

What Happened to the Human Rights Movements in Egypt, Tunisia and Kuwait? Assessing the Toll of Long-Term Restrictions on Human Rights Organizations

A Lawyers Committee for Human Rights Background Paper

November 28, 2001

For further information contact:

Neil Hicks, (212) 845-5248

hicksn@lchr.org

Introduction

Successive U.S. administrations have underlined the importance of promoting human rights and democracy abroad as serving the national interests of the United States. Assistant Secretary of State, Lorne Craner, reiterated these commitments in a speech to the Heritage Foundation on October 31, 2001, and stressed their importance to U.S. policy after the September 11, 2001 attacks on New York and Washington D.C. In his remarks, Assistant Secretary Craner observed that “there is often a direct link between the absence of human rights and democracy and seeds of terrorism.” He went on to say, “we cannot win a war against terrorism by halting our work promoting the universal observance of human rights.”

While welcoming these remarks by Assistant Secretary Craner, the Lawyers Committee views with concern the lack of progress in human rights promotion in countries in the Middle East which are among the closest allies of the United States in the region. We view with particular concern the suppression of the activities of human rights activists in these countries, which undermines progress in human rights more generally. We agree with Assistant Secretary Craner that promoting human rights are an essential part of efforts to build a more stable, secure world.

We are encouraged that after September 11, senior officials in the Bush administration have renewed the U.S. government’s commitment to active engagement in the Middle East. Both Assistant Secretary Burns and Secretary Powell have spoken of a “positive vision for the region.” Assistant Secretary of State for the Near East and South Asia, William Burns set out

Board of Directors

Chair, William D. Zabel
President, Tom A. Bernstein
Chair Emeritus, Marvin E. Frankel

M. Bernard Aidinoff
Joseph L. Brand
Raymond Brown
Lynda Clarizio
Craig Cogut

Mitchell F. Dolin
Donald Francis Donovan
A. Whitney Ellsworth
Kenneth R. Feinberg
R. Scott Greathead

Martina A. Hone
Robert D. Joffe
Lewis B. Kaden
Kerry Kennedy Cuomo
Harold Hongju Koh

Philip A. Lacovara
Jo Backer Laird
Robert Todd Lang
Li Lu
Barbara A. Schatz

Steven R. Shapiro
George A. Vradenburg
Sigourney Weaver

National Council

Chair, Talbot D’Alemberte

Robert Bernstein
Jeffrey L. Bleich
Derek Bok
David Brink
James J. Brosnahan
Benjamin Civiletti

William K. Coblenz
Lloyd Cutler
Michael I. Davis
Robert F. Drinan, S.J.
Jerome B. Falk, Jr.
Larry A. Hammond

Mark Harrison
Donald Hubert
Helene Kaplan
John W. Kecker
Paul Liebenson
Samuel R. Miller

Patrick G. Moran
Steven A. Nissen
Duane C. Quaini
Bruce Rabb
Randall S. Rapp
Calvin P. Sawyer

Chesterfield Smith
W. Reece Smith
Jerold S. Solovy
Rose Styron
Stephen D. Susman
Michael W. Zavis

clear human rights objectives as part of that vision in a speech in Washington in October: “We should work with our friends to open up avenues for political participation and deepen respect for the rule of law, and the rights and sanctity of the individual,” he said. In a comprehensive statement on U.S. policy in the region in November, Secretary of State, Colin Powell stated: “we have a vision of a region where respect for the sanctity of the individual, the rule of law and the politics of participation grow stronger day by day.”

To make this positive vision a reality, an established pattern of restricting the activities of human rights defenders by some of the United States’ closest allies in the region must be reversed. Local human rights activists are the primary agents of human rights promotion within their own societies. If we wish to see human rights progress we must ensure that they enjoy the minimum conditions of freedom they require in order to carry out their task effectively.

In the past 15 years, a number of vibrant local human rights organizations grew in Egypt, Tunisia and Kuwait. These groups helped to promote pluralism, raise important social issues and protect those who are most vulnerable within these societies. Operating in a region where the non-violent expression of ideas is often not tolerated, the active functioning of these human rights organizations has represented an important positive development.

Unfortunately, in recent years, the governments of Egypt, Tunisia and Kuwait have systematically undermined many of these organizations. In some cases, government actions have seriously hampered their effectiveness. In other cases, they have forced these organizations to disband completely.

The crackdown against human rights movements in each of these countries has been accompanied by a narrowing of the political space for dissent and opposition in general. Each of these restrictive actions has reinforced undemocratic, authoritarian rule. This paper focuses on Egypt, Tunisia and Kuwait. However, it is important to note that in many other countries in the Middle East, governments have forbidden any human rights groups to operate. The list of such countries includes some that are closely allied with the United States, such as Saudi Arabia and other gulf states, but also a number of other states like Iraq, Syria and Libya, that have poor, or even antagonistic relations with the United States.

Tunisia

President Zine El Abidine Ben Ali came to power in November 1987, deposing former President for Life, Habib Bourguiba. He declared a new era of human rights and respect for the rule of law, and proclaimed the “November principles,” aiming at the creation of “a free and democratic society and for a pluralistic state which respects human rights.” President Ben Ali’s initiative was broadly welcomed in Tunisia, especially by the political opposition and the growing local human rights community. The period between 1987–89 was one of legal reform. Political prisoners were freed and restrictions on political parties were lifted.

Two factors appear to have precipitated a pronounced negative shift in the government’s attitude to human rights. First, the ruling party discovered that the opposition was popular, especially the Islamic opposition of the An-Nahda (Renaissance) Party. In legislative elections in

April 1989, An-Nahda candidates, running as independents because the party's registration was delayed, polled as high as 30% in some urban areas.

Simultaneously, in neighboring Algeria, Islamists were fairing even better at the polls, with the Islamic Salvation Front (FIS) gaining a majority in some municipal elections in June 1989. Throughout 1990 and 1991 tension between the FIS and the Algerian military intensified, resulting in increasing unrest, including street clashes and mass arrests. In parliamentary elections in Algeria in December 1991, the FIS won a majority in first round voting. Before the second round could be completed and a FIS government installed, the military staged a coup, imprisoning the FIS leaders and thousands of their supporters, sparking more than a decade of bloody conflict.

With the worsening Algerian crisis on his border, President Ben Ali used the threat of instability and of Islamist takeover to his own advantage. Even though Tunisia did not share Algeria's violent history of a de-colonization war, nor its volatile ethnic mix, President Ben Ali seized an opportunity to discredit his government's principal political opposition, seriously undermining the Tunisian human rights movement in the process.

The way the Tunisian government acted was particularly damaging to human rights in the region for two reasons. Firstly, it crushed an Islamic political movement that had stated, and begun to demonstrate, its commitment to the democratic process. Such movements have been rare in the Arab world in recent years, precisely because, when they have appeared they have been promptly suppressed by the authorities. This has had a polarizing affect, strengthening the position of extremists within the political Islamic movement who are prepared to use violence and extra-legal methods to reach their goals.

The government held a series of political trials in which it tried to fabricate evidence of An-Nahda involvement in violent plots. In 1991, for example, three men identified as An-Nahda supporters were tried and executed for an attack on a district office of the ruling party, the RCD, in Tunis in which a guard was killed. Without supporting evidence, the government alleged that attackers had tied up the guard with a rope and deliberately set him on fire after dousing him with kerosene. The defendants denied any involvement in the attack, but were convicted after an unfair trial on the basis of incriminating statements they claim to have been forced to make under torture. A much bigger trial was held in July and August 1992 in which hundreds of Islamist sympathizers were accused of involvement in an alleged coup plot. Again, the physical evidence for the alleged crime was flimsy and convictions were brought on the basis of incriminatory statements apparently obtained by use of torture and illegal coercion. International trial observers found many irregularities in the trial proceedings which fell short of international standards.

The Tunisian human rights movement, notably the Tunisian League for Human Rights, (LTDH), the largest and oldest local human rights group in the Arab world, was an irritant to the government as it sought to destroy peaceful political opposition by illegal methods.

Tunisia's Western backers (notably France), and much of the Westernized liberal Tunisian elite, including parts of the local human rights movement, were prepared to overlook

the lack of due process protections in the trials of An-Nahda supporters as a reasonable cost for keeping the Islamists at bay.

Secondly, though it abandoned the implementation of human rights reforms after 1991, and increased censorship and persecution of dissidents to unprecedented levels, the Tunisian government continued to voice its "commitment" to human rights. Tunisia was recognized by European governments and others for its "progress in human rights," in part because of the contrast to Algeria's violence. President Ben Ali's approach was also assisted by Tunisia's economy, which had the strongest annual growth of any North African economy through the nineties.

The Tunisian government's actions in the early 1990s set a pattern for the region. For the Islamic movement, even more than the experience of Algeria, Tunisia drove home the message that playing by the democratic rule book would not result in Islamist opposition groups gaining access to a share of political power. The government's response strengthened the hand of those who advocated political violence and contempt for the democratic process. Within the political Islamic movement, the cause of constitutional Islamism, a form of Islamism compatible with respect for human rights, was weakened.

The weapon the government chose to employ to undermine the human rights movement was primarily legislative. The climate in which the LTDH was operating had worsened since 1989. Gradually, coverage of LTDH statements and activities disappeared from the press. Attacks on the LTDH and its leaders began to appear in government-controlled media. Without access to media outlets of comparable impact, the LTDH was powerless to defend itself against these defamatory attacks. For example, government officials attacked the leadership of the LTDH as agents of foreign powers, because it looked for international support in its conflict with the government. Reports in the government-controlled press accused the LTDH of trying to exclude other Tunisians from involvement in human rights issues. With reference to the LTDH leaders, Prime Minister Hamed Karoui told the newspaper *La Presse* on June 3, 1992, "those who practice monopoly and exclusivity attack democracy."

In 1992 the Tunisian government amended its law on associations, which first categorized certain groups, among them the LTDH, as "associations of a general nature." It then imposed two special requirements on these groups. The new law prohibited individuals from occupying leadership positions in both political parties and non-governmental organizations, and secondly, created an enforceable legal right for an individual to join an association. The first provision was carefully crafted by the government to disrupt the LTDH leadership. From its inception in 1975, the LTDH had developed as a coalition of competing political trends and parties in Tunisia, held in place by a careful balancing of representatives of each trend on the executive board. In theory, ideological opponents left their partisan interests at the door to cooperate in the shared interest of promoting human rights, and the LTDH's impressive record prior to 1992 testified to the success of this approach in practice. However, representatives of different factions were highly conscious of the political balance of the executive board, and the government knew that forcing certain members of the board to give up their seats would lead to disruption.

The second measure, creating a legal right for any individual to join any association, would have facilitated the flooding of the LTDH with new members from the ruling political party. Rather than comply with these new conditions, the LTDH was forced to cease its activities in June 1992. The LTDH has never fully recovered from this blow.

Even after resuming its activities in 1993, under a new leadership, with a less confrontational approach to the government, its voice exposing government violations remained muted in Tunisia and virtually silent internationally. This was not because of any improvement in the human rights situation on the ground. Censorship, arbitrary detention and torture all continued to be widespread. In October 2000, the LTDH again elected an independent leadership, but the government responded by suspending its activities and ordering new elections. Its offices were closed, and members were prevented from holding meetings in private houses. Legal proceedings have been initiated against the new leadership.

Some individual activists, many of them former leaders of the LTDH, tried to continue their activism, but were arrested or officially persecuted for their activism. For example, lawyer Nejib Hosni, was imprisoned in June 1994 on fabricated charges, apparently in reprisal for his cooperation with international human rights organizations. He spent 30 months in prison, out of an eight year sentence. He was imprisoned again in December 2000 for “practicing his profession without a license,” and served a further five months in prison after his previous sentence was reactivated. He was again released by presidential order after an international campaign on his behalf. Human rights leaders like Moncef Marzouki, Siham Bensidrine and Radhia Nasraoui have been harassed, threatened, prosecuted and even physically assaulted. Their family members, even their children were threatened. Moncef Marzouki, a physician, was dismissed from his government job. He was sentenced to one year of imprisonment in December 2000 for “maintaining an unauthorized association.” The sentence was later converted into a suspended one year term. Periodically human rights activists were denied permission to travel. Their connections to the outside world were severed. Their mail was stopped or subjected to close surveillance. Their telephone lines were cut or interfered with. They were followed by government agents, and their visitors were harassed by government agents.

Undeterred by this severe repression, human rights activists have continued to organize to defend basic freedoms. In December 1998, a group of experienced activists announced the formation of the National Council on Liberties in Tunisia (CNLT). Its application for registration under the law was rejected by the ministry of the interior in March 1999, but it continued to issue statements and to expose violations. This work was carried out at a heavy cost. In 1999 three co-founders of the CNLT were detained for periods ranging from a few days to several months: Omar Mestiri, Moncef Marzouki and Taoufik Ben Brik. In 2001, Siham Bensidrine, a publisher of children’s books, another CNLT activist, was detained for six weeks, and then beaten by government agents on August 17, 2001, after her release. All activists associated with the CNLT continue to be subjected to threats and harassment for their activities.

Today there are no legal, independent human rights organizations functioning in Tunisia. The LTDH remains suspended with its leaders facing prosecution and the CNLT has no legal status. Human rights activists continue to function in Tunisia only at enormous personal risk.

Kuwait

After the Gulf War, the Kuwaiti people were, on the whole, pleased to welcome back the ruling al-Sabah family, despite the many shortcomings in its prior governance. However, there also was a strong sentiment among many Kuwaitis that the family should return to rule in accordance with the Constitution, showing due respect for the rule of law and democratic process.

The collapse of the Kuwaiti government during the Iraqi occupation left a vacuum that was filled by a resistance movement with a voluntary leadership drawn largely from outside the country's traditional elites. After the war, these leaders remained active in non-governmental community organizations, including the Kuwaiti Association to Defend War Victims, (KADWV). These groups campaigned for reform, and for an end to violations of human rights against non-Kuwaiti Arabs that had proliferated in the months after liberation. They struck a chord with the Kuwaiti people in their high-profile work on behalf of Kuwaitis missing after the war who were believed to be held captive by the Iraqi government. The KADWV was notable because it based its work explicitly on international human rights standards, and established cooperative relationships with international human rights organizations. It became the focal point for activities in Kuwait by numerous international human rights organizations at a level that had not been seen before the war.

Independent human rights groups and community organizations played an active role in the run-up to parliamentary elections in October 1992, which saw the election of a reform-minded parliament in the previously suspended legislative assembly. The electorate was very small, only 80,000 male "first class" Kuwaiti citizens were eligible to vote, but one area slated for reform was in broadening the franchise to include other citizens, including women.

In the months prior to the election, the U.S. and other Western governments were very supportive of the "restoration of democracy" in Kuwait, and gave encouragement to proposals for legal reform, revising nationality laws and extending the vote to women. Such developments were in accordance with rhetoric that had been used by the U.S. during the war, characterizing the struggle against Iraq as a fight for freedom, democracy and human rights.

After the election, momentum went out of the reform efforts. The ruling family was stung by the parliament's exposure of corruption scandals involving family members, and embarrassed by the continuing high-profile of NGO efforts on behalf of missing POWs, which outshone a lack-luster official initiative. Politics as usual returned to Kuwait, and the family started to play off competing interest groups against each other: Sunni against Shi'ite Muslim, Islamist against secularist, each clan against another. Neighboring Saudi Arabia let its displeasure over Kuwait's reform agenda be known.

The West stood by as the reform agenda was left to wither from inattention. The U.S. and other western states did not make use of the significant political capital they had earned by restoring the al-Sabah family to power in reminding the Kuwaiti government of its obligation to fulfil promises it had made to its own people, and to the international community, to restore democratic values to Kuwait. In August 1993, the Kuwaiti government ordered the closure of all

unlicensed voluntary organizations, a measure transparently directed at groups like KADWV, which had been most active in advancing a reform agenda. Protests from these groups were quickly stifled as the government exerted its considerable influence over the press and parliament. Organized advocacy of human rights reform was pushed back to the margins of Kuwaiti political life, and progress towards more democratic governance in Kuwait remained stalled. Today there are no active, independent, local human rights organizations engaged in monitoring domestic human rights conditions in Kuwait.

Egypt

The human rights movement began in Egypt in the mid-1980s as former senior government officials and former activists from the student movement of the 1960s and 1970s looked for a new direction to put the country on a path towards economic, social and cultural development. The promise of Nasser's revolution and of the post-independence period had dissipated, and interest was growing in new ideas of democratization and liberalization to take the place of the one party state that Egypt had come to resemble.

The de-liberalization of Egypt over the course of the past decade is clearly visible in measures taken by the government to close down institutions that had previously provided political space to dissident or opposition opinion. Coupled with the further erosion in the strength of opposition political parties, the government moved in 1993 to wrest control of the professional syndicates, like those of lawyers, doctors and engineers, from opposition control. In 1995 and 1996, the government strengthened its powers to silence journalists and opposition newspapers critical of government policies, and throughout the nineties the government continued to manipulate election results to ensure overwhelming dominance for the ruling party.

In the early 1990s, the independent non-governmental human rights movement emerged as a challenge to the state's growing control over the society. The state was made aware of this challenge by the movement's success in forging strong ties with international partners, and its high visibility in the international media. Moreover, at a series of major international UN conferences, including the population conference in Cairo in 1994, Egyptian NGOs were highly visible and effective in communicating their messages to the international community.

By the mid-1990s, the Egyptian government grew increasingly weary of this criticism, and of the vociferous independent NGO sector. The government turned to the law to limit dissent. In January 1995, the Legislative Department of the Ministry of Justice issued a ruling declaring that not for profit civil companies, the legal form favored by almost all NGOs that had emerged in the early nineties, were illegal. "In as much as these companies have failed to comply with the provisions of Law 32 of 1964 (the law on associations) then they are committing a criminal offense and are liable to punishment..." it declared. The ruling demanded that they should seek registration under the law on associations, or face prosecution. NGOs had adopted this novel legal form precisely to avoid having to register under Law 32 of 1964, the restrictive law on associations which gave the government intrusive powers to control the work of NGOs. The organization from which the movement had sprung, the Egyptian Organization for Human Rights, had tried to register under the law in 1985, but after protracted legal proceedings, its application had been turned down.

Government officials began to refer to unregistered NGOs as “illegal organizations,” and to condemn these organizations in the government controlled press. The attacks on human rights NGOs in the press focused on three main areas. First, human rights groups were accused of acting against the national interest, and of being in the pay of foreign powers—a direct reference to the movement’s dependence on foreign funding. Secondly, human rights groups were accused of giving aid and comfort to terrorists because of their reporting on government violations during its crackdown on violent Islamic extremists. Thirdly, their lack of legal registration was emphasized to show their illegitimacy. For example, amid a series of scathing statements about human rights organizations from Minister of Interior, Hassan al Alfi, he declared in September 1995 that the EOHR’s report on prison conditions were “sheer lies and fabrications... and are simply aimed at tarnishing Egypt’s image.” Human rights activists were variously described by the minister as “criminals,” “weirdos,” and “people with an axe to grind,” in an interview in Al Ahram newspaper on August 26, 1995.

The campaign against human rights activists was intensified when, on December 1, 1998, Hafez Abu Sa’ada, Secretary General of the Egyptian Organization for Human Rights (EOHR) was taken into detention and accused of taking money from foreign sources to defame the reputation of Egypt abroad. The accusations related to an EOHR report about human rights violations in the predominantly Christian village of al-Kushh, in Upper Egypt. The government alleged that the EOHR had taken a £25,000 (\$40,000) grant from the British Parliamentary Human Rights Association as payment for producing defamatory material about Egypt. The grant was actually received to support a women’s education project, which had no connection with EOHR’s reporting on Upper Egypt.

Hafez Abu Sa’ada was released on bail after six days in detention, but the charges against him, and the investigation into EOHR’s reporting on sensitive issues involving Egypt’s Christian minority, were not dropped. On February 13, 2000, the public prosecutor announced that Hafez Abu Sa’ada and the EOHR lawyer who had conducted the fieldwork in al- Kushh, Mustafa Zeidan were to be brought to trial before an Emergency State Security Court in Cairo. Among the charges against them was an alleged violation of Emergency Decree 4 of 1992, which prohibits the receipt of foreign funding without official permission. The charges were announced while Hafez Abu Sa’ada was traveling abroad. After weeks of negotiations, he received assurances from a senior presidential advisor that the prosecution against him would not be pursued, so he returned home. No further steps have been taken to pursue the prosecution, but the charges have not been dismissed.

The government’s intention to further restrict the independent activities of human rights NGOs was clear in 1999, in the passage of a revised law on associations. The new law, Law 153 of 1999, was pushed through the parliament in May 1999, disregarding a promising consultative process with some NGO activists, which the government initiated and then reneged upon. The new law, in its Article 11, outlawed “political” activities by NGOs, a loosely defined restriction that could be used to penalize legitimate activities by human rights defenders. Under Article 75 of the law, it also banned the receipt of money from abroad or domestic fund raising without prior permission from the authorities. In June 2000 the Constitutional Court suspended the new

law on procedural grounds, but the government declared its intention to apply the law without substantive changes as soon as procedural hurdles were overcome.

Perhaps the most devastating blow to the human rights movement came on June 30, 2000 when the government detained Saad Eddin Ibrahim, director of Ibn Khaldoun Center for Development Studies (ICDS). ICDS was a prestigious independent research center which carried out research projects for multilateral institutions, as well as for the Egyptian government. The Center was also associated with various campaigns and causes also espoused by the human rights movement. For many years Dr. Ibrahim and ICDS had championed the idea that promoting civil society was key to promoting democratization in Egypt and the region. ICDS made common cause with other non-governmental organizations in campaigning for a liberalization of the law on associations. The Center also worked in the controversial area of minority rights, and in promoting free and fair elections—the issue which was the immediate cause of Dr. Ibrahim's detention and prosecution. ICDS and an organization closely associated with it, the Huda Shirawi Center for Women Voters, had received a grant from the European Union for a voter education project, leading up to parliamentary elections held in October 2000. He was held for interrogation until August 10, 2000. He and three of his staff members were then brought to trial before an Emergency State Security Court on November 18, 2000. He was convicted on three charges: receiving foreign funding without permission, a violation of Emergency Decree 4 of 1992, dissemination of false information abroad, and misappropriation of funds, and sentenced to seven years' hard labor. The misappropriation of funds charge was rejected by the European Union, the donor whose funds were allegedly misappropriated. The EU confirmed that all accounting requirements connected to the grant in question had been satisfied by Dr. Ibrahim and the Center. The other charges were transparently politically motivated.

Saad Eddin Ibrahim is a very prominent public figure in Egypt, whose connections to powerful government leaders were believed to have insulated him from state reprisal. His imprisonment sent a clear message that the government was determined to cut off flows of foreign financial support that it does not supervise. NGO activists realized that what nearly happened to Hafez Abu Sa'ada, and what did befall Saad Eddin Ibrahim could easily happen to them. As a result, organizations reporting on human rights conditions in Egypt, like the EOHR, were obliged to stop accepting foreign funding. Without domestic funds to replace them, they were forced to lay-off staff, close offices and radically curtail activities. Instead of domestic organizations with national membership and research structures, there are now just a few individual activists acting in the name of organizations that no longer exist. Today, a once dynamic and growing human rights movement has been drastically reduced in its status and capacity. As a result the international community has a much less complete picture of human rights developments in the country, especially in provincial regions far from Cairo.

By a series of deliberate policy measures and acts of persecution over a period of years the Egyptian government has all but destroyed an independent human rights movement that had developed in Egypt in the late 1980s and early 1990s. The suppression of the human rights movement is of a piece with its long-standing policy of suppressing political opposition of all kinds.

The restriction of open political debate in Egypt has contributed to an intellectual climate in which conspiracy theories take the place of academic inquiry, and in which non-violent political participation is increasingly remote from citizens wishing to have a say in how they are governed, and on the issues that impact their lives. The suppression of dissent and of pluralistic political debate on human rights and other issues has led some in Egyptian society to seek an outlet for their political frustration through violent, extremist movements. Egypt suffered grievously from conflicts between violent groups and the government in the 1990s, and Egyptian extremists have become part of an international network, threatening violence and terror around the world.