

### 1.5. HUMAN RIGHTS AND EGYPT'S FUTURE

Human rights are essential to all peoples, but also institutions, for without protected human rights, social instability reigns, writes **Mona Makram-Ebeid**<sup>1</sup>

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These are extraordinary times with incommensurable feelings of optimism and dread in the air. Still unfolding are struggles for supremacy between forces of democracy and others inwardly looking, whose references are to a past that has long vanished, a fragile global ecosystem and the much vaunted but highly elusive more equitable economic order. Woven into this matrix of power relations are challenges to gender, religious beliefs and class inequities perpetuated by institutions with inherent patriarchal, intolerant and autocratic tendencies. The tensions these struggles create cause fear and uncertainty for many people, but for those who work in human rights, there has never been such a moment of unique opportunity to introduce the future to the present.

Human rights activists, politicians, academics, lawyers, judges, reformers and "movers and shakers" now have an unprecedented opportunity to develop new values, mechanisms and strategies to guide and shape the future. 2011 in our Arab region, was the year of the people, "the power of the powerless", the year of the revolution, and most importantly a revolution anchored in -and inspired by- the power of an idea: human rights, and of international human rights law, that is to say, freedom, human dignity, social justice; in other words, the internationalisation of human rights and the humanisation of international law, as the revolutionary change agent of the human rights revolution.

Today one of the most prescient demands of all the political forces in Egypt, intellectuals and youth movements is to move to a State of Law, which must be clearly embedded in the constitution. It is this notion of a jurisprudential revolution as a revolutionary change agent from an arbitrary system, to a State of Law that will determine the real success of the 25 January Revolution. The

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<sup>1</sup> Mona Makram-Ebeid is a political science professor, American University in Cairo, and former MP.

only way to lay the foundation for a civil, democratic, modern and egalitarian state is through the establishment of a genuine national consensus on the principles of constitutionalism that guarantees equality and equal participation for all Egyptians without distinction on grounds such as religion, race, and class or gender.

On the other hand, the standard of humane incorporation requires that non-Muslims in a Muslim majority country be granted equal citizenship with equal opportunities to enjoy their own religious identities, particularly that there is a long and rich history of accommodation and cooperation between Muslims and non-Muslims in Egypt. Moreover, there is sufficient Islamic theological and legal basis for this accommodation and cooperation. The role of the human rights movement must therefore be one of strategic advocacy impelled by the imperative of solidarity, on the one hand, and the interdependent universe we inhabit on the other, and that strategic advocacy must be seen as being empowered by the people and the idea of human rights as tools of the revolution.

One of the most important advocacy functions and indispensable to the promotion and protection of human rights is the investigation, documentation, exposure and denouncing of violations of human rights and violators themselves. In other words, what is involved here is the mobilisation of shame against human rights violations, whether it be governments or individuals; the notion that the "whole world is watching".

Accordingly, this fact-finding function is crucial to the protection of human rights. In many countries, government themselves have become increasingly dependent on the fact-finding of non-governmental human rights organisations and even the intergovernmental machinery, such as the UN Commission on Human Rights or the Human Rights Committee under the International Covenant on Civil and Political Rights, would be virtually incapacitated in the absence of NGO briefs, petitions, documentary evidence, legal analysis and written and oral interventions.

Today, NGOs are increasingly playing a formative role in the initiation, drafting, interpretation and application of international human rights agreements. For

example, the work of women's rights groups played an important legislative role in the initiation and enactment of the Convention on the Elimination of Discrimination against Women as well as highlighting the global pattern of violence against women. But as long as the perception of women's role as reproducers and caretakers is not changed, human rights will never be human.

The educational process towards creating a culture of human rights and respect for the right to be different is especially important during a period of transition to democracy, because the struggle for human rights is not only to curb abuses of power but also to promote the democratic exercise of power.

A corollary to and support system for the development of the rule of law and the process of democratisation is the "constitutionalisation" of rights in a rights charter. A recent charter of rights for a post-revolution constitutional democracy in Egypt was issued by a group of scholars of different political and religious hues (I was privileged to be one of them) who gathered together under the enlightened guidance of the grand imam of Al-Azhar, the highest authority in the Islamic world, Ahmed Al-Tayeb, a graduate of the Sorbonne.

In the early announcement of the newly formed National Council for Human Rights (NCHR), there was concern that differences of opinion and ideological background amongst members were potentially so great that they would be unbridgeable. Nevertheless, during the first meeting of the council, which took place 23 September 2012 under the very able leadership of judge Hossam Al-Gheriani, a highly respected and well seasoned legal authority, and his deputy, Abdel-Ghaffar Shukr, a staunch defender of human rights and founder of the Socialist Popular Alliance Party, set the pace when judge Al-Gheriani said: "The only thing that unites us is our commitment to the safeguard and protection of human rights," which is why we believe that communication across divides of beliefs, gender, religion, professional and social background, would identify and deal with barriers to progress better than any single perspective would.

The aim pursued, as he said, is to seek enlightenment as to the way forward through confronting in dialogue groups that are perhaps unaccustomed to meet one another. It is my belief that once such a process of civilised dialogue was in place, realistic approaches to shared problems and challenges would evolve.

Undoubtedly, full agreement about ultimate remedies remains utopian, but we believe that open communication, the process of learning and sharing, the identification of common objectives and purposes will in the long run emphasise the multidimensional nature of human rights and the layered responses that are required in order to start building foundations for effective cooperation and consensus.

It is obvious from the many studies that have been distributed to us as well as the annual reports of the NCHR that the traditional study of human rights has not kept pace with science and technology, such as the scientific advances in mind manipulation techniques, or genetic engineering or the increased ability of the computer to invade privacy -- all these raise more moral, legal and ethical issues. That is why the legal skills underlying the evolution and articulation of human rights must be integrated with the views of NGOs, economists, sociologists, feminists, scientists and grassroots activists, as judge Al-Gheriani emphasised, mix with the people, he said; we must listen to people, because academic debates about social and civil rights are meaningless to the majority of Egyptian citizens oppressed by poverty, low wages, and inaccessible education. So if we want peace and stability to be achieved, human rights must be as real and concrete as their violations are.

Among the important tasks of the newly established NCHR is not only to articulate the basic principles of a code of conduct respecting the rights of minorities, but of working for and monitoring the implementation of such a code, particularly that the dialectics of the post-revolution period have given birth to a host of xenophobic actions, requiring thereby appropriate mechanisms -legal and institutional- to control incitement to religious intolerance of the Other.

On the other hand, and in the light of the dramatic events that followed the issuing of a despicable film injurious to the Prophet Mohammed and insulting to both the Islamic and Arab populations, it might be recommended to make a proposal to the UN supporting combating and criminalising hate propaganda against all religious figures and beliefs. NGOs should support such an initiative and lobby for its adoption among participating states.

It is also noteworthy that many of the economic proposals recommended by the IMF and others, be it a market economy or removal of subsidies or price reform, are going to result -and have already resulted- in serious economic dislocation and social grievances. Accordingly, it is important that appropriate consideration be given for social safety nets -- networks of medicare, social security and unemployment insurance.

NGOs and the NCHR have a particular role to play in ensuring that Western nations and international organisations do not make an automatic transplant of notions and institutions -such as an immediate removal of subsidies- that are themselves anchored in a particular political experience without seeing that this transplant and stringent economic measures may result in greater injury and instability. It is worth adding that the past council has "Accreditation A" status with the International Coordinating Committee of National Human Rights Institutions. It is one of the major challenges of the newly appointed council to preserve this status.

In conclusion, let us remember that one person, the greatest historical figure of our time, Nelson Mandela, symbolising the "power of the powerless", in solidarity with the international human rights regime, brought about the dismantling of the hated apartheid regime and the building of a post-apartheid non-racial and just democratic society.

Egypt today stands at an important crossroads. For the first time in its long history it has a president elected by popular mandate. And though the road ahead is tough and bumpy, the possibility, while still fragile, of democracy triumphing is also there. That is why we run the risk now of not only betraying the revolution but also losing it if the human rights movement abandons the revolution and its demands.

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