for preventing them from constructing churches, led the Copts to believe that they "could now build places of worships without any of the previous calculations and complications that existed, and felt that they must exercise their rights, amidst a new atmosphere where people are calling for freedom and justice. Especially since even in Mubarak's time there was a wave of anger that was bubbling up within that camp," he concluded.

The new military regime under el-Sisi marketed itself as a protector of minority rights[80], but essentially it was largely a return to the state of affairs during Mubarak's time where a strong security sector has complete control over the issue. Overall, sectarian incidents reverted to their average numbers and trends[81]. Also, the state and its agencies now re-assumed their role as a custodian of the permissible religious discourse, including by the Church. This reemergence of more virulent authoritarianism put an end to almost all mobilization efforts by the Coptic youth. The rather conservative Coptic Church went back to be the sole spokesperson for Coptic rights. Furthermore, the prosecution of religious defamation cases continued. The security apparatus also returned to play a role in preventing people from worshiping in specific private spaces. Tragically, under the el-Sisi regime, there was also a return of the targeting of Copts by extremist groups that had also occurred under Mubarak – with a brief lull in the early 2000s but returned starting 2010.

The articles related to religious freedoms in the 2014 Constitution, while better than the ones in the 2012 Constitution under the Muslim Brotherhood, were not good enough[82]. For example, article 53 stipulates the establishment of a Commission to Combat Discrimination. The new constitution also stipulated the adoption of two laws: one to establish a quota for Copts (to be included in the electoral law) and another to govern the construction of churches. Significantly, the parliament elected in early 2016 had the unprecedented number of 36 Coptic MPs[83]. On the other hand, Article 3 of the Constitution, however, entrenched the dominant role of the Church over Copts, while article 64 allowed for the practicing of religious freedoms so long as that does not threaten public law and order.

By the end of 2016, however, extremist groupings targeting of Copts resumed, reminiscent of the targeting that began in the 1970s under Sadat, and continued in the 1980s and 1990s during the Mubarak regime as well as right before the 2011 revolution. In May 2017, around 10 gunmen stopped a bus carrying worshipers on their way to a monastery in Minya, south of Cairo and killed 26 passengers including two children. The incident took place a day before the beginning of Ramadan on May 26[84]. Earlier on Palm Sunday, suicide bombers targeted worshippers attending churches in Alexandria and Tanta killing 29, after which President el-Sisi declared a state of emergency for three months[85].

The government had adopted a law governing the construction of churches in 2016. The law however, was enacted without any public consultation, after discussions between the Church and the government. It essentially codified the arbitrariness and inequalities surrounding the construction of places of worship in Egypt[86]. Between September 2016 when the law was adopted and early 2018, over 20 attacks occurred against Coptic places of worship many of which had applied for licensing under the new laws and most of which have been in service for several years. In one flagrant incident, the Amir Tadros Church in Kafr al-Wasilin in Giza province "was attacked in December 2017 by hundreds of village Muslims after the Friday prayer amid a total absence of security. The assailants chanted religious and anti-Copt slogans and demanded the demolition of the church, saying the church was about to install a bell, which they opposed." Nineteen Muslims were tried for fomenting sectarian strife and premeditated destruction to property and assault. One Christian, Eid Atiyya, who had owned the premises until he sold it in 2014 to the local parish, was also referred to trial on charges of unlicensed construction. "The court gave [the] 19 Muslim defendants a one-year suspended sentence and fined them LE500 [each], while fining [Atiyya] … LE360,000 [about USD20,000]." The judgment, EIPR claimed, was consistent with the way the state has been handling such cases as it acquiesced to alleged community demands to shut down the Christian worship building after the attack "on the grounds that the church is unlicensed and thus in violation of the church construction law[87]."

The state's failure to protect Coptic Christians from such targeting cannot be seen as separate from its lack of respect for reli-

[79] Supra note 62. Interview with Ishak.
[80] Even before he became president, as minister of defence, el-Sisi pledged to rebuild the churches that were attacked a few months earlier. See: "El-Sisi Orders the Reconstruction of the Churches which were Burnt Down." MCN. August 15, 2013. Available at www.mcndirect.com/showsubject_ar.aspx?id=48393#.WBTfaWQrJQK
[81] Supra note 62. Interview with Ishak.
[82] See Egyptian Initiative for Personal Rights. "Civil Liberties Better than 2012 Constitution but Less than International Standards." 11 December 2013. Available at eipr.org/sites/default/files/pressreleases/pdf/freedom_of_religion_and_beliefs_in_2013_constitution-_eipr_position.pdf
[83] Supra note 62. Interview with Ishak.
[84] Ruth Michaelson. "Egypt Launches Raid on Libya After Attack on Coptic Christians Kills 26." The Guardian. 26 May 2017. Available at www.theguardian.com/world/2017/may/26/several-killed-in-attack-on-bus-carrying-coptic-christians-in-egypt
[85] Reuters. "Egypt's Parliament Approves Three-Month State of Emergency." 11April 2017. Available at: www.reuters.com/article/us-egypt-violence-emergency-law-idUSKBN17D1SI?il=0
[86] "Reproducing the Status Quo: New Church Construction Law Consolidates Discriminatory State Policies and Confiscates Citizenship Rights of Future Generations." The Egyptian Initiative for Personal Rights. August 31, 2016. Available at www.eipr.org/en/pressrelease/2016/08/31/2657
[87] The Egyptian Initiative for Personal Rights. "EIPR demands reinvestigation into attacks on the Kafr al-Wasilin church in Atfih, re-opening of the church for worship, and the speedy legalization of all unlicensed churches". 1 February 2018. Available at eipr.org/en/press/2018/02/eipr-demands-reinvestigation-attacks-kafr-al-wasilin-church-atfih-re-opening-church

gious freedoms; in fact, its discriminatory policies and strategies for dealing with religious minorities has only ever perpetuated sectarian strife. This was obvious during the Mubarak regime and it returned under el-Sisi once again.

The Beginning of the End: How to Ensure that There Will Never Be Another 2011

As soon as the tide began to turn and the openness that characterized the 2011-2013 period started to shrink with a gradual return to authoritarian rule, it became clear that whatever limited successes were made during this period were short-term, quick fixes that as we explained above, should not be dismissed altogether as irrelevant, but should not be blown out of proportion either.

In trying to reverse 2011 and everything that happened after the revolution, one key element in the military-dominated regime's strategy was to depoliticize the society again and regain control over politics from above. Disconnecting and alienating NGOs and new activist networks (working on rights or democracy) was part of this strategy. As a matter of fact, and despite their relative weakness in actual terms and in social influence in particular before 2011, the crackdown against NGOs began even before all other actors in the public space - as early as the summer of 2011, when people were still taking to the streets, the media was still able to discuss whatever issues it wished, and political parties had started actively campaigning for the then upcoming parliamentary elections.

In April 2011, officials announced they would establish a fact-finding commission led by two judges to investigate foreign funding of civil society organizations in Egypt in the years leading up to the revolution and the role that funding played in supporting the revolution. In September 2011, the report was completed and referred to the Public Prosecutor's Office for investigations[88]. Leaked versions of the report were circulated in the media and sensationalized[89]. A smear campaign ensued with officials invoking national pride and sentiment to draw a picture in which the U.S. government had supported these groups to undertake activities that would threaten the nation. On July 23, 2011 for example, General Hassan al-Ruwainy of the SCAF accused the April 6 movement of being spies conspiring against the country with foreign money[90]. On the same day, during a demonstration near Abbasiyya, an EIPR researcher was kidnapped and accused of being a member of 6 April movement. His kidnappers told him that he would be reported and delivered to the military as he was a spy according to Ruwainy[91]. In a very dramatic scene, on 29 December 2011, military police personnel stormed the offices of 17 NGOs – mostly INGOs - arrested a number of employees, confiscated folders and computers and shut down the offices[92].

"From the start, when dealing with NGOs, there were no attempts to liberalize the scene but to the contrary, there were attempts to shut down these NGOs," says Mohamed Zaree, head of the Cairo office of the Cairo Institute for Human Rights Studies[93]. "While it was not clearly stated in the report of the fact-finding commission, there are clear insinuations that these organizations received money due to which chaos broke out in 2011, the revolution and all events that followed. The government was clearly saying we don't want what happened in 2011 to happen again."

The backlash from the prosecutions of 43 individuals[94], mostly foreigners, probably led the government not to expand its crackdown. But that position changed in late 2014 when efforts to contain NGOs turned to legislative amendments that would make it harder for NGOs to receive funding, stiffen penalties, and increase grounds for prosecution. After the 2011 crackdown against the international NGOs, a group of the national NGOs started circulating their own version of a draft NGO law[95]. On the other hand, in April 2012, the Ministry of Social Solidarity presented its own bill[96]. The Freedom and Justice Party (FJP) which dominated Parliament submitted a third version in the early months of 2012 which was largely positive compared to the MoSS' one. But no new law was promulgated. All the subsequent versions, including ones submitted by the FJP and discussions around the legislative amendments, with the occasional participation of a number of human rights organizations in discussions with government officials or politicians, failed to truly protect the ultimate goal for any such bill from the civil society perspective: free-

[89] Mohamed el-Galy. "Council of Ministers: More than 30 Illegal Organization Receive Illegitimate Funding." Al Youm al-Sabea. 14 September 2011. Available in Arabic at bit.ly/2HIRm7U

[90] "Details Surrounding the Monies Received in the Foreign Funding for Rights Organizations Case." October. 9 October 2011. Available in Arabic at www.masress.com/october/120334. See also: "Faiza Aboul Naga's Testimony Reveals Sensational Details in the Foreign Funding Case." Al-Akhbar. 13 February 2012. Available in Arabic at www.masress.com/elakhbar/65068. Comprehensive details on the report can be found here: "800 Million Pounds Foreign Funding for Political Purposes for Non-Governmental Organizations." Al-Akhbar. 25 September 2011.

[91] "Al-Ruwainy's Intervention and his Comments About 6 April." Al-Jazeera Mubasher. Uploaded July 23, 2011. Available at www.youtube.com/watch?v=0X-Sy-GqCX08
More details can be found at eipr.org/en/pressrelease/2011/07/28/1217

[92] "Egypt Security Forces Storm NGO Offices." Al Jazeera English. December 29, 2011. Available at www.aljazeera.com/news/middleeast/2011/12/201112291526114246 30.html. The roots of matter seem to have been implanted as early as March 2011, when the US government announced it would disperse $65 million to pro-democracy groups in Egypt triggering a strong reaction from Egyptian officials who criticized the US initiative to bypass the government in supporting these groups. See: Kristen Chick. "Why Egypt is Angry Over $65 million in US Democracy Grants." Christian Science Monitor. August 12, 2011. Available at www.csmonitor.com/World/Middle-East/2011/0812/Why-Egypt-is-angry-over-65-million-in-US-democracy-grants

[93] Interview with Mohamed Zaree, Cairo Institute for Human Rights Study. October 11, 2016.

[94] The backlash and outcry came mostly from international organizations and foreign governments. But even before the sentencing of the defendants in June 2013, the foreign defendants had fled the country in March 2012, causing great embarrassment for the Egyptian military and government. Some coverage of local condemnation of the ruling however can be found here: www.ahram.org.eg/archive/The-First/News/122132.aspx and here www.elmogaz.com/node/16749

[95] "Civil Society Revives an Old Draft Law on Associations After State Security Takes Over Control." Cairo Institute for Human Rights Studies. January 18, 2012. Available at www.cihrs.org/?p=1009

[96] "A Bill to Control Civil Society and Place it Under the Authority of Government Bodies." Cairo Institute for Human Rights Studies. April 11, 2012. Available at www.cihrs.org/?p=1970

dom of association. "We had completely different visions and it was impossible for us to see eye to eye," explains Zaree[97]. During Morsi's time, NGOs even became part of a committee set up by the Minister of Justice Ahmed Mekki to draft a bill; the minister himself had visited the Cairo Institute to speak at a roundtable and had told the audience that there was no need for a separate NGOs law, as the Penal Code was more than sufficient to cover any transgression by these organizations. Ultimately, the NGOs that were members of the Committee withdrew as a sign of protest against the bill that was eventually put forward in its name[98].

After 30 June, Minister Ahmed Borei set up a committee that also included a number of human rights organizations. "The Borai committee worked initially very fast and effectively, and we were very flexible with our demands," recalls Zaree[99]. "And then suddenly things started slowing down, so we took it as a signal [that this attempt would ultimately lead nowhere."

With the passage of the authoritarian demonstrations law in late 2013, all bridges with the government were burned. The draft that was finally signed into law was considered the worst compared to all previous drafts[100]. It places very restrictive conditions for establishing an NGO: it must be necessary for the needs of society, must ensure that this need or that type of organization has not been met/does not exist. The bill removed imprisonment as a possible penalty for violations under the old law but replaced it with hefty fines reaching LE1 million. Parliament approved the bill in November 2016, and on 29 May 2017 el-Sisi ratified it[101].

One of the early problems that human rights organizations that were leading these efforts encountered was that even among other civil society organizations, freedom of association was not high on their agendas. Civil society organizations did not attempt to place this issue on the general political agenda either[102]. The issue was also not a priority for political parties, which only spoke out randomly about the prosecutions of CSOs but did not engage actively in the tussle around the various NGO draft bills. In the media, from the start, many outlets believed in the conspiracy theory put forward first by the military and then subsequent governments and covered only sensational aspects of the investigations against NGOs, especially on foreign funding.

With no public momentum supporting the issue, and weak support from other stakeholders, it was the general atmosphere in 2011 and up until the military ouster of President Morsi in 2013 that protected the NGOs from a harsh crackdown. The public momentum in the streets, the independent media, and political battles between Muslim Brotherhood supporters and other political forces greatly weakened the ability of the regime and security agencies to act against NGOs, whether by enforcing the existing law or adopting a more restrictive one. This changed after mid-2013.

The other factor that shielded the human rights NGOs from the government-led campaign against them was the advocacy strategy these organizations adopted. "The drafts that were problematic we spoke out against, leaked to the press … to place pressure on the government. We worked collectively, this strengthened our position. The success we achieved was that we stopped the bad bills, but we were unable to push through a good one," concludes Zaree.

Investigations under Case 173 which had started in 2011 were resumed in 2015, and by late 2016 as many as 13 leading human rights defenders had been banned from traveling and several of them had their assets frozen by court order. Their case, still pending as the paper was being written, could lead to indictments under new draconian legal amendments which could make them face life in prison sentences[103].

Similar to other issues discussed in this paper, the efforts of human rights organizations failed to secure any structural change that would protect freedom of association. Like with religious freedoms, these actors lost the battle early on. This issue however was compounded with weak support from all other prominent actors and stakeholders in the days following the fall of the Mubarak regime, and even among civil society organizations. The only success they could reckon with is that they had survived all the numerous attempts to shut them down.

Conclusion

What has traditionally been understood as comprising the human rights movement in Egypt changed in the aftermath of the 2011 revolution. In some ways, it still contained many of the same actors led by established human rights organizations which had been engaged in human rights work from as early as the late 1980s. It was mainly left to these organizations to formulate a human rights discourse and attempt to attract public and government attention using various techniques. The issues ranged from freedom of association or freedom of belief to systematic torture in the earlier years but expanded to include economic justice issues like access to healthcare, which came under threat due to neo liberal economic policies. There is no denying that some of the issues which lay at the core of the grievances leading to the revolution were those same issues tackled and at times, highlighted by human rights organizations: including legal victories around minimum wage[104], health sector reform (social jus-

[97] Supra note 90. Interview with Mohamed Zaree.

[98] Supra note 90. Interview with Mohamed Zaree. See also: "Ministry of Justice Bill on NGOs: An Attempt to Dismantle Civil Society." Cairo Institute for Human Rights Studies. April 24, 2013. Available at: http://www.cihrs.org/?p=6418. Last visited October 29, 2016.

[99] Supra note 90. Interview with Mohamed Zaree.

[100] Supra note 90. Interview with Mohamed Zaree.

[101] "Egypt Issues NGO Law, Cracking Down on Dissent." Reuters. May 29, 2017. Available at www.reuters.com/article/us-egypt-rights-idUSKBN18P1OL

[102] "Statement by the Forum of Independent Human Rights Organizations| Long Live the Egyptian Popular Revolution...Roadmap for a Nation of Rights and the Rule of Law." Egyptian Initiative for Personal Rights. 12 February 2011. Available at eipr.org/en/pressrelease/2011/02/12/1097

[103] More information can be found at eipr.org/en/pressrelease/2016/09/15/2661

[104] More information can be found at qadaya.net/?p=402

tice)[105], and documenting and successfully advocating for government pledges to act on police brutality (dignity)[106].

The 2011 revolution however imposed its own set of issues on the country's human rights agenda (like military tribunals for civilians or democracy and political rights). These were often of a more limited and short-term nature or scope and of a less interest among the wider public in a country where as many as 40% lived under the line of poverty. And while new issues were placed on the human rights agenda, some of the other issues were pushed down in terms of priority and not necessarily by the human rights actors themselves but probably due to the quick pace of unfolding events, high level of mass violence, and the incendiary confrontational environment that engulfed a country that had been stagnating politically for decades. This was clearly the case with freedom of religion and belief as well as freedom of association, which due to the intricacies surrounding each of the two issues, there was never really much of a chance to achieve any progress on them. As a matter of fact, both freedoms became more regularly violated and disrespected over the following years.

In some ways, human rights organizations continued to play the same role they had assumed before the revolution: advocating, publicizing, raising awareness and monitoring and documenting. In some instances, human rights organizations (even though they were not legally recognized as such) were invited to partner with government bodies in introducing legal amendments (both before and after the revolution). But there was one way in which the revolution changed the way human rights organizations went about doing their business: the revolution created a heightened interest by the public at large in engaging and being proactive in pushing for change and for their rights. In the immediate aftermath of the revolution, there was a lot of momentum to introduce reforms and to change institutions and practices that were previously seen as immutable. Specifically, battles that were previously lost by human rights organizations were refought with more success with the momentum and heightened public interest and support. Before the revolution, groups working on sexual harassment or police brutality for example, found it very difficult – largely due to security restrictions - to mobilize and garner public momentum around their work. Ultimately, it was this public momentum which led to success in the sexual harassment area, and made police brutality a priority issue even if there were very little success in reforming the security sector. The ability of other stakeholders and other independent actors – like political parties, the media, and the civil society at larger – to engage with each other and with the public and human rights organizations on these issues was a pivotal factor on how much progress could be realized on any of these issues.

The removal by force after public unrest of former President Morsi and the installation of a military-dominated regime in 2013 put an end to this upswing and pushed Egypt's human rights actors in the following four years into a defensive corner, with some struggling just for survival and several defenders having to leave the country. As with the Mubarak regime, some limited individual success stories can still be made during this new authoritarian era. But in all the case studies examined, this new authoritarian regime has proved more repressive and resilient and would most likely limit whatever potential and impact human rights organizations could have – and particularly if the new regime decided to continue its crackdown against NGOs or to eliminate them altogether by implementing the new laws.

[105] In 2008, human rights activists managed to reverse attempts by the Ministry of Health to begin privatizing the health sector. More information can be found at eipr.org/en/pressrelease/2008/09/15/709

[106] In 2010, Egypt's human rights record was reviewed by the UN Human Rights Council and many of the recommendations put forth by human rights organizations around police brutality were acknowledged and accepted. More information can be found at eipr.org/en/pressrelease/2010/02/19/559

The Impact of Human Rights Movement in Tunisia: Between Legislation and Practice 2010-2016

Afifa El Mana'i

Summary

This paper addresses the role of the human rights movement in Tunisia in influencing state legislations and practices. It also attempts to tackle a shift from largely monitoring and denouncing rights violations prior to the January 2011 revolution to participating in drafting bills and lobbying for policy reforms that could reduce these violations. The human rights movement was not isolated from what Tunisia experienced in the years following the 2011 revolution, which resulted in massive realignments of social and political structures and practices with a heightened awareness of the importance of human rights and the need to continue the struggle to demand and enjoy them. This new climate witnessed a change not only in terms of the scope of the demands put forth by the human rights movement but also regarding the means and mechanisms it used to achieve these demands, which at times succeeded but ended in failure some other timeas.

Introduction

This paper addresses the roles and impact of the human rights movement in Tunisia on issues it has advocated for to change relevant legislations and/or practices. Despite the celebration of Tunisia›s 2011 revolution as a unique and almost successful transition to democracy among the Arab countries that underwent the "Arab Spring", several years later, 72% of Tunisians were not satisfied, according to opinion polls[1].

The Tunisian League for the Defense of Human Rights (LTDH) documented 173 physical and non-physical attacks, 41 cases of rights violations on 9 April 2012 (the day when violent clashes broke out between security forces and demonstrators who wanted to commemorate martyrs of the revolution), 97 cases of state violence, torture and persecution by security agencies in 2012 compared to 28 cases in 2013. Security agents came on top of the list of perpetrators of these violations, followed by alleged Salafis, while unidentified individuals were responsible for the remainder of the cases (violent theft or criminal cases). The various forms of violence included violation of academic freedoms, freedom of dress, trade union rights, political activities, etc[2].

In its monthly report of December 2016, the Tunisian Organization Against Torture (OCTT) confirmed the increased number of violations during November 2016 compared to the two previous months. OCTT had received reports on 12 cases of torture and ill-treatment inside prisons and security centers[3]. It attributed the rise in violations to entrenched impunity and lack of accountability.

Despite these reports, a new political and legal reality had become evident in law and in practice in Tunisia, during the six years following the 2011 revolution, which could be considered a break from the country›s history since its independence in the mid-1950s. Awareness of the importance of human rights has increased, as well as the need to continue the struggle for them, despite the bullets and tear gas protesters had to face especially in the early days of the revolution. However, this new reality has also been unstable with the human rights movement succeeding in certain fields and failing in others, achieving limited reforms in response to some demands or fully realizing what they advocated for.

In view of this new reality, the human rights movement developed tactics and strategies to add to the conventional and limited repertoire of documentation, naming and shaming. It has become an important actor which mobilizes public action, lobbies policy and decision makers, and drafts and advocates for important legislations. For example, human rights defenders took part in working on the law for funding political parties and civil society organizations and the bill on the quota system in the elections of the National Constituent Assembly in 2011, whereby women were allocated 50% of the slots for candidate. The quota system was a main demand by the High Council for the Achievement of the Objectives of the Revolution, Political Reform and Democratic Transition, but this very organization had several representatives of human rights and women rights associations, such as the LTDH, Tunisian Association of Democratic Women (ATFD), the Association of Tunisian Women for Research and Development (AFTURD) and others.

This paper seeks to examine the impact of the human rights movement in creating public pressure through campaigns on women›s rights and gender issues, combatting torture, economic and social rights, freedom of religious practice and belief, etc. The paper then attempts to explain how the rights movement articulated this discourse in dealing with various parts of the community on the one hand and then in recasting the popular pressure into demands on the legal and legislative establishments either directly or through mass media platforms.

In this context, the paper examines the media not merely as a conveyor channel, but also as a medium that influences the

[1] Tunisian Statistics, National Survey on Perceptions of Security, Liberties, and Local Governance 2014, March 2016. Available in Arabic at beta.ins.tn/sites/default/files/pdf_actualites/gouvernance%20%287%29.pdf

[2] LTDH Freedoms Observatory, The Situation of Freedoms in Tunisia, Two Years after the Elections (2012-2013), pp. 64-87. Available in Arabic at festunis.org/media/2014/pdf/Rapport%20LTDH_final.pdf

[3] Babnet, "OCTT: Increased Incidence of Torture in November", 10 December 2016, available in Arabic at www.babnet.net/cadredetail-135285.asp

formulation of what is being presented to the public, and how the human rights discourse, in itself, gets formulated through its very dissemination. This is not limited to the choice of words and language but also includes the timing and the packaging. Both mass media and human rights actors influence each other in this manner.

It is easier to assess the success of the human rights movement in Tunisia in pushing for the adoption of a rights-based approach in policies and legislations, but it is more difficult to assess its impact on actual state and social practices, both of which change as a result of many factors. Measuring that change needs extensive research over a reasonable time span, which this paper could not undertake due to time and financial constraints.

I. Demands of the rights movement

This paper addresses four distinct demands of the human rights movement: women's rights, ending torture, ensuring standard rights guarantees for defendants, and abolishing the death penalty. It looks at how successful the movement had been in influencing change in these four causes.

Those causes were not all first engaged in the post-revolution period. Most have had a long history within the human rights movement. However, efforts increased with what appeared to be Tunisia's political class more supportive position of freedoms, especially on issues of expression and protest in public spaces. The official discourse had also relatively abandoned the usual rhetoric of playing up progressive legal gains that had been in place for decades and were first introduced by former president Bourguiba. The new Tunisian reality also brought new political leaders in successive cabinets and various ruling coalitions[4].

1. Women's rights

The preservation of women's rights that had been accepted and codified in Tunisia and the pursuit for more have been at the heart of the political, economic and social transition in Tunisia, a country that has long been ranked among the most advanced Arab countries with respect to women's rights[5]. This progress had been attributed primarily to the socially progressive legislative legacy of Bourguiba, embodied in Personal Status Code, which, for example, abolished polygamy, deeming it a crime punishable by prison and/or a fine. The same law had also set a minimum age for marriage, established the woman's right to directly and freely agree to a marriage and abolished informal marriage. This legacy was consolidated by the establishment of a women's ministry and the center for studies, research, media and documentation on women (CREDIF)[6], as a research center affiliated to the ministry.

This progress is also attributed to efforts by human rights actors and the presence of a number of Tunisian associations that advocated for women's rights, foremost the Tunisian Association of Democratic Women (ATFD), which has sought to enshrine women's rights in the constitution since 2012. This demand was fulfilled in the 2014 constitution after a long struggle by civil society organizations and associations as well as political parties. Finally, the constitution clearly stipulated full equality and equal opportunities between men and women, especially in articles 34 and 46[7]. This allowed women later to participate in presidential elections, where two Tunisian women entered the presidential race, Amna Al-Qarawi, who was recommended by 15,252 voters, and Kalthoum Kennu, who was endorsed by 15,000 voters[8].

The battle to retain, and even enhance women's right to equality, began when the Legislative Committee of the Constituent Assembly approved Chapter 28 of the draft Constitution, stateing that "women were complementary to men". In response to what was considered a setback in women's equal status, advocates called for full and effective equality between men and women, condemning what they described as a possible wave of setbacks for women's rights. Considering women to be "complementary" denies them their independence and subordinates them to men after having been considered legally equal to them in many aspects in Tunisia for decades. In August 2012, thousands of Tunisian women and civil society activists participated in peaceful demonstrations throughout the country against what was considered to be an attempt to back down from a significant gain cherished by Tunisian women, which is their equality with men as regards rights and duties. This attempt to undermine women's rights failed.

This was followed by another success, which is Tunisia's official lifting of its reservations to the Convention on the Elimination of

[4] The first-post revolutionary cabinet was formed by Mohamed Ghannouchi (15 January 2011) to be replaced by a national unity government led by Beji Caid Essebsi (February-December 2011). Upon the election of the Constituent Assembly, a troika government was formed by Hamadi Jebali (December 2011-March 2013). It resigned to be replaced by a new government headed by Ali Laarayedh (March 2013-January 2014) after the assassination of leftist politician Choukri Belaid on 6 February 2013. On 25 July 2013, the assassination of MP Mohamed Brahmi coupled with a major sit in protest in Bardo, produced a cabinet of technocrats led by Mehdi Jomaa (January 2014-February 2015) until presidential elections in November 2014, which changed the make-up of the ruling coalition leading to the cabinets of Habib Essid (February 2015-August 2016), followed by Youssef Chahed (August 2016-present), both belonging to the same political party.

[5] Saneya Ben Lamari and Hanan Chakroun, "Tunisian Women and the Revolutionary Path", CREDIF in cooperation with the United Nations Population Fund, 2013, available in Arabic at www.unfpa-tunisie.org/images/stories/2014/pdfs/16-24_1.pdf

[6] CREDIF is the French acronym for the Centre de Recherches, d'Etudes, de Documentation et d'Information sur la Femme.

[7] According to Chapter 34 of the Constitution, "[t]he right to vote and to stand for elections is guaranteed in accordance with the law, and the State shall ensure the representation of women in elected councils." Chapter 46 provides that the State shall undertake to protect and promote the acquired rights of women, guarantee equal opportunity for men and women to assume various responsibilities and in all spheres and endeavours to achieve equality between them in elected councils and take measures to eliminate violence against women.

[8] "Presidential Elections: Seven Nominations Yesterday, Tomorrow the Last Day", Alchourouk, 21 September 2014, available at www.alchourouk.com/70469/151/1/

All Forms of Discrimination against Women (CEDAW) on 23 April 2014[9]. In return, the Government stated, in clear contradiction, that such a lifting should not lead to the adoption of laws and legislation that could violate the constitution, which obscures the relevance of lifting reservations and the exact nature of constitutional articles that prevent elimination of all forms of discrimination against women. In that context we can claim that, other than allowing a woman to issue passports for her children and let them travel without prior permission from the father, no additional rights, after lifting of reservations, were guaranteed[10]. A member of parliament proposed a draft law for equal inheritance rights, fueling a major controversy in the political and human rights arenas in Tunisia. Only 27 deputies endorsed the bill[11].

The Government established a national advisory council, the National Council of Peers for Equality and Equal Opportunity between Women and Men" to integrate the gender approach[12] into planning, programming, evaluation and budgeting in order to eliminate all forms of discrimination and achieve equality in accordance with the provisions of chapter 21 of the 2014 Constitution[13]. CSOs continued to defend the rights of women in various ways. Various campaigns and advocacy efforts persisted. For example, the annual 16-day campaigns to combat violence against women continued. In 2016, this was organized by the National Union of Tunisian Women organized starting on 25 November, the International Day to Eliminate Violence against Women until 10 December, the International Day for Human Rights. The campaign began with a sensitizing and awareness-raising on radio and TV stations as well as on social media platforms focusing on sexual harassment under the slogan "We will not be Silent Any More", Ma'adsh Noskot[14].

Despite all those efforts, gender-based violence remains a feature of Tunisian society and a fundamental concern of human rights and feminist activists against physical, sexual, psychological, emotional, economic and social forms of violence against women. About 53.3% of Tunisian women experienced violence in the public space in Tunisia between 2011 and 2015[15]. This is an alarming setback, in light of the fact that the first national survey on violence against women, carried out by several organizations led by the National Bureau for Family and Human Development (a governmental organization) showed that 47% of women between 18 and 64 years of age experienced at least one type of violence throughout their lives, with little difference between rural and urban centers. It may be necessary here to recall that "violence against women increases during times of crisis" and Tunisia may not have been an exception to that observation. The annual report of the Global Gender Gap Index 2015, ranked Tunisia as the 127th country, behind United Arab Emirates (119) and Bahrain (123). Tunisia fell down 20 positions, since it had ranked 107th in 2010 behind United Arab Emirates (103th) and before Bahrain (110). This index classifies countries in terms of equality using through several indicators to measure participation in the fields of economy, politics, education and health[16].

Thus, despite the enshrined and re-emphasized legal rights for Tunisian women before and after the revolution, and despite the progress achieved in this field compared with other Arab countries, including the quota and rotation principle in elections[17], discriminatory practices still exist regarding wages; and violent attacks in public and family settings. For this reason, the Ministry of Women, Family and Childhood has submitted a draft bill on the elimination of violence against women[18]. The proposal was circulated to the Council of Ministers on 13 July 2016 and was referred to Parliament 13 days later.

For almost a year, government officials and parliamentarians debated various versions for this bill until a law was passed in August 2017 after this paper was written. Tunisian feminists do not see the end result as an ideal outcome but still a major progress in the legal arena and a successful conclusion for advocacy efforts demanding more accurate and updated definitions of violent acts and harsher penalties for perpetrators. The new law was promulgated in February 2018[19]. This concluded a rather contentious political struggle that started with the ministry bill against a comprehensive draft legislation proposed by a state minister for women and the family using a participatory approach involving CSOs especially ATFD. This draft also included amendments to the penal code regarding sexual violence felonies[20].

[9] Reservation means the declaration by the State of the exclusion or modification of the legal effect of certain provisions of an international convention within its territorial jurisdiction. In other words, the state thus requests to be excepted from the application of a particular article or articles of the said convention. Tunisia expressed its reservation on articles 9, 15, 16 and 29, which focused on women's rights to give her family name or nationality to her children, choose her place of residence, have equal rights in marriage including with respect to children (guardianship, custody, etc.).

[10] Law 46/2015 on 23 November 2015 amending law 40/1975 on 14 May 1975 concerning passports and travel documents.

[11] Sharaf El Din, "Almahdi Ben Ghariba, Equality in Inheritance Compliant with Islamic Jurisprudence", ElTuniseya, 10 May 2016, available in Arabic at www.turess.com/attounissia/171501

[12] A gender-based approach pays attention to how women and men are differently affected and need to be addressed when it comes to all social policies. Thus, the gender aspect becomes an essential element in the conception, implementation, monitoring and evaluation of policies and programs in all areas of development by all relevant stakeholders.

[13] Government Order No. 626 of 2016 dated 25 May 2016 concerning the creation of a peer council for equity and equality of opportunities between women and men. Available in Arabic at bit.ly/2xCxlLf . According to Article 21 of the 2014 Constitution, "[m]ale and female Citizens are equal in rights and duties and before the law without discrimination. The State guarantees male and female citizens individual and public rights and freedoms and provides them with a decent livelihood."

[14] "16 days of activism against violence against women, 25 November – 10 December 2016", Tunisian radio portal, 23 November 2016, available in Arabic at bit.ly/2i8wRFz

[15] Salim al-Qallal, Mariam Salami, Imad Zayyid, Khawla Al-Matari, "Gender-Based Violence in Public Space in Tunisia", CREDIF, 2016, available in Arabic at bit.ly/2gB5G2F

[16] In 2015, the index classified 145 countries, while in 2010 it classified only 134.

[17] Article 16 of decree no. 35/2011 on 10 May 2011 concerning the organization of constitutional assembly elections.

[18] Draft law for the elimination of violence against women. see bit.ly/2yk2Et1

[19] Sabah News, "Into Effect: A Law to End Violence Against Women Faces Reality", 16 February 2018, available in Arabic at bit.ly/2sKRHwy

[20] TAP, "An ATFD Member: Amendments to the Comprehensive Law to Combat Violence against Women Affect the Penal Code", 5 December 2014, available in Arabic at ar.webmanagercenter.com/2014/12/05/61020/

According to Hafidha Chekir, a researcher and human rights activist working with the ATFD, the general human rights scene has witnessed "an approach that has crystallized since the early 1990s, and that considered violence to be a form of discrimination against women, especially after recommendation no. 19 of the CEDAW Committee … regarding gender violence. This new approach, at the time, was supported by the International Declaration against Violence in December 1993, which emphasized the similarity between violence and discrimination, and considered that violence constitutes an infringement on the moral, physical and sexual integrity of women[21].

2. Ending Torture

Tunisia needed a revolution to ratify the Optional Protocol against Torture in July 2011[22]. The Protocol obliges ratifying states to establish a national independent mechanism for the prevention of torture. On 21 October 2013, Tunisia established the National Commission for the Prevention of Torture[23]. The election of the 16 members of the Commission by the People's Assembly was delayed until 30 March 2016 to ensure a quorum[24]. Many MPs practically boycotted the meetings to elect the commissioners and there was a "wish among some absent MPs not to establish the commission … [since] it was sufficient to have the human rights commission … there was no need for another commission for the prevention of torture[25]." The term of membership of the Commission was set at six years, not renewable. To ensure the independence of the Commission of any political pressures, it was decided that members should neither be parliamentarians nor have political responsibilities. The task of the commission was to monitor various detention centers, to conduct unannounced visits, and receive complaints. The Commission had to publicly report its activities on regular basis.

Tunisia was one of the states that ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations High Commissioner for Human Rights on 10 December 1984. Tunisia's delay in ratifying the Optional Protocol against Torture (OPT) was due to the decision by the Ben Ali regime not to report to the Committee against Torture every four years in compliance with the Convention. In 1998, the Committee had concluded in its second report that torture was systematic in Tunisia. After having signed the OPT, the government submitted regular reports. A third report was presented in April 2016 to the Committee against Torture at the Human Rights Council in Geneva[26]

Despite these positive developments, the political will of the evolving regime to put an end to torture has not turned into a sustained reality backed by the right legal framework yet. In a memorandum to the UN Committee against Torture in 2016, Amnesty International confirmed that torture still exists in Tunisia[27]. Torture practices are likely to continue by security agencies which have not undergone a serious restructuring process nor had its employees benefitted from any meaningful rehabilitation. However, it is clear that torture is no longer a systematic state policy[28].

Human rights organizations continue to document violations including cases of torture and lobby policy makers and raise public awareness about such incidents. Reporting and publicizing these cases contribute to prevention efforts. Organizations also have been helping victims to take their cases to court. Tunisian human rights defenders maintain the continued use of torture and other forms of ill-treatment in detention centers as well as the continuation of gender-based violence by both state actors and non-state actors. For example, in June 2016, OCTT reported six cases of violence, ill-treatment and medical negligence in detention centers, during arrests and in incarceration. In the same report, the organization noted a decline in the number of complaints received that month and suggested that this decrease may be attributed to the enforcement of "the new law related to the obligatory presence of a lawyer at the beginning of interrogations". It also considered this to be an encouraging start and a confirmation of the position of human rights organizations, which had predicted that the rate of violations should decline with the enforcement of the new law[29].

3. Rights-based treatment of defendants

With the enforcement of Act No. 05 of 2016 on the revision and finalization of certain provisions of the Code of Criminal Procedure, Tunisia began a new era of accountability. The law enshrined the right of a suspect to have a lawyer since the very first encounter with the police[30]. One of the most important changes brought about by the law was that a lawyer had the right to be present with suspect or a defendant in any crime whether or not that latter person was in custody, and has the right to visit his or her client privately and for no longer than 30 minutes during every stage of detention. The lawyer has the right to demand inclusion of his comments in the police report, and if denied this right, may do that by himself while signing the report. The

[21] Hafidha Chekir, "Violence is Discriminatory Against Women and a Violation of Rights", in Violence Against Women in Public Space, CREDIF, op. cit., pp. 15-16.
[22] Law no. 5/2011 on 19 February 2011, Tunisia agrees to join optional protocol of CAT.
[23] Law no. 43/2013 on 21 October 2013 concerning the national commission for the prevention of torture.
[24] This body includes six members from human rights organizations (Massoud Ramadani, Lotfi Ezz El Din, Marwa El Radadi, Afaf Shaaban, Zia El Din Moro and Hamida El Deridi), two university professors (Radhia El Halawani & Fathi El Gari), an expert in child protection (Alsayeda Mubarak) and retired judges (Al-Tohamy Hafei and Nabiha Al-Kafi), two lawyers (Al-Taher Kadashi and Nora Al-Koki) and three physicians (Mohammad Yasin Binos, Salim Annabi and Lamia Fathallah).
[25] "Due to the absence of members of the electoral committee, the election of members of the National Committee for the Prevention of Torture was not completed", Al-Sahafa, 23 March 2017, available in Arabic at bit.ly/2ycAalH
[26] "Anti-torture: Tunisia discusses its third periodic report in Geneva", Anbaa Tunis at Kapitalis, 26 April 2016, available in Arabic at bit.ly/2Jv34Q6
[27] Amnesty International, "Tunisia: Submission to the UN Committee Against Torture: 57th Session, 18 April - 13 May 2016", available at bit.ly/2JEZcQ2
[28] "Marzouki: Torture is no Longer a State Policy, but Individual Abuses Must be Addressed by the authorities and civil society", the Tunisian journalists' website in Sfax, January 28, 2014, available in Arabic at bit.ly/2wQxW7p
[29] Tunisian Organization Against Torture, "Decline in Torture Cases in June 2016, but Violations Continue", Al-Safir, bit.ly/2hFlMIq
[30] The Tunisian police undertakes preliminary research before an investigating judge takes over the case. The police ascertain whether a crime indeed took place, collects evidence, and identify suspects. In the preliminary investigation phase, which immediately precedes judicial investigation, the judicial police inspect the crimes, collects evidence and re-identify suspect offenders. The judicial police arrest offenders and refer them to respective investigating judge. Judicial police functions are supervised by the public prosecutor and his assistants, and also by magistrates in jurisdictions where there is no prosecutor.

lawyer can also request medical examination of his client for evidence of torture in court.

Although the human rights movement has not yet succeeded in its efforts to fully reform the security sector and to consolidate and establish new practices, the security sector underwent several changes since the 2011 revolution, including the establishment of a code of conduct for internal security forces, whereby security became premised on rule of law and respect for human rights and individual and public freedoms in line with provisions of the Constitution, international treaties and laws governing the work of the internal security forces. This code includes a set of rules of conduct and principles that apply to all internal security forces, irrespective of individual ranks or command positions[31].

The OCTT stressed the need to amend legislations governing the mechanisms of complaints against public officials, accused of rights violations, including how to ensure better witness protection and suspend police officers who have been administratively found culpable in cases of torture, pending a judicial decision[32]. A number of human rights activists put together various proposals and plans including a roadmap to reform of the security institution. The Tunisian Institutional Reform organization provided training courses on law enforcement, human rights and conflict resolution for the security agencies staff members[33]. The Regional Academy for Security submitted a proposal with the aim of training exemplary security personnel, eager to enforce the law while respecting rights[34]. In the same context, a ministerial policy for community policing was drawn up as a new approach to security work, to be implemented in a number of model centers in order to strengthen the relationship between security agencies and the citizens at large[35]. Also, a unified legal manual was compiled for cases of detention to be implemented in all security centers, in addition to a booklet on best practices of police officers at places of detention.

Terrorist threats and operations in Tunisia provided a justification for security agencies to engage in practices that could violate human rights. Human rights defenders invariably maintain that violations are not excusable regardless of the nature of the nature of allegations against a suspect. Politicians have a different view on the matter. Former Prime Minister Habib Al-Seid claimed that "there was a difficulty in striking the right balance between counterterrorism and respect for human rights, not only in Tunis, but in all countries of the world, such as France and Italy, which have changed a number of laws to in response to the exceptional situation in countries threatened by terrorism[36]." The claim by Al-Seid was repeated in many countries, but it becomes especially alarming in countries, like Tunisia, where security agencies had routinely violated the basic rights of suspects and defendants using various means of torture and coercion.

Human rights defender argued that such violations are not only anathema to human rights and the laws of the land but that there was no evidence that they were helpful counterterrorism tools. Also, resorting to such measures automatically means the need to suspend accountability measures and obstruct any serious reform of the security sector under the pretext that security agencies needed to act freely and promptly against terrorist suspects. During deliberations of the Tunisian anti-terrorism law, eight international human rights organizations, issued a statement to express concern regarding what they described as a loose definition of terrorism which could lead to the suppression of peaceful demonstrations or any act of protest[37]. Mokhtar Yahyaoui (former head of the National Commission for the Protection of Personal Data and a former judge), argued in a seminar organized by the Rights and Freedoms Monitor in Tunisia ("Counterterrorism: A Security Approach or Respecting Rights") in April 2015, that the ambiguity of terrorism law makes it a double-edged sword that can be directed against citizens it is meant to protect[38].

4- Abolition of the Death Penalty

Although not a single person on death row has been executed in Tunisia since 1991, capital punishment is still on the books[39]. Though, Tunisia signed the UN General Assembly moratorium on the death penalty in 2012, courts continue to impose the death sentence in accordance with existing laws as a punishment for certain felonies. Since the head of state no longer endorsed such rulings, the sentenced convicts remained on an unmovable death row in prisons, as confirmed by the Minister of Justice and Human Rights in the Ben Ali regime in 2008[40]. Until the 2011 revolution such convicts had no visitation rights nor were they allowed to receive food packages once a month from relatives as is the case with other inmates.

Tunisian human rights defenders argued that the death penalty became unconstitutional after the 2014 constitution came into force replacing the 1959 constitution. The new constitution protects the right to life, but 21 different crimes are still punishable

[31] "A Code of Conduct for Security Agents Interacting with the Public", Mosaic FM, 18 February 2016. Available at bit.ly/2gAYrb9

[32] OCTT, "OCTT Monthly Report - February 2015", available in Arabic at bit.ly/2yHg4Rf

[33] The Tunisian Institutional Reform organization works mainly on reforming the Ministry of Interior, its staff members and working methods. Check the TIR website at reform.tn/ar/about/

[34] Participation of TIR in the proceedings of the regional seminar on security in North Africa on 4 June 2013.

[35] "Tunisian Government Response to Question from the Committee Against Torture", 10 February 2016, available in Arabic at bit.ly/2yH8oOW

[36] "Al-Habib Al-Seid Stresses the Difficulty of Balancing Counterterrorism and Human Rights", Al-Masdar, 14 December 2015, available in Arabic at bit.ly/2xBBeuV

[37] These include Amnesty International, Human Rights Watch, International Federation for Human Rights, World Organization against Torture and the Carter Center. See Human Rights Watch, "Tunisia: Counter Terror Law endangers Rights", 31 July 2015, available at www.hrw.org/news/2015/07/31/tunisia-counter-terror-law-endangers-rights

[38] Observatory of Rights and Freedoms in Tunisia, "Combating Terrorism between Security Treatment and Respect for Rights and Freedoms", April 2015, available in Arabic at bit.ly/2xBBwli

[39] The death penalty is the "killing" or "execution" of a convict in certain crimes. It is a complete and irreversible deprivation of life in implementation of a court ruling issued by a civilian or military judge. The term "killing" was synonymous with the word "execution" in the first paragraph of chapter V of the Tunisian Penal Code before it was revised by Law No. 46 of 2005 of 06/06/2005. The word "killing" was replaced by the word "execution" to standardize terminology in the penal code. There is an effective moratorium on capital punishment in Tunisia. The last execution was carried out against serial killer, Nasser al-Damarji in 1991.

[40] "Al-Habib Al-Seid Stresses the Difficulty of Balancing Counterterrorism and Human Rights", Al-Masdar, 14 December 2015, available in Arabic at bit.ly/2xBBeuV

by death in various Tunisian laws[41].

Human rights defenders and organizations including the LTDH, the Tunisian chapter of Amnesty International, and the Arab Institute for Human Rights worked together but still failed to bring about a legal change to abolish the penalty despite their constitutionally strong position. Tunisia›s National Coalition for the Abolition of the Death Penalty has been established in June 2007 with the support of seven independent organizations, including the LTDH, AFTURD, ATFD, the Tunisian branch of Amnesty International, the Arab Institute for Human Rights, the Tunisian Federation of Cinema Clubs, and the Association of Tunisian Journalists, replaced by the National Syndicate for Tunisian Journalists. More than 100 public figures are members of the open coalition, including former ministers, lawyers, filmmakers, media personalities, and writers. The coalition has long worked to change the public opinion on this issue that can put pressure on the state for a legislative change. The coalition efforts led to a bill tabled in parliament to abolish capital punishment[42]. The draft, prepared by two MPs, Mostafa Yahyaoui and Abdelmalek Obaidi, was submitted to parliament in March 2008. Another 23 deputies from opposition parties endorsed the bill, tabled with the parliamentary secretariat, so that the speaker of the House could decide if it could be presented to a plenary session for review. This was a bold and unprecedented step in Tunisian legislative history since the first parliament was elected in 1956, however the bill was never presented to a plenary session. In 2013, the Coalition and the International Organization Against Torture called for a serious and concerted effort to abolish capital punishment. All these efforts did not succeed. On the contrary, the death penalty was included for certain offences in the new counterterrorism law.

II.Expanding Scope and Mechanisms for the Defense of Human rights

After the revolution, a new wave of human rights actors emerged in Tunisia after decades of a familiar, if not stagnant, political/human rights scene. This wave was led by human rights groups and actors in civil society or gatherings and networks that differed from the usual institutional and organizational frameworks such as associations, parties and trade unions[43]. Its advocacy strategies and tactics produced a bottom-up pressure and unsettled, if not influenced, the new evolving regime and changing institutions and, at times, obstructed parts of their agendas.

No doubt, the revolution created an opportunity for new mechanisms of action or the advocacy on issues and rights that were low on the totem pole, if not completely outside the rights arena before 2011. The revolution constituted in a way a challenge to the relative social conservatism prevailing in Tunisian public space, especially outside city centers. For example, Femin activists published bare-breasted or naked photos on the internet or organized naked in the street to attract attention and raise awareness about their cause, especially women's sexual and personal rights. A campaign against "anal examination of males accused of homosexuality" was publicly launched in support of the LGBT community, a theretofore largely silent minority in Tunisia[44].

Other activists focused on single finite issues and organized popular and successful campaigns such as "Manish Masameh" (I shall not forgive) campaign, in which young activists lobbied the public against a bill of economic reconciliation which would have pardoned former regime officials and employees and affiliated businessmen involved in major financial corruption cases. The number of those who could have benefited from this law was nearly 7,000[45]. Supporters of the bill failed to demonstrate its public benefits as well as how much money or assets would the returned to the state treasury in case the law was applied. The campaign sparked widespread controversy on the Tunisian political scene[46], and soon gained the support of opposition parties and eventually succeeded in halting the endorsement of the bill in parliament until mid-2016[47].

Human rights defenders started to defend certain underdeveloped areas that may have suffered from state-sponsored impoverishment. For example, Kasserine residents raised a case in front of the Commission of Truth and Dignity in 2015 as a collective victim of "systematic exclusion and marginalization" as various regimes neglected their region[48]. The legal formulation and grounding of this case was complex but largely rested on the claim that public policies, especially before the revolution, favored coastal areas at the expense of the interior. A survey conducted by the National Institute of Statistics showed that 37% of Kasserine residents felt they were discriminated against on the basis of income, compared to 5% in coastal areas, including the capital. Similarly, 23% of Kasserine residents felt discriminated against because of where they came from, compared to 8% in the coastal and southwestern regions. The poll indicated high levels of dissatisfaction with health care and social security

[41] Most of these crimes are related to national security. They include assault on a public official; rape associated with the use of violence; armed violence or threat thereof against a judge during a hearing; acts of treason committed by military personnel; violent seizure of a ship from a captain or officer and its surrender to the enemy by any crew member; and wrecking or causing damage to railways, or placing objects on tracks or carrying out any act that would derail the train causing death. of a person. Death sentences are carried out by hanging or shooting.

[42] "Bill to Abolish the Death Penalty Signed by 25 MPs from Various Parties in Parliament", Al-Sabah, 6 March 2008, and "Comment on What Precedes Abolishing Capital Punishment", Al-Sabah, 31 March 2008.

[43] Kerou defines new social or political actors as a group of people who carry out collective acts of a general nature, which are formed outside the old political sphere, and produce great transformations in terms of political motives and ends. See, Mohamed Kerou, "les nouveaux acteurs de la révolution et de la transition politique. La transition démocratique en Tunisie : Les Acteurs". L'Observatoire Tunisien de la Transition Démocratique, 2012, p. 218.

[44] "Tunisian Women's Rights and Concerns about the Future", Deutsche Welle, 27 June 2013, available in Arabic at bit.ly/2y8i9WP and Ben Romdhan Ben Romdhan, "Reflections on the Tunisian Revolution, Tunisia and the Democratic Transition, Challenges and Horizons", in Abdel Ilah Belqreez (ed.). The Arab Spring, Where to? A New Horizon for Democratic Change. Center for Arab Unity Studies. 2012, p. 42.

[45] "Draft Law No. 49/2015 concerning procedures for reconciliation on economic and financial matters", Majles Observatory, 16 July 2015, available at bit.ly/2xAPJ77. Majles Observatory is a website associated with "Bosla", a Tunisian CSO focusing on legislative actions by the parliament.

[46] BBC Arabic, "Debate over Tunisia's Economic Reconciliation Bill", 8 September 2015, available at goo.gl/QzUVBw

[47] According to the Speaker of Parliament Mohamed El-Nasser, who belongs to Nidaa Tounes party, "reconciliation aims to encourage investors and to advance the Tunisian economy", see the proceedings of the General Legislation Committee held on 29 June 2016 at bit.ly/2yk35DC

[48] Avocats sans Frontiers and Forum Tunisien pour les Droits Economiques Sociaux, "Request to Declare the Region of Kasserineas 'Victim'", 2 November 2015, available at bit.ly/2kKuhGE

services. Nearly 70% of the respondents thought that a large number of people who deserve social support from welfare institutions did not receive it[49].

Meanwhile, human rights organizations showed more interest in producing shadow reports to international organizations. Although the World Conference on Human Rights in 1993 had recognized the important role of NGOs in general in promoting human rights and humanitarian activities at the national and regional levels, NGOs could not freely play this role in Tunisia before the revolution[50]. The former Tunisian government, due to its very authoritarian nature, could not see a useful role that human rights organizations could play in improving or influencing legislations, policies and state practices.

The United Nations has long encouraged NGOs to present shadow reports which are seen as complementary to state reports, since they are often bold, credible and provide information usually ignored by government agencies. Parallel or shadow human rights reports are usually referred to the UN contractual and non-contractual committees and procedures. The Human Rights Council also receives specific reports especially through its special mechanisms and procedures working on issues such as torture, enforced disappearances, guarantees of fair trials, freedom of expression, discrimination against women, etc., provided submissions are prepared in a professional manner and, in certain cases, submitted on time[51]. The role of several human rights organizations in preparing parallel reports has long been recognized, notably the LTDH[52].

The official discourse in Tunisia changed after the revolution with regard to alternative or parallel reports. A minister in charge of relations with constitutional bodies, civil society and human rights, summed up this change when he declared that the National Committee for Coordination, Preparation, Submission and Follow Up of Human Rights Recommendations, assigned to prepare Tunisia's report to the Human Rights Council wanted to seriously engage with CSOs working on parallel reports to exchange views and information on issues raised in these reports[53].

1. Impact of the human rights movement on the political scene: the example of LTDH

The political and social transformations that Tunisia has experienced since January 2011 have opened new horizons for human rights actors. The LTDH, which is known for its four-decade history of struggle since its foundation in 1977 was part of that transformation. Under tremendous pressure by the Ben Ali regime, especially since the mid-1990s, the organization membership had declined from 4,200 in the 1980s to about 3,000 members in 2008. The LTDH had frozen new memberships in 1994 to avoid concerted infiltration attempts by regime agents. The organization, which has several regional offices, held its first congress in many years in September 2011, when it decided to re-open membership focusing on attracting young people and women to rejuvenate the association. Members pay annual contributions of 10 Tunisian dinars, which is a small amount that does not cover the expenses of this organization and its activities. LTDH executive officers are volunteers. Before the revolution, the LTDG was a refuge for political opponents and a pressure group against a repressive regime. After the revolution, the LTDH contributed to the training elections observers to ensure the transparency of the National Constituent Assembly elections, in cooperation with the Arab Institute for Human Rights in the framework of the group of associations that formed the National Observatory for Monitoring Elections[54]. Then, it participated in the national dialogue together with three other influential CSOs, namely the Tunisian General Union of Labor (UGTT), the Tunisian Union for Industry, Trade and Handicrafts (employers' organization), and the national association of lawyers (Bar Association). This civil society Mediation Quartet was formed in July 2013 after a political crisis upon the assassination of MP Mohamed Brahmi. The Quartet produced a road map by September, calling on all parties to agree to a technocrat government to be led by an independent national figure, on condition that none of its members run in the next elections, and that the government pledges its resignation no later than three weeks from the beginning of national dialogue. The initiative called on political parties to agree on the person who will lead the transitional government within one week, as well as the completion of the constitution and the organization of elections before 31 December 2014[55]. The LTDH had repeatedly stressed since late August 2013 the need to coordinate with the rest of the Quartet "to take measures and adopt positions that would push the Troika and its allies to seriously address the situation and comply with demands raised by massive demonstrations on 6, 13 and 24 August 2013[56]." The national dialogue was finally supported by 21 political parties out of 24 and eventually led to the formation of a technocrat government. The initiative succeeded in sparing the country a wave of violence and internal strife, and thus allowed the success of democratic transition.

For all these efforts, the Quartet was awarded the Nobel peace prize in 2015. This was a firm recognition of the role played by the LTDH and the civil society in general in securing democratic transition under difficult circumstances and sparing the country a dark tunnel of division and political violence. The Nobel prize committee acknowledged the Tunisian civil society role in integrating democratic principles in the Tunisian constitution, including individual and collective rights, gender equality, and freedom of belief and conscience. This recognition was striking, particularly for the LTDH which played a central role in reforming a state that had worked hard for decades to coopt the human rights movement. This success also challenged the

[49] Zeineb Marzouk, "Analysts Question Government Intervention as Protests Grow", Tunisia Live, 21 January 2016, available at bit.ly/2gA2B2T
[50] OHCHR, "Vienna Declaration and Program of Action", 25 June 1993.
www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx
[51] University of Minnesota Human Rights Library, "Submitting Human Rights Reports", hrlibrary.umn.edu/arab/HRM-CH-20.pdf
[52] Emna Jablaoui, "Le rôle de la société civile dans la transition démocratique: Suivi des acteurs des droits de l'homme", L'Observatoire Tunisien de la Transition Démocratique, 2012, p. 337.
[53] See statement by Mehdi Ben Gharbia, Minister of Relations with Constitutional Bodies, Civil Society and Human Rights, in "The Government is Ready to Interact with Civil Society on Parallel Reports on Human Rights in Tunisia", Al-Masdar, 1 December 2016, available in Arabic at bit.ly/2hFljpg
[54] Emna Jablaoui, "Le rôle de la société civile", p. 337-8.
[56] Aljazeera Net, "The Tunisian National Dialogue Quartet… the Peace Prize", 11 October 2015, available in Arabic at bit.ly/2xBSJ3e
"A Statement by the Tunisian League for the Defense of Human Rights", Sfax Tunisian Journalists, 1 September 2013, available in Arabic at bit.ly/2t3pwsN

narrow concepts of the functions of human rights actors. By playing a central role in the democratic transition, the LTDH helped shape the democratic transition in Tunisia. Afterwards, like several other CSOs, the LTDH monitored the implementation of new legislations in addition to a host of other conventional and new roles. This new role serves to make democracy a continuous process rather than just electoral moments separated by years from one election cycle to another. More importantly, such a role encourages citizen participation and mobilization to prevent a slow slide into authoritarianism or the despotic rule that Tunisia suffered from for decades.

Conclusion

In this paper, we reviewed the role played by the human rights movement in Tunisia to bring about meaningful change, especially its transformation from the role of naming and shaming before the revolution to the role of the active participant in reforming institutions, shaping policies and drafting legislations. These new roles address rights violations at a much deeper level.

The paper acknowledges that it did not present clear causal links for civil society actions and legal or institutional changes. The reasons for that are methodological, foremost the overdetermined nature of social and political change in general. It is impossible to have definite evidence that certain legal or institutional change could be solely attributed to a single actor or certain actions by the human rights movement alone, to the exclusion of other social forces, all of which together drove legislators and bureaucrats into a specific direction. The only way to lessen the methodological challenge in elucidating causal linkages between the efforts of human rights actors and social changes would be to undertake complicated and longitudinal qualitative and quantitative research. Finally, any social phenomenon, such as amending laws, reforming security agencies or changing social behavior cannot usually be attributed to a single reason or actor. Consequently, one can ascertain that human rights actors' interventions were indispensable for a certain change to come about such as lifting reservations on CEDAW or obstructing the financial reconciliation bill, but that was certainly not the only factor.

The Human Rights Movement in Morocco: The Dialectic of Influence

Mohamed Outahar

Summary

To analyze the impact of human rights civil society actors in Morocco, one should consider sociological factors that helped determine the evolution of civil society, its very demands, and how it worked to realize some objectives. The 2011 uprisings in the Arab region played an important role, albeit a partial one, in changing the structure of the rights movement in Morocco. It contributed to expanding demands and shifting them from the macro to the micro level, thus becoming more focused on citizens' everyday rights and needs. Social media networks played a positive role and enhanced the impact of Moroccan civil society.

Increased engagements among civil society actors contributed to the collective realization of common goals. Partnerships significantly increased after the Arab uprisings. This development in frequency and intensity, rather than in the quality or nature of human rights advocacy, is perhaps what distinguishes the activities and projects of the civil rights movement after 2010. While the frequency of actions increased, civil society actors continued to rely, almost entirely, on the same mechanisms. The most significant results of this transformation were a wider base of human rights defenders and more public support for action in defense of basic rights in a peaceful and more pragmatic manner.

Introduction

A discussion of Arab uprisings is probably impossible without considering issues of democratization and considering how their evolution shaped civil societies in these countries, and conversely how these civil actors, however weak they are, helped fuel the momentum of these 2011 uprisings[1]. The clashing plethora of analyses on the structures, institutions and socio-political systems of civil society, democracy and human rights, in most Arab societies, is partly caused by the different theoretical frameworks and the historically western production of most of these concepts. There is little dispute, however, that another defining concept, that of citizenship as a legal and political relationship between an individual and the state machinery, has not so far truly taken root in most Arab societies. This has weakened the foundation of the political and legal foundations of democracy and civil society, let alone human rights.

Definitions of civil society emphasize primarily the element of how independent its actors are. Badie defines civil society as "the totality of institutions that allow individuals access to goods and benefits without the intervention or mediation of the state." Ashford provides a similar and condensed definition: "All those voluntary organizations that exist between the individual and the state such as the family, church, sports and music clubs, and charities[2]." Civil society, then, is the sum of political, economic, social and cultural institutions that work in relative independence from the state authority and the influence of private companies[3].

Civil society organizations (CSOs) are described in the United Nations and in other international institutions as non-governmental organizations (NGOs). The term indicates that while these entities are independent of their governments, they are still linked with them in a complex contentious relationship that includes both cooperation and conflict. CSOs' impact relies to a large extent on the political system in place in their countries. Their 'independence' is not absolute because they are subject to governmental rules and political pressures - both internally and externally - as well as funding considerations; especially that most of them are dependent on foreign funding. The nature and suspected conditionality of funding often lead to questions about CSOs' credibility and claims of representing certain social groups[4].

This paper seeks to analyze the impact of rights actors in Morocco and how it is influenced by their relative independence, which is ultimately predicated on how citizenship and democracy are put into practice in the public sphere[5]. While the paper is not primarily concerned with the challenges and restrictions facing the human rights movement, it provides a brief exploration of these insofar as they relate to the scope and method of work of the human rights movement. It focuses on the restrictions imposed on freedom of actions and funding[6] in addition to internal challenges related to professionalism, coordination, and politicization[7].

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[1] The word uprising or Hirak is employed here as a more objective description of the events that unfolded in Arab societies. The word "revolution is inapplicable in that context as revolutions require a radical transformation of economic and political structures. Similarly, the word "Spring" has positive connotations that are not entirely appropriate in this context. The word "Arab", on the other hand, is employed to refer to a broad civilizational context and should not be taken as an ethnic or racial indication. We note this here given that some Moroccan rights groups interviewed for this research have had reservations on the use of the word "Arab" which they considered exclusionary of certain linguistic groups in North Africa, especially the Amazigh.

[2] B. Bertrand, Sociologie politique, Paris, Presses universitaires de France, 1997, p: 105.

[3] Mahmoud Karzeez and Mariam Yahiawi. 2008. The Role of Civil Society in Realizing Comprehensive Development in Algeria: Constancy and Change. Baskara University. (Arabic: دور المجتمع المدني في تحقيق التنمية الشاملة في الجزائر: بين الثبات والتغير).

[4] 'Onsar El Ayashi. 2000. What is Civil Society? Algerian Model. Paper presented to the symposium on "The Nationalist Project and Society" at the Department of Social and Philosophical Studies, Damascus University's Faculty of Arts and Humanities. (Arabic: ما هو المجتمع المدني؟ الجزائر نموذجًا، ورقة مقدمة لندوة «المشروع القومي والمجتمع المدني»).

[5] 'Azmi Bishara. 2012. Civil Society: A Critical Study. Arab Center for Research and Policy Studies. (Arabic: المجتمع المدني، دراسة نقدية).

[6] Mervat Rishamwi and Morris Tim. 2007. Overview of the Civil Society in the Arab World. INTRAC: Praxis Paper No. 20. Available at bit.ly/2tEG37J

[7] Nour Edeen 'Aloush. 2011. NGOs and the Human Rights Gamble: The Moroccan Human Rights Organizatio. Nasheri for Electronic Publishing. p. 5. (Arabic: المنظمات غير الحكومية ورهان حقوق الإنسان: نموذج المنظمة المغربية لحقوق الإنسان.)

Therefore, the paper is centered on Rights Civil Society, i.e. the totality of organizations, associations and networks that operate within the framework of the internationally bill of human rights. Consequently, we will not include Islamist human rights organizations that adopt a selective approach to human rights. Ben Hassan described their attitude as 'selective doubting' since the Islamists would pick and choose from a menu of rights and argue that the whole paradigm emerged in the West and, therefore, its full stipulations are only appropriate to the religion and culture of the Western citizen and need to be adapted when applied in Arab Muslim societies. This paper, on the contrary, views the human rights paradigm as a historical product which is shaped and reshaped by the performance and actions of social actors. From this perspective, human rights do not constitute an abstract legalistic model but a continuous historical process whereby the rights are reconfigured as a result of social and ideological contentions[8].

The most important mechanisms of rights actors include[9].
- Enhancing human rights awareness and disseminating human rights culture through lectures, seminars and the media;
- Exposing human rights violations and breaches;
- Fighting for more stable and stronger legal guarantees.

In our research, we thus excluded actors that do not adhere to a universality of human rights as their frame of reference out of an ahistorical immutable view of how these rights should be tailored from a culturalist perspective. Meanwhile, this paper selected a broad range of actors to study both their impact and the methods with which they realize their objectives. These included networks, alliances, associations, coalitions and organizations engaged in the field of human rights to different degrees in diverse areas. In total, this paper included 54 Moroccan rights actors either through responding to a survey or by analyzing their internet presence (websites and social media platforms)[10].

The broadest questions for the survey and social media analyses were:
- How related were the achievements in the field of human rights after 2010 to the public uprisings? And how much were they a result of a long history of struggle?
- Did the 2011 Moroccan constitution change the discourse of the rights actors in how they sought social change? And how?
- Have rights actors become braver and bolder in approaching public issues?
- Did the mechanisms of impact change and improve or decline in how much change they engendered because of the uprisings? And how?
- What means made available by the uprising enhanced the impact of rights actors? And what negative factors, if any, were produced by the public uprisings?
- What were the social and political conditions that encouraged or impeded the influence of rights actors over the long term and after 2010?

The main hypotheses we are testing include:
- The uprising as a turning point in the process of realizing rights that had been long demanded.
- Social media networks played a pivotal role in enhancing the impact of rights actors as well as introducing them to a broader audience.
- After 2010, the successes or failures of rights activists no longer solely rely on state response. More important are societal pressures and social protest as it interacts with demands made by activists and various rights actors.

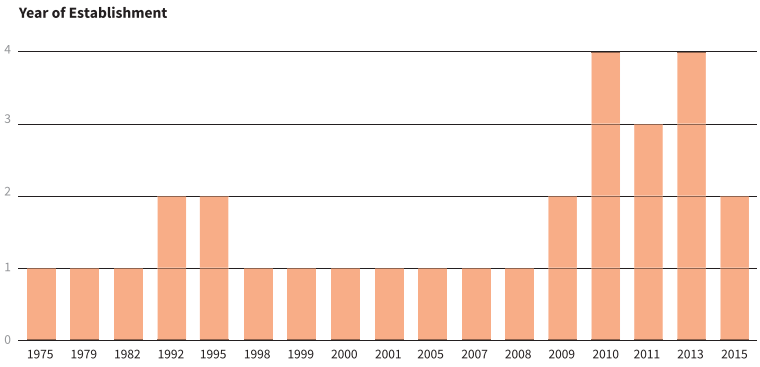
The rest of the paper will be divided as follows:
1. Rights Civil Society:
2. The Moroccan uprising and structural transformation of Rights CSO
3. Rights activities and projects before and after the uprising:
4. Working within civil society before and after the uprising
5. Foreign funding: Nature of funding vs. the magnitude of impact
6. The dialectics of influence before and after the uprising
7. Social networks and their impact before and after the Arab momentum
8. Facebook pages and the expansion of the sphere of impact:

1. Rights Civil Society[11]: Preliminary data

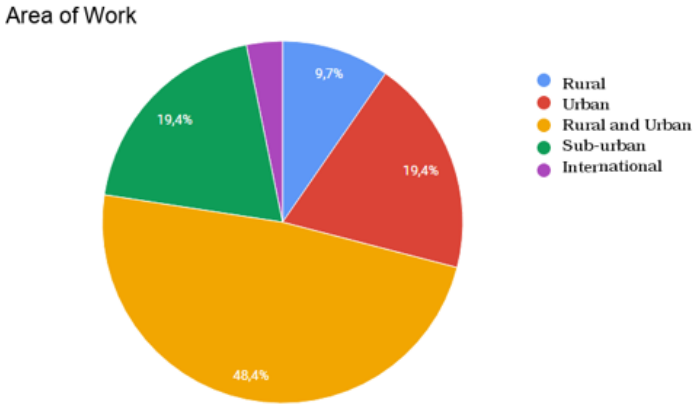
The selection of civil society actors for inclusion in the survey was based on ensuring a representative simple that reflects the diversity and complexity of the movement based on a number of variables, most important of which were:
1. Year of establishment
2. Medium of Work
3. Character of work
4. Nature of work
5. Area of work
6. Methods and mechanisms of work

[8] Abdel Basset Ben Hassan. 2014. Our Rights in Culture and Society. Arab Organization for Human Rights. p. 22. (Arabic: حقوقنا في الثقافة والمجتمع).
[9] Nour Edeen 'Aloush. NGOs. p. 5.
[10] Check Annex 1 for list of organizations.
[11] Two CSOs included in this research asked for their names not to be mentioned given the sensitive issues they work on including gay and sexual rights to avoid possible prosecution under Moroccan law's articles on public modesty.

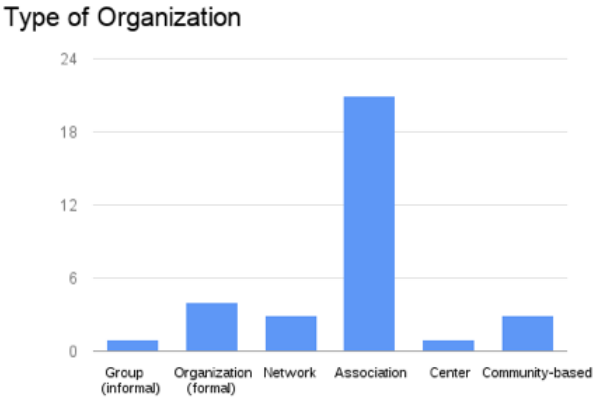
First: Rights CSOs have been established since 1975 but in larger number and higher frequency since 2010. Selecting this wide spectrum allowed an opportunity to examine diverse patterns of work and historical evolution[12].



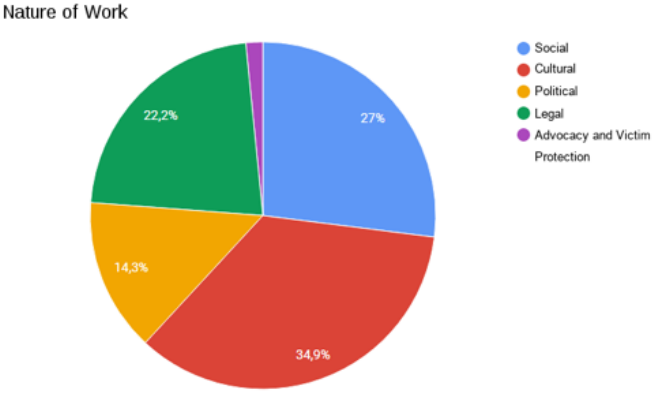
Second: We noticed that almost half (48.4%) of the actors included in the survey are active in both rural and urban areas. A very small percentage worked only in one: rural areas (9.7 %) or urban areas (19.4 %).



Third: Most of the CSOs surveyed are registered as associations. There are several ways to register a CSO in Morocco since the constitutions protects the right of association and assembly. Studying the legal character of organizations helps emphasize their diversity. This diversity.

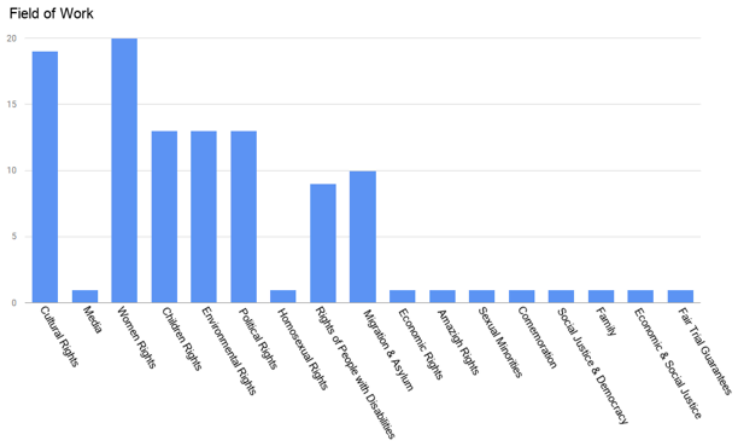


Fourth: CSOs worked on political, legal, social and/or cultural issues. The majority, however, or 34.9 % of the included actors, identified themselves as working on cultural causes. Most actors working on politically related issues emphasized that they were non-partisan nor seek power. They focus on advocacy to influence government policies that affect civil and political rights.



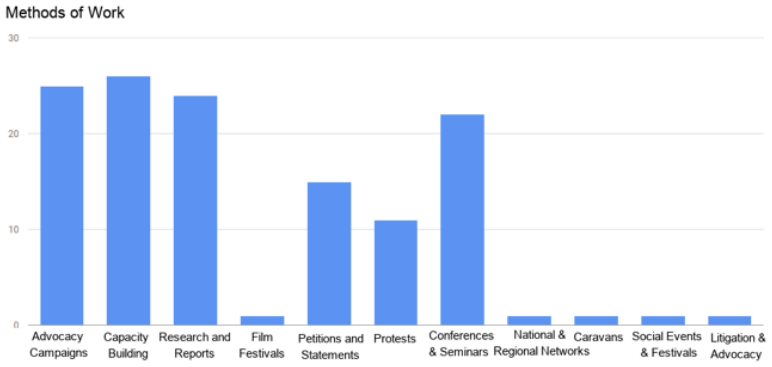
[12] The vertical axis of the graph refers to the number of organizations that disclosed their year of establishment. Some organizations preferred not to disclose their names or the year of establishment. In the previous note, we explained some of these reasons specially pertaining to the names of organizations.

Fifth: After the cultural fields, women's rights were the second most popular area of activity. They were followed by children's rights, environmental rights and political rights as the most important areas of work of rights CSOs in Morocco.



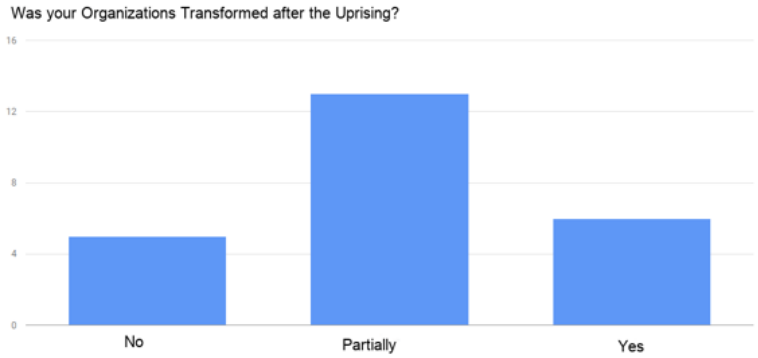
Sixth: In analyzing the methods and mechanisms of work of the surveyed actors, it became apparent that most give priority to the following three axes:

- Capacity Building (training)
- Advocacy (through the use of research and reports)
- Mobilization (awareness campaigns, conferences and seminars)



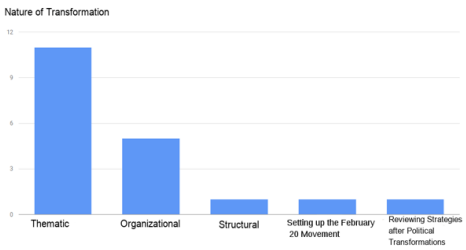
2. The Moroccan uprising and structural transformation of Rights CSOs

The 2011 regional uprisings and the accompanying transformations and revolutions, took the shape of constitutional reform and early elections in Morocco[13]. These changes had an impact on the structure of many CSOs, which was transformed in the wake of the uprisings. The survey confirmed that the Moroccan uprising played an important, albeit partial, role in changing the structure of civil society as illustrated in the graph below.



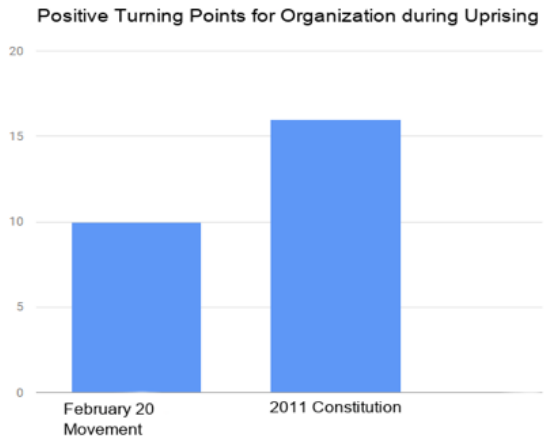
This transformation took place on a number of different levels the most important of which was the expansion in the rights issues addressed. It was accompanied with organizational and structural changes as the momentum of the uprising played a role in introducing new and more current organizational strategies to keep up with the developments on the Moroccan social and political scene.

The graph below illustrates the nature of this transformation that affected rights actors to varying degrees during the 2011-2012 period.



[13] Early elections were organized on November 25, 2011, ten months ahead of schedule after pressure from the 20 February movement. See Mahmoud Ma'rouf, Early Elections in Morocco: Big Challenges and multiple Bets. Swissinfo, 3 September 2011. Available in Arabic at bit.ly/2yWU45K

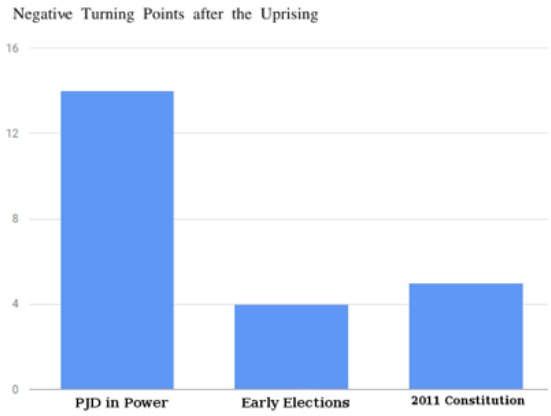
Rights actors engaged in the human rights work at the time emphasized two main transformations: 1) Contributing to the February 20 movement that played an important role in advancing the constitutional reform process in Morocco, and 2) Re-assessing the major strategies of the rights movement in light of the political transformations in the social and political scenes epitomized by the constitutional reform.



Not all outcomes of the Moroccan uprising were seen as positive in the eyes of rights actors at the time. There were both advantages and disadvantages generated by this massive upheaval.

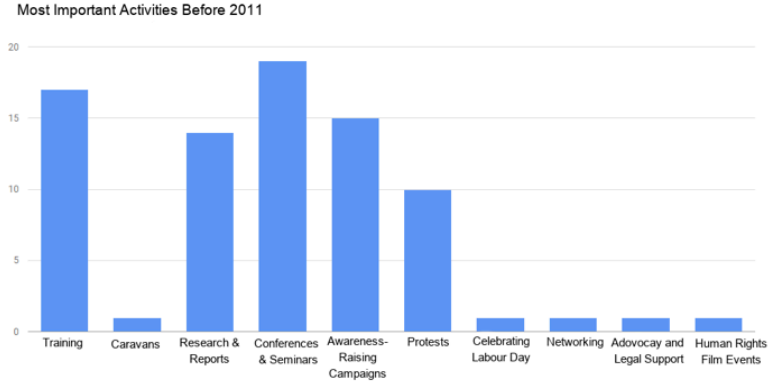
Though the February 20 protests came to be considered the nadir of the Moroccan uprising, it was the new constitution that cemented this transformation for a larger portion of the rights groups surveyed. The new constitution included Tamazighth as a formal national language, enshrined the principle of the separation of powers and judicial independence as well as the principles of equity for men and women for elected offices.

A considerable number of Rights Civil Society actors (see the graph below) believe that several problems persisted, not in the text of the constitution itself, but in the legal interpretation and the ensuing legislations. Most actors agreed that the rise of the Islamist Justice and Development party to power was a negative development. They expressed concerns about restriction of rights in various fields, especially gender equality and individual freedoms

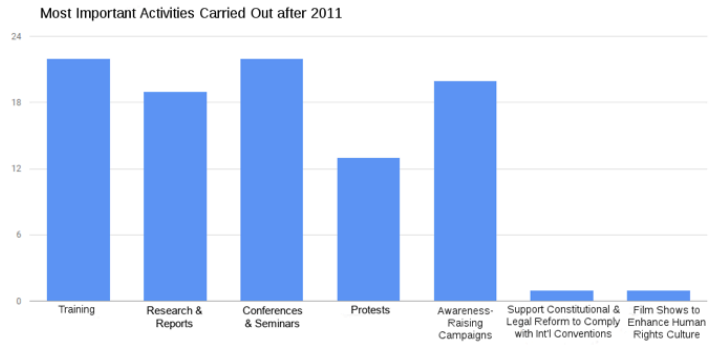


3. Rights activities and projects before and after the uprising

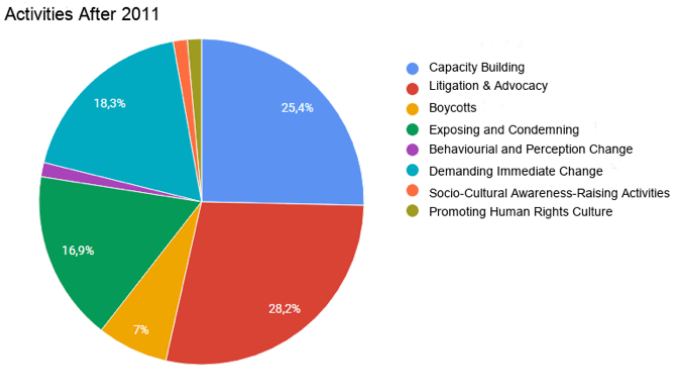
Human rights action takes shape through certain methods and media, which differ according to the political, social and historical circumstance of each society. The activities of the rights CSOs in Morocco increased in intensity and degree but not in type before and after the 2011 uprising. Rights actors report that the frequency of actions multiplied while the mechanisms and patterns of work remained unchanged. The two graphs below illustrate the similarities in the pattern of work by identifying the most important activities carried out before and after 2011.

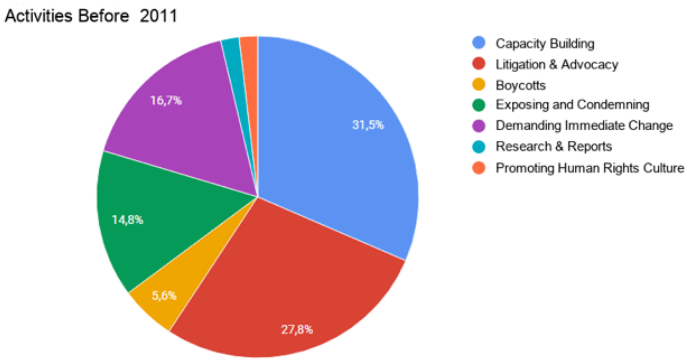


The slight difference visible here is the process of working on demands that were timely then (in 2011, especially during the protests of the February 20 Movement). The main new additional activity was advocacy for constitutional reforms and for amending laws to conform to international conventions.



In various thematic issues, actors implemented the same mechanisms more or less as the graphs below show. For example, before 2011 advocacy was at 27.8 % and later increased to 28.2 % later. Capacity building fell from 31.5 % to 25.4 %, which is primarily explained by how CSOs decreased relative resources for internal purposes to focus more on external activities after the uprising.



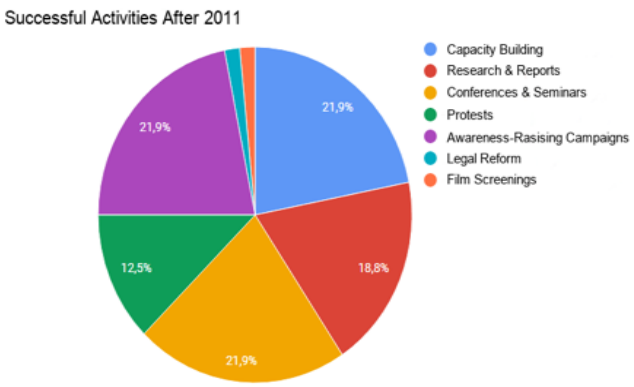


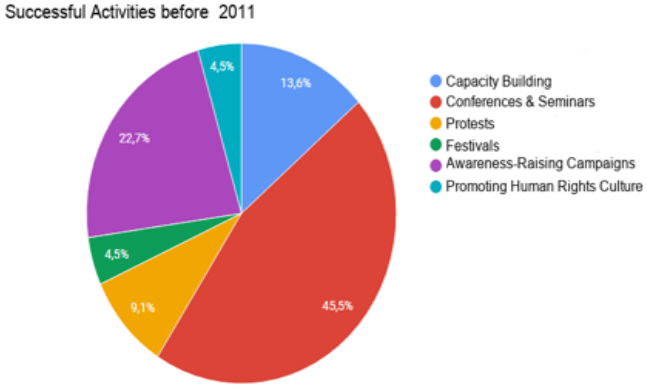
On the other hand, the two graphs above show negligible resources for working on the promotion of human rights culture, which before or after 2011 amounted to less than 3% of total activities. Same low priority was awarded to work on changing mentalities and behavior at below 3% of total activities.

This raises several problems, perhaps the most important of which is the issue of Militantisme, or struggle and external action which dominates most CSO activities compared to the longer term and less intense work of human rights education.

In attempting to identify the different successful activities in the two periods, we find that “conferences” and “seminars” were the most successful before 2011 (45.5%) declining to 21.9% after 2011. The decline here could be explained by noting that most of these conferences and seminars were opportunities to form coalitions, prepare for legal advocacy and exert pressure for legal reform. Activities that were successful after the uprising included “Research and Reports” (18.8 %) that had received little attention in the pre-2011 period. Additionally, “capacity building and trainings” increased after 2011 from 13.6 % to 21.9 %. The two graphs below illustrate these differences in activities that were successful before and after 2011.

Identifying the similarities and differences in the methods of rights actors, before and after the uprising could help in determining the most important transformations of the civil rights movement in that area.





The table below indicates the most important similarities before and after the uprising especially for CSOs that emerged before 2011.

Similarities in work environment before and after the uprising
Working on activities of proximity[14] (related to social, cultural, athletic activities for children and youth)
Planning for strategic changes and approaches
Working on organizational laws
Raising citizens' awareness of their rights and how to demand them
Setting new horizons of work by coordinating with partners
Working according to set strategies and goals
Working on exchanging experiences, enhancing capacities and training specific population groups to advocate for their rights
Method of decision-making (consensus-building)
Working in a democratic manner
Continuing to reply on advocacy and mobilization to change discriminatory laws while working for institutional mechanisms to protect rights

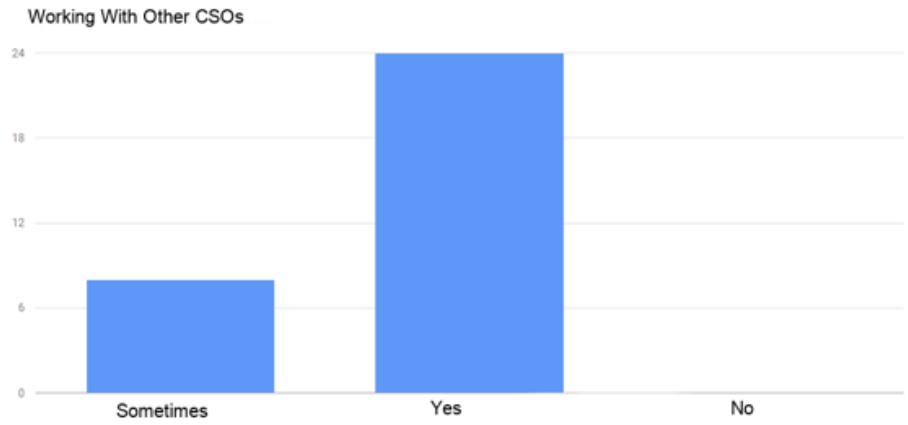
On the other hand, the table below shows the differences in the work environment for rights CSOs before and after the uprising .

Differences in work environment before and after the uprising
Constitutional referentiality, rising voice of civil society and a new state approach
Rapidly opening up to associations that believe in linguistic and cultural diversity
A relative shift in censorship (less pervasive or flagrant)
Public relations with state institutions that supply funding for projects
A faster pace of work
A more daring and challenging approach to making rights demands
Working through alliances, networks and coalitions instead of individually
Working on projects in common platforms, not through separate committees
Reviewing the discourse and the methods used to motivate and persuade by taking into account the new political transformations

It should be noted here that some human rights actors insisted that there have been no major changes in how they carried out their work. They argued that they had always demanded change using the same methods and mechanisms. The only difference that took place after the uprising, according to them, was the pace of work, which became significantly more rapid.

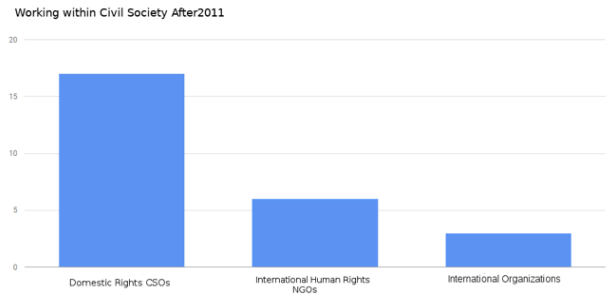
4. Working within civil society before and after the uprising

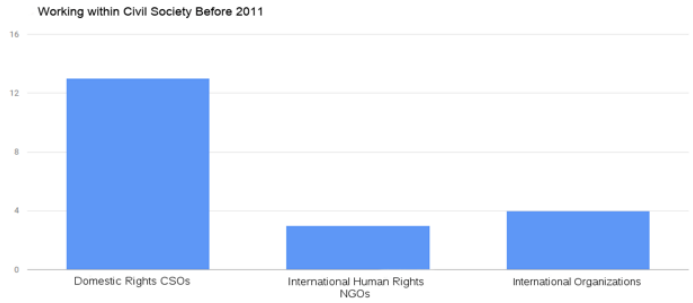
Creating common partnerships is one of the most important mechanisms in for rights CSOs. Partnerships allow the exchange of expertise and offer opportunities for self-development. The graph below indicates that most CSOs work constantly with each other, while the remaining few engage in partnerships but less often.



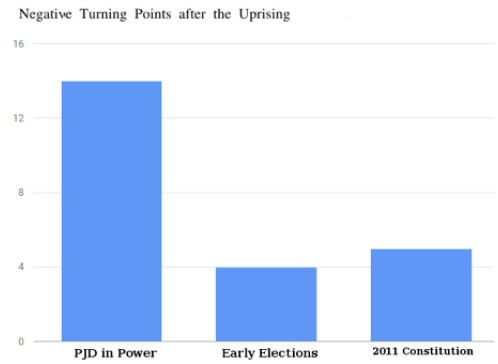
[14] Proximity activities depend on two dimensions: stability (location) and sustainability (time). They target citizens through social, cultural and athletic activities that take place in youth centers or headquarters of associations on a daily or weekly basis depending on the nature of the activities.

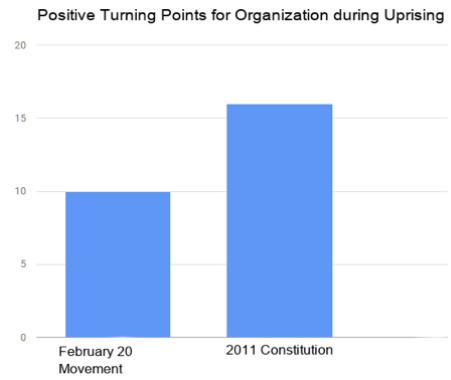
No difference was detected in the nature of work of the rights movement, whether internally or externally, before and after the uprising. The change related to the intensity of work rather than its nature. Rights actors indicated that their work increased in both rate and intensity with other partner groups domestically and international organizations externally after 2011, while it rapidly declined with governmental institutions.



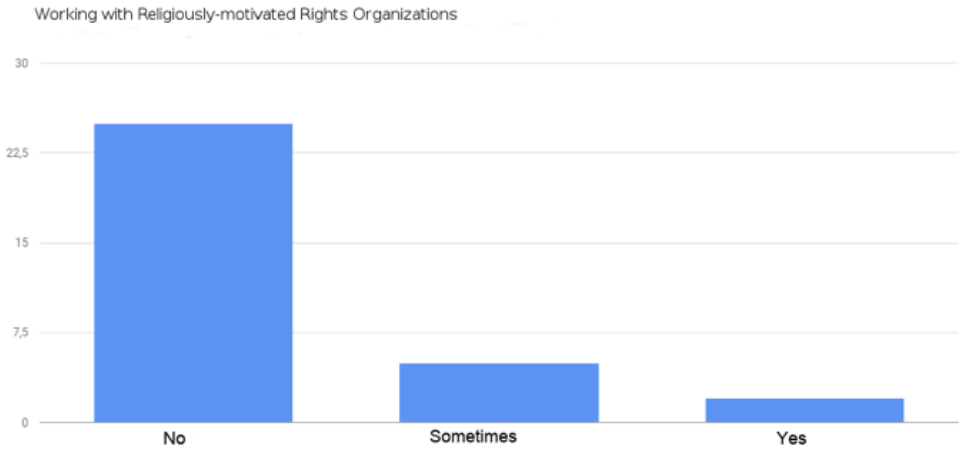


Some attributed this latter decline to the dominance of the Islamist Party of Justice and Development after winning the elections and forming the cabinets after the 2011 uprising. These changes are illustrated in the two graphs below:





Many rights activists claimed they did not partner well with Islamists. According to them, this is because these organizations adopted a selective approach to the internationally bill of rights especially those concerning women and personal rights. On the other hand, some actors explained that they have partnered with Islamist organizations on partial bases and specific issues such as economic, political and environmental causes.
The graph below illustrates the rate of work with Islamist rights organizations:



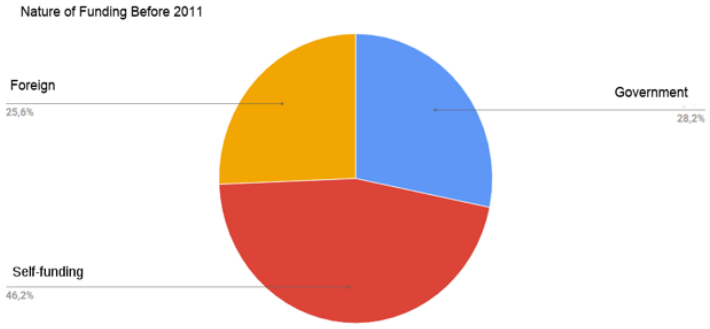
The table below summarizes the most important accomplishments resulting from partnering with other rights CSOs according to respondents to our survey.

The most important accomplishments resulting from partnerships
Mobilizing actors from associations, the media and institutions, as well as politicians, to fight for judicial independence[15]
Awareness and advocacy campaigns for a number of issues (eliminating the death penalty, International Criminal Court, Women's justices, the right of access to information, etc.)
Brainstorming and consultation among actors on judicial independence, freedom of expression and access to information
Contributing to enhancing the capacities of youth leaders
Advocacy for the harmonization of many national legal texts with the international conventions of human rights
Joint studies on the political participation of women; underage marriage and public policies
On the educational level, seminars and workshops were held in a number of institutions on different rights issues and activities
The revised National Human Rights Charter[16]
Exchange of expertise and unifying efforts to address common rights issues
The collective condemnation which led to changing article 475 of the penal code which allows rapists to escape prosecution if they married their victims
Partnering in advocacy to activate certain constitutional protections and guarantees
Enhancing the capacity of civil society cadres and training them to defend economic, social and environmental rights
Partnering and working collectively to change certain discriminatory laws
Mobilizing civil society actors to condemn gender discrimination
Including gender equality and non-discrimination in the constitution, and issuing joint national and parallel reports to international organizations
Mobilizing actors and exerting joint pressure to lobby public opinion in social justice causes

5. Foreign funding: Nature of funding vs. the magnitude of impact

Foreign funding has always raised questions regarding how it influences local CSOs. In Morocco, it has been often used as grounds to undermine the credibility of rights NGOs and actors, labeling them as foreign agents or harboring loyalties to foreign interests, or serving external ideological and political objectives goals allegedly through 'focusing on women and sexual rights'. Foreign funding has served as the only pretext to vilify Moroccan rights organizations, whether before or after 2011[17]. In 2014, Minister of Interior Mohamed Hassad explicitly accused civil society actors of being part of "a foreign agenda" and of receiving funds for the purpose of defaming Morocco. In response, Ahmed El Haij, president of the Moroccan Association for Human Rights (LMDH), said that "funding obtained by the LMDH takes place within a framework of partnerships on the basis of programs, projects and activities that are drawn up by competent LMDH bodies. Narrative and financial reports on these activities are regularly prepared and are subject to audits by financial experts[18]."

The graph below indicates that self-funding (dues and domestic fundraising) amounts to 46.2% of all resources before 2011. This was the largest source of funding then. Government funding came second at 28.2 % and foreign funding third at 25.6 %. This data should qualify allegations levelled against rights CSOs before 2011.



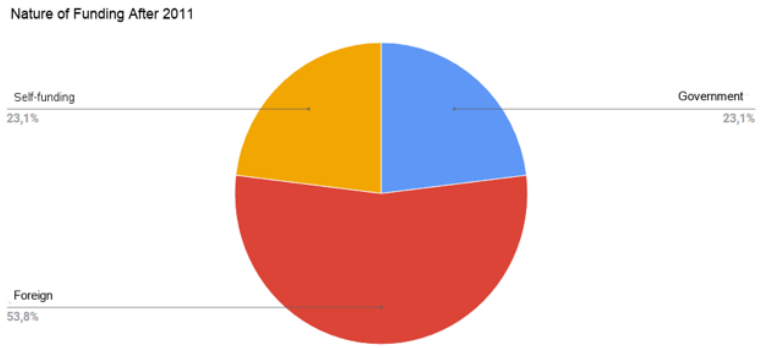
[15] A solidarity protest was organized by the Agency for Judicial Independence in Rabat on 16th February, 2016, to protest the dismissal of Mohamed al-Heini, former judge at Rabat's Administrative court, and the suspension of four other judges. The dismissal came as a disciplinary measure after Heini posted a Facebook note criticizing two bills tabled in parliament to re-organize the Moroccan judiciary. See: Fatima Alzahraa Kareemullah, "Debate on Judiciary Independce Dominates Morocco", Al-Arab, 20 February 2016, available in Arabic bit.ly/2Kh4D8V (Arabic: جدل استقلال القضاء يهيمن على المجتمع المغربي).

[16] In December 2013, the 22-organization Moroccan Coalition of Human Rights, signed a revised 'National Charter of Human Rights' as an overall reference for human rights in the country and a launching pad for programmes and activities for rights that are universal, cosmopolitan and inalienable. See: "Andalus Network Publishes the Revised National Charter of Human Rights", Andalus News, 20 October 2013, available in Arabic at bit.ly/2MyJhR6 (Arabic: شبكة أندلس تنفرد بنشر نص مشروع الميثاق الوطني لحقوق الإنسان المحين»).

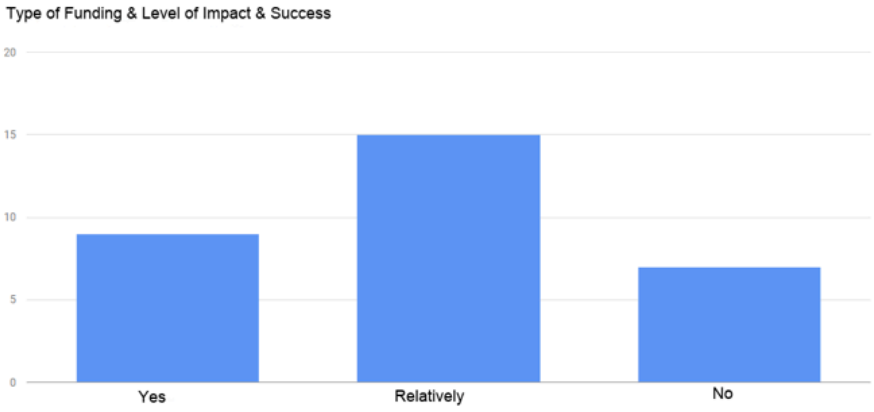
[17] Nabil Ghaza, "For whose Interests Work Human Rights Organizations in Morocco?", Hespress, 14 January 2010, available in Arabic at www.maghress.com/hespress/17955 (Arabic: لمصلحة من تعمل الجمعيات الحقوقية في المغرب؟).

[18] Hesham Nasser, "AMDH in Toruble after a Foreign Funding Scandal", Anfas Press, 26 September 2014, available in Arabic at bit.ly/2tFmVX0 (Arabic:الجمعية المغربية لحقوق الإنسان في مأزق كبير بسبب فضيحة التمويل الخارجي).

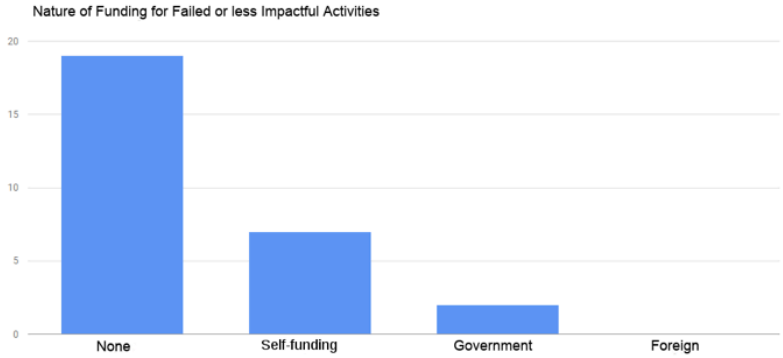
On the other hand, the graph below for relative sources of funding after 2011 presents a different picture. Foreign funding doubled moving from 25.6 % to 53.8 %. This sharp rise could partly explain the concomitant increased hostility of the conspiratorial thinking by conservative and pro-government elements regarding the role of rights CSOs and its linkages to foreign funding after the uprising[19].



At this point, it is necessary to identify the relationship between the nature of funding and the impact of rights CSOs. As seen in the graph below, most answers to the survey confirmed the existence of a correlation between the two elements. However, several rights actors argued that achieving an impact does require funding, however it is not exclusively dependent on it. Funding, whether domestic or foreign, governmental or private, does not by itself necessarily alter the goals and strategies of solid and well-established organizations. Funding still has a major role to play in enabling the success of organizations by making their very activities possible, however, more research would be needed to draw causal relations between funding and strategic objectives of rights actors[20].



The graph below illustrates the lack of foreign funding for activities that failed or, as respondents prefer to describe them, less-impactful activities. Such activities rely on own or government funding.



[19] Accusations leveled at Moroccan human rights organizations became more frequent and intence after 2011 especially on foreign funding issues. Reports and op-eds were run by various online and daily media with titles such as: "The Moroccan Government accuses Rights Organization of receiving Foreign Funds to Serve Foreign Agendas", "Serving the Foreign Agendas", "Foreign Funding for NGOs Fuels Debates in the Rights Community", Foreign Funding: The Major Misundertsnading between CSOs and the Government", etc.

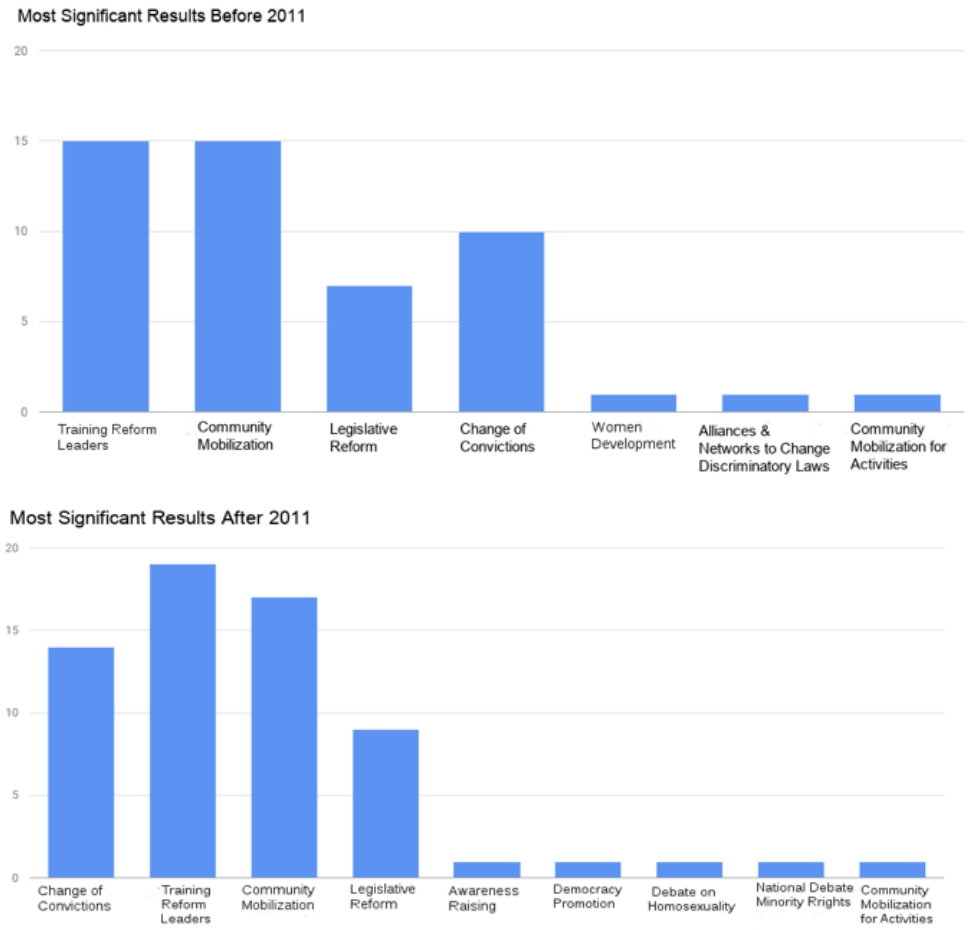
[20] Very relevant here are Moroccan Association for Human Rights (AMDH) and another Moroccan organization working on the rights of sexual minorities among other issues. They stressed that foreign funding is necessary for the success of projects that require large sums of money, but they meanwhile underlined their principled independence and how in some cases they rejected foreign funds if it clashed or did not meet internal strategic requirements. They explained that relationships with foreign organizations do not always take the shape of material funding, but could in many cases be in the shape of support, exchange of expertise, training and other forms of cooperation that go beyond the purely financial aspect.

Conclusions should be carefully drawn here since it has been anecdotally observed that actors tend to avoid activities that may not receive any tangible social support or face a very strong state reaction. In this light, one could qualify the statements by many actors that their activities rarely failed or the difficulty they faced in naming activities as least influential.

6. The dialectics of influence before and after the uprising

In a dialectical relationship, human rights actors affect and are influenced by their environment. On the one hand, they succeed in achieving some demands and, therefore, affects the surrounding political, social and economic structures. On the other hand, they are restricted/enabled by these changing structural circumstances.

Before the uprising, the human rights movement in Morocco paid a great attention and succeeded in maintaining itself through sustained recruitment of committed advocates and activists. This was the most important internal[21] in parallel to public mobilization on specific rights demands issues as an external strategy[22]. The graph below illustrates the most significant results achieved before 2011 in order of importance as determined by respondents.

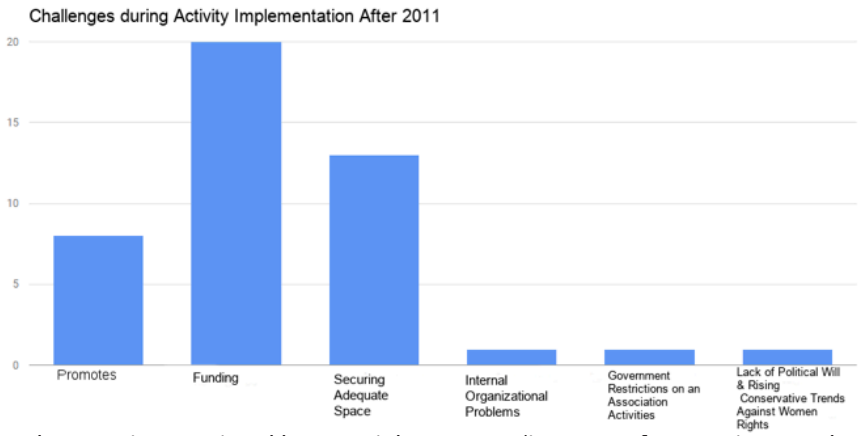


[21] The human rights movement multiplied activities to increase membership and train new and exisiting members especially from amongst the youth through workshops and other educational events. Here are a few examples: 1- Internal training for the AMDH members of the central youth committee on organized collective action and conflict management (announced on AMDH Facebook page), 2- Al-Wasit (Mediator) Association for Democracy and Human Rights launched the project Youth WebTV in partnership with the UN Democracy Fund and the National Council for Human Rights to train 100 young women and men from throughout Morocco on how to influence media content through various means including the launching of a web-based TV channel including talk shows, news reports and analyses, on issues pertaining to human rights and freedoms. (Le Médiateur Pour La Démocratie Et Les Droits De L'homme, Facebook page), 3- In order for political and civil actors, specially the youth, to play a role in the process of change and to participate effectively in Katama and Issaguen areas, the Moroccan Alternatives Forum organized a training workshop on 20-22 May 2016 (Alternatives Forum, Facebook page), 4- In the framework of implementing the partnership agreement signed by the Ministry of Justice and Freedoms, the Moroccan League for the Defense of Human Rights (LMDDH) organized a workshop for activists from Eastern and Central Morocco (the LMDDH Facebook page).

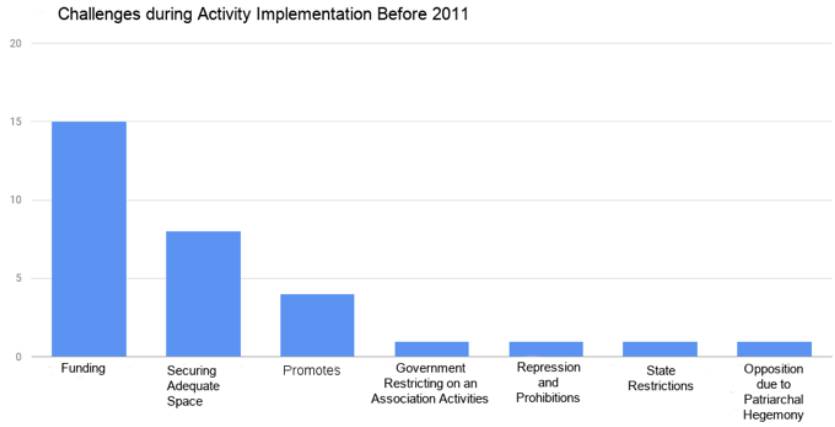
[22] Public mobilization for rights causes was not limited social protest (demonstrations, sit-ins, etc.) but expanded to education activities (seminars, lectures) as well as the awareness-raising campaigns. Social media platforms served righst actors in all three fields where the public are invited and engaged. Following are some examples: 1- The Women's Labor Union the 15th public trial on 28 May 2016 to support legislative amendments to protect women's rights in line with constitutional amendments at the Idou Anfa hotel in Casablanca (Women's Labor Union, Facebook page). 2- In the framework of the global campaign against violence against women, the Federation of Women's Rights Associations organized awareness days at Ouarzazate starting on November 29 to December 7, 2016 in Ouarzazate (Federation of Women's Rights Associations, Facebook page). 3- A call for participation in a protest organized by the AMDH on 10 December 2016 on the 68th anniversary of the Universal Declaration of Human Rights under the slogan "for dignity and against tyranny" (AMDH Facebook page). 4- The Executive office of the Moroccan League for Citizenship and Human Rights invites the public to attend a seminar on 13 October 2015 at the National Syndicate of Journalists as part of commemorating the international day of poverty (the Moroccan League for Citizenship and Human Rights, Facebook page). 5- An invitation to a public protest against the killing of fish seller Mouhcine Fikri under the slogan, "We are all Mouhcine Fikri", by the AMDH branch in Mohammedia on 3 November 2016 (AMDH Facebook page).

The 2011 uprising seems to have accelerated the influential moments and channels of Morocco's human rights' actors, though many thematic and operations approaches did not radically change. Operationally, the rights CSOs focused internally on sustain and renewing their cadres, while concentrating externally on public mobilization around specific causes. This remained the same before and after the 2011 upheavals though more interest was also awarded to legislative advocacy and behavior change after 2011.

The types of challenges that faced the rights actors did not change much through the 2011 uprising. The three main impediments remained: funding, government registration/permits, and securing adequate operational space for activities. Thus, it can be argued that the challenges facing the movement, in general, are structural and dependent on the organizing principles and discourse of the rights actions themselves.



Rights actors ultimately rely on an international human rights system (in terms of normative standards and, to a lesser extent, funding) in face of conservative domestic forces and/or pressure or refusal from the state or the regime. This reliance on external factors/structures by the rights actors renders the domestic ideological or operational restrictions and campaigns easier to wage by detractors especially in periods of patriotic nationalism or the absence of a state or a regime that considers civil society actors partners, even if the partnership is contentious, rather than a perennial opponent.



Respondents thought the most important achievements and gains after the 2011 uprising were those listed in the following table:

The most significant gains of the rights movement after the 2011 uprising
The new constitution (2011)
Raising the level of awareness, especially among youth
Changing laws, developing partnerships and working on new projects
Maintaining the social momentum for change
Ending a state of ambiguity on genuine integration of human rights in the body politics
Enshrined freedom of expression
Expanding freedoms, constitutional protection for certain rights, and institutional development of rights CSOs
Ratification of human rights conventions
Strengthened public participation in actions for social justice and opposing humiliating practices by state institutions and representatives
More exposure to the youth and creating ore support for linking a genuine democratic transition to the protection of human rights

A minority of respondents claimed that there had been no major gains after 2011, terming the list above as formal and much below expectations.
The table below reviews the most important impediments facing the rights actors after 2011 according to the survey:

The major impediments facing the rights actors after the 2011 uprising
The Ministry of Interior's restrictions on rights activities and harassing human rights defenders in addition to some measures by the PJD-controlled government[23]
State institutions' reluctance to support or partner with rights organizations
Continued relative elitism
Restrictions on certain CSOs imposed by authorities[24]
Administrative impediments
Powers of state not fully separated
Unions not acting in defense of their members nor public interest
Clashing objectives within the human rights movement
Undermining the independence of the rights movement, pressure on some CSOs and oppressing certain activists
A taller order of rights issues and causes unmatched by adequate resources
Lack of dialogue with governmental bodies
More public policies harming the more vulnerable population groups (e.g. privatization)
Delays in legislative amendments to ensure compliance with new constitution. Procrastination with institutional reforms needed to ensure good governance.
A growing conservative trend rooted in Islamist ideologies and hostile to gender equality

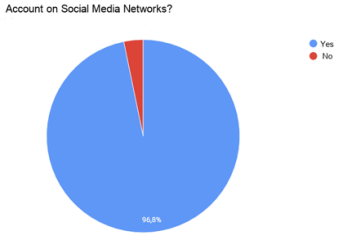
Adala, which is an association established in 2005 to advocate for guarantees for fair trials, summed up the current dilemmas faced by the Moroccan rights society in a response to one of our survey questions:

> "The uprisings in the region, including morocco, have ended a long wait and an era of confusion over the status of human rights. A break with the past was manifested in [various] axes … firstly, the amendment of the Moroccan constitution that has been ratified … [and] stipulating basic and important rights, including the recommendations of the Equity and Reconciliation Commission, introducing governance agencies and expanding freedoms ... the constitution translated the years-long wait for the demands of the Moroccan people which were further accentuated by the Moroccan uprising. Secondly, early elections were organized as stipulated in the new constitution … all this ended the confusion surrounding political action, or the position and platforms of various political parties in the public sphere … still there still exists some confusion within public institution on how to handle social protest … or calls to boycott elections. Although they have allowed the organization of demonstrations and marches as well as media freedom, they have also placed restrictions on activists calling for boycotting elections. As a result, as much as democracy indicators have improved, there are still real problems pertaining to the management of political change and a need for strategic clarity within the …authorities[25]."

7. Social networks and their impact before and after the Arab momentum

Social networks are a virtual public sphere in which individuals can communicate in relatively much more freedom with less forms of pressure and surveillance. They are another manifestation of the public sphere as defined by Habermas as a space where citizens can debate, consult, agree, and engage freely in expressing their opinion in a process that reflects democratic participation among individuals[26].

Rights Civil society actors maintain a significant and powerful presence on social networks; 96.8 % of the organizations included in the survey have a social network account.



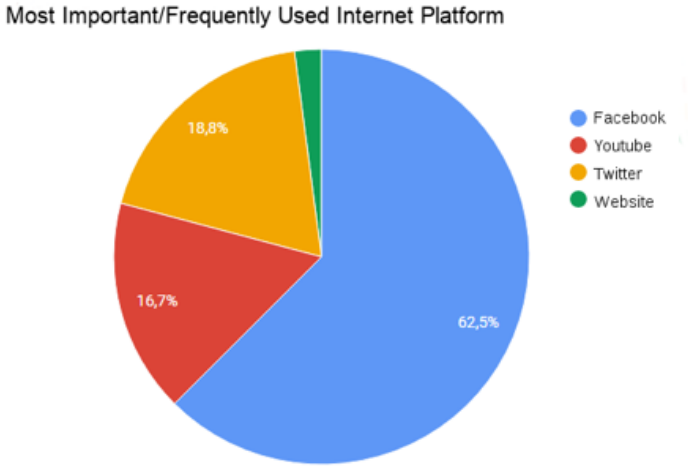
[23] The Moroccan Coalition of Human Rights held a press conference on 17 March 2015 in Rabat to publicize systematic restrictions and prohibitions on Moroccan human rights activity, in general, and on AMDH, in particular. These restrictions include the Ministry of Interior's frequent cancellation of activities of national and international human rights CSOs in various Moroccan cities and villages, depriving CSOs of using public or private halls and spaces, refusing to renew permits or receive initial registration documents. See: "The Moroccan Coalition of Human Rights – Invitation", LMDDH, 16 March 2015, available in Arabic at bit.ly/2yYJE5H (Arabic:"الائتلاف المغربي لهيئات حقوق الإنسان- دعوة"، العصبة المغربية للدفاع عن حقوق الإنسان)

[24] In 2016, 23 Moroccan rights CSOs demanded that the state "comply with national and international obligations to respect the right to peaceful organization and assembly" and to "put an end to the harassment of human rights association", specially that "attempts have been made to prevent them from organizing activities, especially the AMDH which tried to hold its 11th national congress in a public space". See: Tarik Benhida, "Rights Organizations Criticize Restrictions on Peaceful Assembly in Morocco," Hespress, 15 April 2016, Available in Arabic at www.hespress.com/societe/302432.html (Arabic: ""التضييق" هيئات حقوقية تنتقد على "التجمع السلمي" في المغرب)

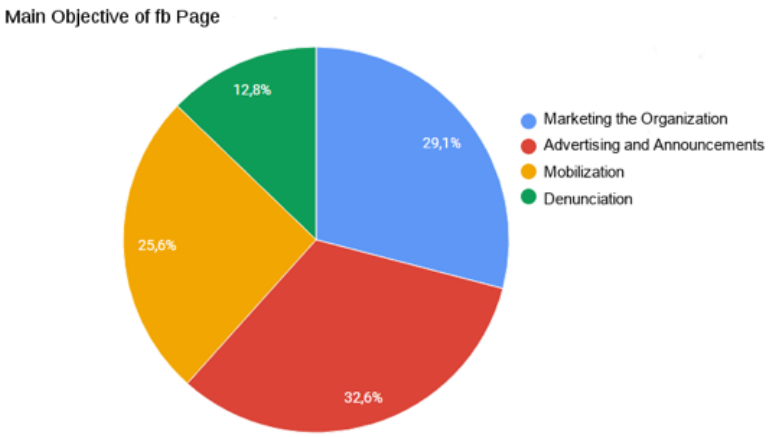
[25] Adala's answer to the question: "In your point of view, what are the most important achievements of rights CSOs after the democratic uprising?" in an email communication to Adala Association for the Right to Fair Trials on 15 November 2016.

[26] Jürgen Habermas, The structural transformation of the public sphere: An inquiry into a category of bourgeois society, Cambridge: transl: Thomas Burger and Frederick Lawrence, 1989, p.12.

Facebook is the most used social network among Moroccan rights CSOs (62.5 % Facebook, 18.8 % Twitter and 16.7 % YouTube). The next section focuses on the content of Facebook pages of a number of these CSOs.



This powerful presence on Facebook serves four main goals to varying degrees as shown in the graph below: Announcing activities carried out by the organization, cause-marketing pertaining to the field of work of the organization, mobilization for campaigns, protests or organized strikes, and exposing human rights violations.



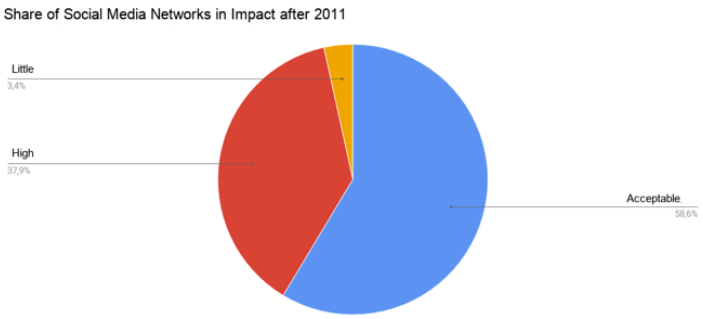
The table below outlines some of the most important drives for rights CSOs to maintain social media presence:

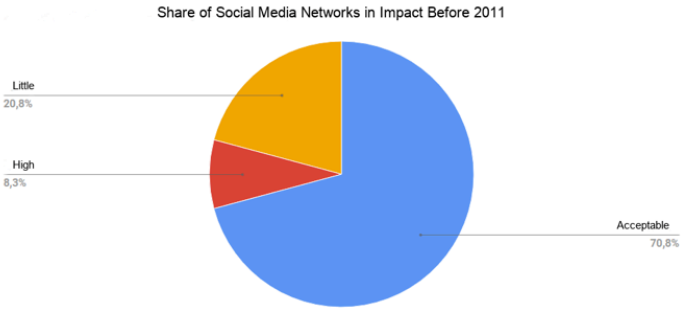
Reasons for maintaining a social network account
More communication, exposure and sharing of experiences
Introducing the organization and announcing news of its activities
Communication, news and mobilizing on issues
Introducing the activities of the organization and its stances on current rights issues
To facilitate the process of communicating with society
Creating a space for dialogue among actors interested in the rights situation
Staying abreast of current affairs
Developing a network of relations
Exposing rights' violations
Expanding the sphere of work
Sharing information, solidarity within other movements
Creating online awareness campaigns online
Staying abreast of the developments in the field of communication, and reaching more youth

The 2011 uprising helped accelerate the impact of rights CSOs over social media platforms. This was evident in the relative weight of impact through various channels that these CSOs thought they realized. Social media networks' share in this self-identified measure rose from 8.3 % to 37.9 % after 2011.

In general, the degree of perceived impact through social media continued to increase in comparison to the pre-2011 period with the 'somewhat' and 'high' impact categories combined rising from 79.1 % to 96.6% . This indicates a very positive perception of the role played by social networks in furthering the messages and influence of rights CSOs in Morocco.

Facebook is the most used social network among Moroccan rights CSOs (62.5 % Facebook, 18.8 % Twitter and 16.7 % YouTube). The next section focuses on the content of Facebook pages of a number of these CSOs.





The table below demonstrates the strongest areas impact made by the surveyed CSOs according to the actors' perception:

Examples of positive impact made possible by organizations' social networks accounts
Positive interaction with important and sensitive issues such as minority rights
Increase in the rate of attendance of activities as well as response to surveys and tests
Engaging established activists in discussions of important issues such as individual freedoms
Promoting human rights culture specially among the youth
Media success of a campaign on men's contribution to promoting women's rights
Entering into new partnerships with foreign interlocutors
Gaining support for advocacy efforts on difficult issues such as linguistic rights
Successful mobilization for a campaign after the suicide of rape victim Amina Filali in 2012
Receiving membership applications by social networks visitors
Energizing public discussions and changing discourse on conventionally sensitive issues (e.g. dominant use of the term 'homosexuality' rather than 'sexual perversion')
Mobilizing successful protests and demonstrations in 2012, 2013 and 2014 specially on violence against women

In general, social networks contributed to achieving the objectives of rights organizations in their view. They created a new dynamic interaction with new possible audience and more supporters. The main characteristics of this new dynamics are listed below as seen by respondents to the survey.

New characteristics of interaction with the public because of social media presence
Speed of interaction
Ease of communication
Increased membership applications
Publicizing work in different languages
Increased exposure within the civil society
Facilitating complaints procedures
Facilitating the exposure of rights violations
Wider-scale mobilization

8. Facebook pages and the expansion of the sphere of impact

Since 62% of the rights CSOs included in this research run a Facebook page, and maintain constant interaction through it, we analyzed 34 such pages. Facebook pages maintained by different actors are constantly updated to reflect social developments and report on evolving issues and incidents as well as raise support and awareness about relevant protests.
These FB pages cover developments (big and small) taking place in schools, government offices, hospitals, and public roads. As soon as videos or photos of contentious incidents surface online, rights CSOs use their social network pages to circulate them and demand verification, clarifications, and, sometimes, issue public statements of condemnations or demands for further investigation. In many cases, actions decided upon in the virtual world - such as a plan for a demonstration, for example - rapidly become a reality.

This new space allowed rights actors to realize two main goals. First: it became easier to identify cases of infringement on human rights through visual material shared by citizens on social networks. Second: the mobilization of the public in a faster manner and on a much wider scale for protesting and demanding remedies or reform.

These Facebook pages have become intermediaries between citizens and the rights movement, delivering information that is then articulated into reports and demands to be reviewed by the pertinent institutions to consider reactive measures.

Four overarching ways in which rights CSOs use Facebook were outlined based on survey responses as indicated in the table below:

Uses	Characteristics and examples
Announcement	News of planned cultural or intellectual activities: Lectures, seminars, marches, trainings, press conferences Calls for action Advertising external initiatives related to the field of work
Marketing	Introducing the organizations' areas of work Sharing accomplishments and successful activities Providing direct services, e.g. receiving complaints. Sending reminders and highlighting the organizations' visibility during protests (e.g. photos and updates) Announcing the opening of centers or institutions affiliated with the organization Posting vacancies
Mobilization	Publishing videos of activists discussing specific causes Testimonies on human rights violations Calls for action on specific issues Requesting participation in certain meetings Collecting signatures for petitions Conducting opinion surveys online
Informal	There is an informal side to the official pages of civil society organizations. For example: conveying condolences to a member for a death in the family, congratulating a member for a promotion, congratulating a member for a newborn, sending greetings on national or religious occasions, etc.

The Facebook pages studied illustrated the dialectical relationship between virtual and material realities. Often, plans in the virtual world influence the real world, then actions taking place in the real world impact the virtual one, and so on and so forth. Facebook has become a new space that allows the expansion of the impact of rights CSOs on public policies and a change in the actual lives of citizens through campaigns, statement, reports, testimonies and advocacy on the micro level. This new potential in realizing objectives through everyday life changes and responding to micro-demands by individuals and groups offer a positive outlook on influencing change on the macro level and helping realize major sociopolitical reforms.

Social media platforms allowed rights CSOs to come to terms with its day-to-day lived reality and to view this reality as the starting-point of genuine and deeper change that in the medium to long term could help lay foundations for democratic governance, citizenship, and social justice for the society at large.

General Conclusions

- In the post-2011 period, rights CSOs and other actors pursued more demands at the micro level. This articulated their work with the quotidian experiences of compatriots from various walks of life and refocused the work to pay relatively more attention to economic, social and cultural rights (public services in the fields of education, health, housing, etc.). In parallel, they pursued rights demands at the macro level by continuing to defend civil and political rights (legislative reform in compliance with constitutional amendments, speeding up the process of organizational laws especially on equality and cultural diversity, the release of political detainees, etc.).
- Arguably, the Arab uprisings brought the demands of rights actors down to the everyday concerns. Social media networks accentuated such issues and demands. Visual material posted on social media platforms went viral and imposed issues on the agenda of human rights defenders. Rights CSOs had to embrace causes, assign lawyers, take to the streets to condemn an arrest, visit families harmed by health or housing rights violations, protest the absence of transparency in the distribution of assistance given to some families, etc.
- The 2011 upheavals amplified the rights dimension in the work of civil society in general expanding it beyond the usual circles of human rights defenders. Local developmental and aid actors started to genuinely integrate a rights-based approach in their work. For example, one organization which supports income generation projects for women started training courses for them on rights and economic and social empowerment.
- The profile of the human rights defenders and field changed after 2011, expanding geographically and in terms of interested age groups. Different actors set up civil associations and took up human rights causes, thus repackaging their older social, economic and cultural struggles[27]. Some adopted the rights discourse to resist public policies or unpopular government decisions[28].

[27] Protests were organized against the law allowing rapists to marry their victims as a means to avoid legal prosecution (article 475 of the penal code), after the case of a young woman, Amina Filali (16 years old), who committed suicide near the city of Larache (al-'Araish) in the north of Morocco six months after she was forced to marry her rapist. See: Hanan Zalouni Edreesi, "The Rights of Moroccan Women and Benkirane's government", Hespress, 27 March 2013, available in Arabic at www.hespress.com/writers/75688.html (Arabic: حقوق النساء المغربيات وحكومة بن كيران).

[28] The National Coordination Committee for Teacher Trainees was formed after they rejected two ministerial decrees, one of which separated employment and training. Their movement started with protests held in regional centers through a comprehensive boycott of teaching both locally and nationally. Afterwards, the National Coordination Committee was set up as a representational framework for 41 centers on the national level after each center elected a representative and spokesperson in several meetings that started on 31 October 2015 and produced a general program of action. Seminars and public debates were organized to publicize the cause of the teacher trainee teachers leading to a national rally on 12th November 2015 to present the Committee to the public. See: Omar Sabieri, "The General Context of the Trainee Teachers Protests inside Provinical Training Centers", Dades-Infos, 11 December 2015, available in Arabic at www.dades-infos.com/?p=33206 (Arabic: السياق العام لاحتجاجات الأساتذة المتدربين داخل المراكز الجهوية لمهن التربية والتكوين ،).

- The base of human rights defenders expanded after 2011 as citizens' awareness of the need to stand up for their own basic rights through peaceful means increased.
- The pre-2011 impression that a certain group of rights defenders were advancing the cause of human rights changed with more political openness and less restrictions. This revealed that a larger segment of society, especially among the youth, has been working behind the scenes or in small circles on issues of human rights. Some of them started to make an impact on the micro level by articulating the demands of their own communities and groups to respond to their daily challenges.
- There is a certain variance among rights CSOs in their perception of the post 2011 achievements. Some, especially those working on women's rights and issues, believe that the political context was more responsive before the uprising. According to them, the rise of conservative Islamism as a political force to reckon with has undermined the cause of women's rights as it encouraged cultural and political resistance to demands made by women's rights advocates. It became more difficult, according to these groups, to establish genuine cooperation between secular rights groups and these among government institutions that came under the control of Islamists.
- Although human rights defenders continued to adopt mostly the same mechanisms and patterns of work after 2011, their activities and projects multiplied becoming more frequent and intense.

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About this book

This book includes an introduction and a collection of 18 research papers analysing the history, evolution and impact of human rights organizations as well as their relationship with the state and social movements in Egypt, Morocco and Tunisia. It examines the current external challenges facing human rights activism while

also exploring the internal challenges of governance, funding and independence of relevant organizations. It covers six thematic areas: the emergence and evolution of human rights organizations in these countries; the complicated relations between human rights activists and the state; the relationship of Islamists and Islamist movements to human rights discourse and activists; the human rights movement's interaction with other social movements (trade unions, other NGOs, or political parties); the internal governance of human rights organizations; and the impact of human rights action.

About ARI

The Arab Reform Initiative is the leading independent Arab think tank working with expert partners in the Middle East and North Africa and beyond to articulate a home-grown agenda for democratic change. It conducts research and policy analysis and provides a platform for inspirational voices based on the principles of diversity, impartiality, gender equality and social justice.

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- We mobilize stakeholders to build coalitions for positive change

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