

# MOBILIZING UNIVERSALISM: THE ORIGINS OF HUMAN RIGHTS

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## ABSTRACT

*Human rights law claims to be universal, setting rights apart from paradigms based on shared religion, culture, or nationality. This claim of universality was a significant factor in the proliferation of human rights NGOs in the 1970s and remains an important source of legitimacy. The universality of human rights has been challenged and contested since they were first discussed at the United Nations (UN). Today, much of the debate centers around the origins of human rights—particularly whether they arose out of Western traditions or whether they have more global roots. For too long, discussions about universality have ignored the practice of human rights in the Global South, particularly in Arab countries. Instead of searching for evidence of universality in the halls of the UN, this Article looks at how activists mobilized and produced universality through their work. Archival sources and interviews show that the turn to human rights in the Arab world was rooted in the politics of the 1970s but relied on the concept of universality as embodied in the foundational human rights documents of the 1940s and 1960s. Activists used these documents to advance conceptions of human rights that were compatible with several distinct political visions. Their work supports the claim that human rights can be universal, not because rights exist outside of politics or have diverse origins, but because they were constantly reinvented to support a range of different, sometimes contradictory, political goals.*

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## INTRODUCTION

Human rights law claims to be universal, setting it apart from paradigms based on shared religion, culture, or nationality. This claim of universality was a significant factor in the proliferation of human rights NGOs in the 1970s and remains an important source of legitimacy for human rights activists. Universality has been challenged and contested since human rights were first debated at the United Nations.<sup>1</sup> Today, much of the debate centers around the origins of human rights—particularly whether they arose out of Western traditions or whether they have global roots. Discussions about the universality of human rights often focus

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1. Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* ix (2000).

on textual compatibility and purity of origins, rather than the social practice of human rights, particularly outside of the United States and Europe.<sup>2</sup> Instead of searching for evidence of universality in the halls of the UN, this Article looks to the role of universalism in the work of activists in several Arab countries. The universal claims of international law were central to why they chose human rights alongside other forms of political and civic engagement. By turning texts into practice, activists demonstrated that the universal claim of human rights law may be located in everyday practices rather than achieved at the moment of drafting. Archival sources from Palestine, Morocco, Egypt, and Kuwait and interviews with more than a dozen NGO founders and early members illustrate why Arab activists chose human rights work in the late 1970s and 1980s and how they mobilized universalism to advance different political goals.<sup>3</sup>

The turn to human rights in the Arab world was rooted in the politics of the 1970s but relied on the concept of universality as embodied in the foundational human rights documents of the 1940s and 1960s. To early activists, human rights were fundamentally laws, but they were also ideas, systems, practices, and networks.<sup>4</sup> While they self-consciously used other types of language and practice, from labor organizing to anti-colonialism, their reliance on international law set them apart from other political actors. Drawing on international law invoked a commitment to transnationalism that was not necessarily part of other organizing principles that engaged with some of the content of human rights law. Human rights activists did not just work to protect freedom of association or end torture;

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2. Reza Afshari, *Relativity in Universality: Jack Donnelly's Grand Theory in Need of Specific Illustrations*, 37 Hum. Rts. Q., 858 (2015) ("The debates about the 'ownership' of the human rights discourse . . . often ignore[] the actual praxis in recent decades that have turned human rights hegemonic in the minds of many in the global South." Afshari was referring to States, but his point is relevant for non-state actors as well).

3. Documentary records include internal memoranda, correspondence, reports, news coverage, and photographs from institutional archives, libraries, and personal collections in Kuwait, Palestine, Morocco, and the United States. I conducted nineteen semi-structured interviews with seventeen human rights leaders in offices, private homes, coffee shops, and over video. To identify interview subjects, I first reached out through personal connections or publicly available contact information. I then used snowball sampling to identify other founders and early members based on recommendations from my initial contacts. Members who were younger in the late 1970s were more likely to be alive and available for interviews. I was more successful in contacting those who remained in human rights activism in one form or another, rather than leaving the field entirely or going into government service. I spoke with five women and twelve men. Two of my female interlocutors were members of Kuwaiti women's organizations, with the remaining women working at general human rights NGOs. Women were significantly underrepresented or entirely absent from the early leadership of all of these organizations.

4. See Philip Alston, *Does the Past Matter – On the Origins of Human Rights*, 126 Harv. L. Rev. 2043, 2078 (2013) (positing that "as a starting point," human rights could be defined as "an idea," "an elaborated discourse," "a social movement," "a practice or institution," "a legal regime, either at the national or international level, or both," and "a system"); Johannes Morsink, *The Universal Declaration of Human Rights and the Holocaust: An Endangered Connection* 17 (2019) (disaggregating human rights into the separate, if overlapping, categories of "the historical idea," "the legal human rights system," and "the huge human rights movement we find operating today on all continents and in all countries").

they sought to legitimize a system in which national governments were held accountable to international commitments. Though few activists put great faith in the United Nations itself, their work relied on the standards it set. They used the Universal Declaration of Human Rights (UDHR) and early treaties to advance conceptions of human rights that were compatible with several distinct political visions: national liberation, socialism, democracy, and constitutional monarchy. They reinvented and defined human rights *within* political systems to support a range of different, sometimes contradictory, goals.

Several features of international law were particularly attractive during the social and intellectual reconfigurations of the 1970s. First, universal legal protections made human rights accessible to everyone on an equal basis (formally, at least). Domestically, access to the protections of human rights did not depend on citizenship, political orientation, religious belief, or wealth. Internationally, human rights provided a platform for activists to claim the humanity denied to Arabs, Muslims, and formerly colonized peoples in terms that resonated with imperial powers. Second, human rights could support new NGOs outside of established political parties at a time when many of these parties were fracturing or unsatisfactory to a new generation. Third, using legal documentation strategies brought unique advantages to NGOs. Affidavits and fact-finding reports changed the way social movements mobilized and exploited individual experiences of State oppression. They became aggregated into binders, stored in libraries, and eventually made available on servers.<sup>5</sup> The power of these testimonies changed the very logic of political opposition. Finally, regional and international networks provided expertise, solidarity, moral authority, and material support. These features of international law led Arab activists with different goals and priorities to choose human rights. All rested on the claim of universality.

This Article has important implications for our understanding of how human rights law works. First, it shows continuities between post-WW2 legal developments and social practice in the 1970s.<sup>6</sup> Second, the compatibility between human rights and various worldviews—religious, political, cultural—is not demonstrated in a moment, but over time. The practice of human rights activists, on the front lines of navigating overlapping systems of laws and expectations, is fertile ground for understanding how human rights intersects with Islam, anti-colonialism, and socialism. Arab NGOs navigated debates over the compatibility of international law and Islam on a daily basis. They mobilized international law in favor of both human rights and national liberation in ways that challenged conceptions of rights as uniquely Western. Their position in a region battered by colonialism, foreign exploitation, and domestic autocracy makes their experience valuable as an entry point for re-thinking universality.<sup>7</sup>

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5. Joost Hiltermann, *Human Rights and the Politics of Computer Software*, 150 MERIP Middle East Rep. 8-9 (1988).

6. Cf. SAMUEL MOYN, *The Last Utopia* 3 (2010).

7. See Anthony Tirado Chase, *Human Rights, Revolution, and Reform in the Muslim World* 43 (2012).

The Article proceeds in three parts. Part I shows the connection between the origins of human rights and conclusions about their universality. Part II argues that the 1970s and 1980s constituted an inflection point—but not a rupture—as Arab activists began to wield human rights’ claim to universalism as a bulwark against State repression. Their diverse practices demonstrate that human rights provided a relevant framework across a range of political, religious, and social contexts. Finally, Part III analyzes the contributions of these histories for the study and practice of human rights.

### I. ORIGIN STORIES

Debates over the universality of human rights often look to history for supporting or contradictory evidence, making the origins of human rights central to the discussion. Ideas about equity and liberty date back millennia but contemporary human rights law rests on the Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in 1948. Until recently, it was accepted wisdom that the UDHR was the culmination of decades, if not centuries, of legal, social, and philosophical development at both the intellectual and institutional level.<sup>8</sup> A wave of revisionist scholarship, led by Samuel Moyn, argues that the connection between the UDHR and these developments is far more tenuous and that human rights as we know it today began only in the 1970s.<sup>9</sup> Moyn overstates the discontinuities between the growth of NGOs and earlier developments, but there was a significant shift in the 1970s away from the United Nations towards non-governmental actors.<sup>10</sup> The subsequent controversy in the literature over when human rights began—in the 1970s or sometime earlier—has significant implications for universality.

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8. See ROBIN BLACKBURN, *The American Crucible: Slavery, Emancipation and Human Rights* 478-488 (2013) (tracing the connections between abolition, empire, and human rights); MICHELINE ISHAY, *The History of Human Rights: From Ancient Times to the Globalization Era* 4-5 (2004) (arguing that there have been several human rights projects at particular moments that have built upon the failures of previous ones, including the French Revolution, early 20th century socialism, and the establishment of the UN); PAUL GORDON LAUREN, *The Evolution of International Human Rights: Visions Seen* 43-78 (3d ed. 2011) (describing 19th century movements for abolition, racial equality, religious freedom, women’s rights, and wounded soldiers as early human rights activism); JENNY MARTINEZ, *The Slave Trade and the Origins of International Human Rights Law* 13-14 (2012) (arguing that the abolition movement of the 19th century “was the first successful international human rights campaign”).

9. Moyn, *supra* note 6. See also Stephen Hopgood, *The Endtimes of Human Rights* (2003); Barbara Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s* 15-31 (2014).

10. Mark Mazower, *Governing the World: The History of an Idea* 322-31 (2012); see generally William Korey, *NGOs and the University Declaration of Human Rights: A Curious Grapevine* (1998).

### A. *Debating Universality*

Throughout the twentieth century, debates over the universality of human rights mirrored power struggles on the international stage. During the Cold War, Eastern and Western bloc countries clashed over which rights were more essential: civil and political or economic, cultural, and social. At the same time, both the Soviet Union and Third World activists leveraged the universalist claims of human rights as an anti-imperial force.<sup>11</sup> With the increased power of independent States and realignment of regional politics in the 1980s and 1990s, universalism came to be more strongly associated *with* imperialism, namely the imposition of human rights by the West on the rest of the world. Objections to universality based on “Asian values”<sup>12</sup> and Islam gained traction.<sup>13</sup> Debates over cultural relativism flourished.<sup>14</sup>

As scholars and activists reckoned with the neocolonialism of universalism and the inadequacies of cultural relativism, they developed theoretical frameworks incorporating elements of both.<sup>15</sup> Legal scholars Abdullahi An-Na'im<sup>16</sup> and Boaventura de Sousa Santos<sup>17</sup> reimagined universalism with respect for all cultures and openness towards revising legal standards. Though their approaches differed, they exemplified the struggle to recognize a common humanity without imposing hegemonic legal standards. “It is precisely in the field of human rights,” de Sousa Santos argued, “that Western culture must learn from the South if the false universality that is attributed to human rights in the imperial context is to be converted into the new universality of cosmopolitanism in a cross-cultural dialogue.”<sup>18</sup> In other words, universalism was possible, but the exclusionary and colonial history of human rights law had doomed it to parochialism.

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11. Mazower, *Governing the World: The History of an Idea*, at 318-319.

12. Michael Barr, *Lee Kuan Yew and the “Asian Values” Debate*, 24 *Asian Studies R.* 309, 309 (2000); *see generally* *The East Asian Challenge for Human Rights* (Joanne R. Bauer & Daniel A. Bell, eds., 1999), Amartya Sen, *Human Rights and Asian Values*, *New Republic*, July 14, 1997, at 33.

13. *See* Michael Ignatieff, *Human Rights as Politics and Idolatry* 58-63 (2001).

14. *See* *Human Rights: Cultural and Ideological Perspectives* (A. Pollis & P. Schwab, eds. 1979); Jack Donnelly, *Cultural Relativism and Universal Human Rights*, 6 *Hum. Rts Q.* (1984), 400; *Religious Fundamentalisms and the Human Rights of Women* (Courtney W. Howland, ed. 1999); Thomas M. Franck, *Are Human Rights Universal?* 80 *Foreign Aff.*, 191, 193 (2001).

15. *See* Jack Donnelly, *The Relative Universality of Human Rights*, 29 *Hum. Rts. Q.* 281, 283 (2007) (charting a middle course, where rights possess “functional, international, legal, and overlapping consensus universality” but “leave considerable space for national, regional, cultural particularity and other forms of diversity and relativity”).

16. Abdullahi An-Na'im, *Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment, in Human Rights in Cross-Cultural Perspective: A Quest for Consensus* (Abdullahi An-Na'im ed. 1995).

17. Boaventura de Sousa Santos, *Toward a Multicultural Conception of Human Rights, in Moral Imperialism. A Critical Anthology* 39 (Berta Hernández-Truyol, ed. 2002).

18. *Id.* at 54.

Historians took a different approach, documenting the role of less powerful States in drafting human rights treaties to demonstrate that they were not merely products of the West.<sup>19</sup> For example, though an early narrative credited René Cassin of France with primary authorship of the UDHR, later scholarship showed the influence of Charles Malik of Lebanon, P.C. Chang of China, Hernan Santa Cruz of Chile, and Hansa Mehta of India.<sup>20</sup> Moyn dismisses the significance of their involvement,<sup>21</sup> but the UDHR can no longer be credibly described as a purely Western document.<sup>22</sup> Historian Susan Waltz characterized the “myth” that the Great Powers led the call for human rights as “partially fact and partially fiction.”<sup>23</sup> Waltz notes that, “contrary to popular suppositions, at mid-century it was small States and non-governmental organizations rather than the great powers who were the most ardent and outspoken champions of human rights.”<sup>24</sup> Their influence continued throughout the twentieth century. This is not to say that powerful countries did not exert significant influence over human rights treaties,<sup>25</sup> but drafting was nevertheless a contested process often driven by less powerful nations that could meaningfully shape the final text.<sup>26</sup>

Recovering the roles of Chinese, Lebanese, Chilean, and Indian diplomats in drafting the UDHR and documenting the role of less dominant States in subsequent treaty drafting speaks to whether the origins of international laws were sufficiently diverse to support a claim to universality. Authorship, however, is just

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19. Morsink, *supra* note 1; KATHRYN SIKKINK, EVIDENCE FOR HOPE: MAKING HUMAN RIGHTS WORK IN THE 21ST CENTURY 59-93 (2017); OSIRE GLACIER, UNIVERSAL RIGHTS, SYSTEMIC VIOLATIONS, AND CULTURAL RELATIVISM IN MOROCCO (2013); DANIEL J. WHELAN, INDIVISIBLE HUMAN RIGHTS: A HISTORY (2010).

20. See MARY ANN GLENDON, A WORLD MADE NEW: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 65 (2001); Lauren, *supra* note 8, at 216-219; Morsink, *id.* at 29-30; Susan Waltz, *Reclaiming and Rebuilding the History of the Universal Declaration of Human Rights*, 23 *Third World Q.* 437, 441 (2002).

21. Moyn, *supra* note 6, at 66 (“It is easy to overstate the global and multicultural origins of the Universal Declaration in light of more contemporary pressures and desires . . . Far from demonstrating the multicultural origins of the document, however, these facts mainly show the existence of a global diplomatic elite, often schooled in Western locales, who helped tinker with the declaration at a moment of symbolic unity.”).

22. See Sikkink, *supra* note 19, at 58 (2017) (referencing Morsink’s thorough account of the involvement of small States in the drafting of the UDHR, published in 1999: “I’m not sure why we still are arguing about these issues in 2017; however, current debates in the field suggest that people have not yet paid attention to this historical scholarship, or perhaps prefer to read only the archives in the countries of the Global North.”).

23. Waltz, *supra* note 20, at 440.

24. *Id.* at 441.

25. See TIMOTHY LOVELACE, THE WORLD IS ON OUR SIDE: THE U.S. AND THE U.N. RACE CONVENTION (forthcoming) (discussing the influence of U.S. civil rights politics on the International Covenant on the Elimination of All Forms of Racial Discrimination).

26. See, e.g., Glacier, *supra* note 19 (detailing the important role of Morocco in negotiating and drafting the Convention Against Torture). See also Ben Saul, *Introduction: The Drafting of the International Covenant on Economic, Social and Cultural Rights, 1948-1966*, in *The International Covenant on Economic, Social and Cultural Rights: Travaux Préparatoires* (Ben Saul ed. 2016) (giving an overview of the role of various State and non-state actors in drafting the UDHR and ICESCR).

one piece of the puzzle. Complicated, even problematic, origin stories do not negate the emancipatory possibilities of human rights practice, just as a more representative group of treaty drafters would not insulate human rights from being oppressive. Though smaller and non-Western nations influenced the content of human rights documents, they were nevertheless constrained by power imbalances that reflected unequal economic and geopolitical relationships. Moreover, diplomats hardly reflected the diversity of viewpoints within their borders. Finally, U.N. membership was so limited in the 1940s that even equal participation among all member States would have neglected much of Africa, Asia and the Middle East.<sup>27</sup> Representation alone will neither support nor refute claims to universality.

A textual approach, more common in law and religion, seeks universality in the content of human rights law itself, irrespective of who wrote it. A great deal of scholarship has been devoted to whether specific provisions of human rights law are compatible with Islamic law, for example, and how Islam has protected the substantive rights of individuals.<sup>28</sup> One of the earliest examples came from Majid Khadduri, a professor who advised the Iraqi delegation to the founding meetings of the United Nations in San Francisco and presented an analysis of substantive human rights in Islam and the impact of “Western concepts of rights” at the American Academy of Political and Social Science in 1946.<sup>29</sup> Since then, scholars have continued to interrogate the compatibility of Islamic law and human rights.<sup>30</sup>

Studies of the origins of human rights and analyses of substantive points of agreement and disagreement with other value systems should be part of any conversation about the universality of international law. However, these approaches do not account for the dynamic nature of human rights practice. Legal texts may be static, but the practice of law is not.

### B. Beginnings

Different conceptions of rights—as either products of political negotiation or abstract ideas—make it difficult to develop a cohesive origin story or draw hard

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27. *Founding Member States*, Dag Hammarskjöld Library, <https://perma.cc/AU4W-JCYA> (listing the 51 States that were founding members of the U.N. in 1945).

28. See, e.g., ABDULLAHI AN-NA’IM, *TOWARD AN ISLAMIC REFORMATION: CIVIL LIBERTIES, HUMAN RIGHTS, AND INTERNATIONAL LAW* (1990); MASHOOD BADERIN, *INTERNATIONAL HUMAN RIGHTS AND ISLAMIC LAW* (2005); ABDULAZIZ SACHEDINA, *ISLAM AND THE CHALLENGE OF HUMAN RIGHTS* (2009); ABDULLAH SAEED, *HUMAN RIGHTS AND ISLAM: AN INTRODUCTION TO KEY DEBATES BETWEEN ISLAMIC LAW AND INTERNATIONAL HUMAN RIGHTS LAW* (2018).

29. Majid Khadduri, *Human Rights in Islam*, 243 *Annals* 77, 81 (1946).

30. See, e.g., PAUL McDONOUGH, *HUMAN RIGHTS COMMITMENTS OF ISLAMIC STATES: SHARIA, TREATIES AND CONSENSUS* (2000); ISLAMIC LAW AND INTERNATIONAL HUMAN RIGHTS LAW: SEARCHING FOR COMMON GROUND? (Anver M. Emon, Mark Ellis, & Benjamin Glahn eds. 2012); Khaled Abou El Fadl, *Cultivating Human Rights: Islamic Law and the Humanist Imperative*, in *Law and Tradition in Classical Islamic Thought* 167, 168 (Michael Cook et al. eds. 2013).



conclusions about universality.<sup>31</sup> Human rights as free floating ideas, unbound by history, can be found in any number of traditions. They have the potential to transcend any single moment. Human rights treaties, however, originated in particular times and places, intertwined with contemporaneous politics and prejudice.

The adoption of the UDHR in 1948 offers an obvious beginning to the human rights timeline, which was soon populated with more declarations, treaties, and institutions. Some scholars, however, trace the ideas behind the modern human rights regime to the American and French revolutions,<sup>32</sup> while others find them even earlier.<sup>33</sup> Even among scholars who largely agree on the 1940s as a pivotal moment, there is debate over the significance of specific moments and the precise role of the Holocaust.<sup>34</sup>

Moyn reshaped the debate with his argument that human rights originated in the 1970s, not the 1940s or earlier. Moyn claimed that rights “emerged in the 1970s seemingly from nowhere.”<sup>35</sup> Human rights, according to Moyn, became “a genuine social movement” only in the 1970s; he argued they were disconnected from older intellectual traditions, nineteenth century concepts of natural rights and rights of man, the Holocaust, or the legal developments of the post-war era.<sup>36</sup> Moyn argued that the rapid growth of NGOs in the 1970s could be explained by the collapse of other utopian visions for the future: international socialism and anti-colonialism.<sup>37</sup> Human rights served as an alternative, holistic vision for society—one that, as Moyn argued later in *Not Enough*, backed away from broader claims of economic justice in favor of neoliberalism.<sup>38</sup>

Moyn was responding to a tendency in some human rights scholarship to depict a triumphant march through history, with Eleanor Roosevelt and Charles Malik standing on the shoulders of the ancient Greeks, early Christians, or French and American revolutionaries.<sup>39</sup> But in positing a complete disruption between the growth of NGOs in the 1970s and all that came before it, Moyn disregarded the social, personal, institutional, and intellectual connections between the NGOs,

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31. See Alston, *supra* note 4, at 2071.

32. LYNN HUNT, *INVENTING HUMAN RIGHTS* (2008) (using novels from the 18<sup>th</sup> century to understand how American and French elites came to think in terms of universal rights. Hunt takes the American Declaration of Independence and the French Declaration of the Rights of Man and the Citizen as the initial formulation of the human rights that culminated in the UDHR).

33. Lauren, *supra* note 8, at 6-24 (tracing some of the underlying concepts of human rights from several major world religions through European, Chinese, and Islamic philosophy through the Enlightenment to the American Revolution).

34. Morsink, *supra* note 4, at 9 (arguing that, when recounting the history of human rights, too many scholars fail to see the central role of the horrors of the Second World War).

35. Moyn, *supra* note 6, at 3.

36. *Id.* at 7-8.

37. *Id.*

38. SAMUEL MOYN, *NOT ENOUGH: HUMAN RIGHTS IN AN UNEQUAL WORLD* 60 (2018).

39. See Hunt, *supra* note 32 and Lauren, *supra* note 8.

international law, and their intellectual predecessors.<sup>40</sup> Part of Moyn's inability to see the continuities between earlier conceptions of rights and their growth in the 1970s lies in his understanding of contemporary human rights as a retreat from emancipatory claims of socialism and anti-colonialism. Moyn divests human rights of both their substantive content and their social practice.<sup>41</sup> Human rights were not, in themselves, a single vision for how to order society. In the Arab world, rights sometimes served as a blueprint for an anti-colonial, nationalist agenda—as in Palestine—but they also served as an organizing principle for Marxists in Morocco.<sup>42</sup> While it is true that some advocates saw human rights advocacy as safer than more partisan activity, this is not because the content of human rights work was less threatening to regimes, but because the new NGOs took pains to institutionally separate themselves from political parties with contentious, sometimes violent, relationships with the State.<sup>43</sup>

### C. Implications for Universality

Scholars and human rights advocates have pointed to both the content of rights treaties and the process by which they were written as evidence of universality, but product of Cold War politics.<sup>44</sup> Much of the world remained under colonial rule. The struggle between superpowers shaped the division of rights into two separate treaties—one including civil and political rights and one including economic, cultural, and social rights—that reflected the East/West divide. In this and many other substantive areas, the content of rights depended on historical specificities that belie claims to universalism.<sup>45</sup> Uncovering the role of less powerful nations in the drafting process only goes so far in reclaiming the

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40. See Martinez, *supra* note , at 139 (demonstrating that antislavery courts in the 19th century were the antecedent of the post-WW2 human rights regime); WILLIAM KOREY, *NGOS AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS* 1 (1998) (connecting the Holocaust, post-war developments in the United Nations, and the growth of NGOs in the 1970s); Morsink, *supra* note 4, at 9 (showing a causal link between pre-war ideas about human rights, the Holocaust, post-war legal architecture, and the contemporary human rights movement). Even among scholars who agree that there was a rupture in the 1970s, Moyn's explanation is far from definitive. See STEPHEN HOPGOOD, *THE ENDTIMES OF HUMAN RIGHTS* 98-103 (1st ed. 2013) (arguing that the change was due to the sudden relevance of rights to American foreign policy, which led to the creation of a marketplace for human rights).

41. See Aryeh Neier, *The International Human Rights Movement: A History* 4 (1st ed. 2012) (arguing that human rights do not contain "a vision for the organization of society"); Cheah Pheng, *Human Rights and the Material Making of Humanity: A Response to Samuel Moyn's The Last Utopia*, 22 *Qui Parle: Critical Human. and Soc. Sci.* 56 (2013) (criticizing Moyn's narrow definition of rights, which requires emptying "them of almost all normative philosophical content.").

42. See *infra* Part II.

43. See *infra* Part II.

44. Mazower, *supra* note 10, at 318.

45. For example, the conception of the freedom of religion in the UDHR owes much to Malik's experience as a Christian in majority-Muslim Lebanon. See W. Kathy Tannous and Alicia Gaffney, *Charles H. Malik and Religious Freedom: The Influence of Biography on Malik's Contributions to the Drafting of the Universal Declaration of Human Rights*, 42 *Hum. Rts. Q.* 817 (2020).

multicultural roots of the laws. Indeed, some authors counter that the involvement of non-Western nations in the drafting processes was irrelevant or minor, and universal rights are Western and/or Christian concepts.<sup>46</sup> Even Moyn's argument about human rights in the 1970s, which at first appear to be grounded in a truly global social movement, ultimately rests on Eurocentric conceptions of what rights are and how they function politically.

It is difficult, and perhaps not very useful, to try to establish definitive origins for human rights. Doing so risks overemphasizing both continuities and discontinuities in a quest to mobilize the single most important rupture in support of, or against, the universality of human rights. Instead, a more helpful approach examines how universalist claims influenced the adoption and practice of human rights in specific times and places. Understanding when and why Arab activists embraced human rights, for example, gives greater insight into how international law was deployed to advance regional goals of self-determination, anti-colonialism, Arab unity, and economic transformation.

## II.

### THE HUMAN RIGHTS TURN

In 1980, a young Palestinian lawyer named Raja Shehadeh boarded a plane in Tel Aviv bound for Geneva. He was carrying contraband that could have landed him in jail—a report detailing Israeli violations of international law in the West Bank.<sup>47</sup> Just a few months earlier, Shehadeh and two colleagues had formed Al Haq, the first human rights NGO in Palestine. Around the same time, a group of Moroccans started a human rights NGO that would go on to attract thousands of members. The Moroccan Association for Human Rights (AMDH) and Al Haq were among a handful of rights NGOs in the Arab world; over the next decade, dozens more national and regional organizations would join them.

The growth of Arab human rights NGOs can be explained by several factors.<sup>48</sup> The most important was the utility of international law, particularly its claim to universality and non-partisanship, to the political goals of Arab

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46. See MAKAU MUTUA, *HUMAN RIGHTS: A POLITICAL AND CULTURAL CRITIQUE* 155 (1st ed. 2002); Abdullahi An-Na'im, *Introduction to Human Rights in Cross-Cultural Perspective: A Quest for Consensus* 4 (Abdullahi An-Na'im ed. 1995); Moyn, *supra* note 6, at 66-67.

47. Interview with Jonathan Kuttub, Co-Founder, Al Haq, Skype (Jan. 25, 2016).

48 The coming into force in 1976 of the two central human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Cultural and Social Rights, did not play a large role in activists' decisions. The growing endorsement of human rights treaties was a precondition for human rights work but treaty ratification did not spark the formation of NGOs, perhaps because enforcement mechanisms for the treaties were minimal. The moral import of human rights law—which had been growing since at least 1966, when the treaties opened for signature, if not since 1948—was just as important as the legal obligation. Iraq, Jordan, Lebanon, Libya, and Syria, and Tunisia ratified both treaties before they came into force. Morocco followed soon after, acceding to both treaties in May 1979. Other countries followed: Egypt (1982), Sudan (1986), Yemen (1987), Algeria (1989), Israel (1991), Kuwait (1996), Bahrain (2006). See generally Azzam, *infra* note 125, at 266.

opposition movements after the 1967 war with Israel. The aftermath of the war prompted a regional crisis that sparked significant political reorganization. Several States responded violently to growing dissention within their populations. Many members of the political opposition, as well as non-political individuals who were victims of State violence, embraced human rights to challenge increasingly autocratic State power. Rights became a set of practices carried out by a new civic actor—the human rights activist—with access to a particular type of domestic and international leverage. These practices were linked to both the content of the law itself and its claims of universality.

The NGOs studied here were all respected both domestically and internationally.<sup>49</sup> Al Haq, AMDH, the less confrontational (but similarly-named) Moroccan Organization for Human Rights (OMDH), and the Arab Organization for Human Rights (AOHR) and its Kuwaiti chapter illustrate the range of forms that human rights work took across the Arab world in the late 1970s and 1980s. Al Haq was a highly professionalized organization staffed by lawyers and legal specialists. Al Haq advocated a liberal vision of Palestinian nationalism. The Moroccan NGOs were mass organizations that enrolled thousands of members and established chapters throughout the country. Many members and leaders were not lawyers. AMDH was a radical Marxist organization, while OMDH took a less confrontation approach and worked with the monarchy. The Arab Organization for Human Rights was a regional umbrella group with both individual and institutional members. With chapters and affiliates throughout the region, it offered yet another model of what a human rights organization could look like. Finally, the Kuwait Society for Human Rights (KSHR), originally a chapter of AOHR, was a membership-based group that relied on a charismatic founder, as was typical of many smaller organizations.<sup>50</sup> AOHR and its chapters used human rights to further Arab intellectual and cultural unity.

Each NGO had distinct characteristics, but the Moroccan organizations, as well as AOHR and its Kuwaiti branch, are best understood in relation to each other. In Morocco, the organizations were both rivals and partners. They often worked in unity against the State while competing with one another for supporters and international legitimacy. Their strategic choices were influenced by those of the other. In Kuwait, it was impossible to disentangle KSHR from its parent organization. It did not formally separate from AOHR until 1993, and afterwards leaders moved back and forth between the organizations. In addition to the

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49. The reputation of KSHR declined significantly after the period studied in this Article due to changes in internal governance that compromised its independence from the State.

50. Since the 1990s, there have been a growing number of organizations that exist on paper only, or perhaps consist of a single person. These entities may be connected to government officials, who pepper the human rights landscape with more and more organizations to create the appearance of a vibrant civil society. Others might exist primarily to receive international grant money. *See, e.g.*, Lori Allen, *The Rise and Fall of Human Rights: Cynicism and Politics in Occupied Palestine* 15 (2013) (discussing this phenomenon in Palestine). None of the organizations studied here fall into these categories.

institutional ties, both organizations were rooted in a particular ideological approach towards Arab nationalism and democracy.

These organizations created, adapted, and implemented what were becoming hallmarks of human rights advocacy: fact-finding and documentation, education, litigation, public shaming, and international networking. The diversity of practices among these organizations illustrates that universality did not require homogeneity. The human rights “tent” extended far enough to include both a professional, centralized organization like Al Haq and a sprawling, radical one like AMDH.<sup>51</sup> Human rights law supported a wide array of social practices that showed how rights can be relevant in vastly dissimilar political and social environments.

Human rights were, of course, not the only option available for framing activism. Political Islam rose in popularity around the same time.<sup>52</sup> Even among groups unlikely to embrace Islamism, such as Marxists and Arab nationalists, the development of human rights activism at the societal and organizational level was not inevitable. In fact, despite the proliferation of human rights NGOs in the 1980s, several countries, particularly those in the Gulf region, did not see a legitimate human rights organization form until much later.<sup>53</sup> Even human rights activists often pursued multiple forms of opposition at the same time, including partisan, religious, and commercial enterprises. But human rights offered something unique—a non-partisan, universal framework that served multiple political visions.

#### A. *The Politics of the 1970s*

Arab human rights activists were part of a global growth of human rights NGOs, but they were also embedded within specific regional political movements: Palestinian nationalism, revolutionary Marxism, and Arab nationalism. Arab nationalism—the belief that “those who speak Arabic form a ‘nation’ and that this nation should be independent and united”—manifested in two major political movements: Nasserism in Egypt and Ba’athism in Syria and Iraq.<sup>54</sup> Egyptian President Gamal Abdel Nasser’s (1956-1970) blend of charismatic leadership, anti-colonialism, and Arab nationalism reached its zenith

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51. International law scholar Hurst Hannum argued that “universality is not uniformity” in relation to the substance of human rights around the world; his claim extends to the practice of human rights as well. Hurst Hannum, *Rescuing Human Rights: A Radically Moderate Approach* 97 (2019).

52. See CARRIE ROSEFSKY WICKHAM, *MOBILIZING ISLAM: RELIGION, ACTIVISM, AND POLITICAL CHANGE IN EGYPT 2* (1st ed. 2002).

53. For instance, the Bahrain Center for Human Rights and the Human Rights First Society in Saudi Arabia were not founded until 2002.

54. ALBERT HOURANI, *ARABIC THOUGHT IN THE LIBERAL AGE, 1798-1939* 260 (1983).

of political power in the 1960s.<sup>55</sup> These ideologies were revolutionary, utopian political projects.<sup>56</sup> Arab nationalism in general and Nasserism in particular suffered a significant setback with Egypt and Syria's military loss to Israel in 1967. The military defeat, Nasser's death in 1970, and several failed unification projects signified the increasing unavailability of this vision of Arab nationalism.<sup>57</sup>

In the wake of the 1967 war, the region reckoned with the apparent failure of Arab nationalism to bring about desired political goals: the defeat of Israel or political unification. Intellectuals looked for explanations within Arab societies, ushering in a time of self-criticism that found fault within Arab culture, thought, and religion.<sup>58</sup> Students and activists who were adrift from the loss of the war, disillusioned with older Communist parties, and inspired by the worldwide student protests of 1968 formed new movements that fused Marxism with nationalism. From Morocco to Lebanon to Yemen, this Arab New Left signified a "sweeping radicalization" that pushed aside old-school Arab nationalism as the dominant trend in Arab politics until political Islam gained prominence in the 1980s.<sup>59</sup>

Arab governments were profoundly threatened by the rising tide on the Left and responded with violence. Across the region, Leftists were seen as so threatening that States supported and empowered Islamists to rival their popular appeal.<sup>60</sup> Though many human rights NGOs were formed within this milieu, rights did not operate as a single vision, rising like a phoenix from the ashes of the 1967

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55. See ADEED DAWISHA, *ARAB NATIONALISM IN THE TWENTIETH CENTURY: FROM TRIUMPH TO DESPAIR* (2016); James Jankowski, *Arab Nationalism in 'Nasserism' and Egyptian State Policy, 1952-1958*, in *Rethinking Nationalism in the Arab Middle East* 150 (Jankowski and Israel Gershoni, eds. 1997) (delineating the place of Arab nationalism in Nasser's ideology and policy). Several other chapters in this volume provide a deeper understanding of Arab nationalism and its intersection with individual nationalist movements.

56. YOAV DI-CAPUA, *NO EXIT: ARAB EXISTENTIALISM, JEAN-PAUL SARTRE, AND DECOLONIZATION* 109 (2018) (describing Arab nationalism as "a theological system of political faith . . . by formulating new notions of sovereignty, authenticity, and freedom, Pan-Arabism sacralized politics and offered a form of postcolonial salvation.").

57. In the most notable example, Syria and Egypt formed a political union that survived from 1958 until 1961, when a coup in Syria led to its withdrawal. North Yemen also federated with Egypt and Syria during this time. Iraq and Jordan entered into a short-lived union to counter Egypt and Syria. Libya, Egypt, and Syria also attempted a unification during the 1970s. None of these projects realized the Arab Nationalist vision of unification.

58. Manfred Sing, *Arab Self-Criticism After 1967 Revisited: The Normative Turn in Marxist Thought and its Heuristic Fallacies*, XXV Arab Stud. J. 144, 149 (2017).

59. Nicolas Dot-Pouillard, *After the Defeat, The Arab Left on the Offensive*, Orient XXI Magazine (Aug. 29, 2017), <https://perma.cc/362J-N7XP>.

60. Gilles Kepel, *Islamists versus the State in Egypt and Algeria*, 124 Daedalus 109, 111 (1995); Joel Beinin, *Political Islam and the New Global Economy: The Political Economy of an Egyptian Social Movement*, 5 CR: The New Centennial R. 111, 119 (2005).

war.<sup>61</sup> Rather, a range of political actors mobilized human rights in different ways in response to increasing State violence, economic disruption, and evolving international politics. In Morocco, initial activists were radical Marxists whose politics were formed in student unions and leftist political parties.<sup>62</sup> They identified human rights as part of a larger political platform that embraced democracy and socialism.<sup>63</sup> They largely rejected the old politics of Arab nationalism in favor of the Arab New Left. However, the members of AOHR and its chapter in Kuwait looked to human rights as a way to *continue* the Arab nationalist project. For them, regional unity in human rights was a new forum for old political goals. In Palestine, human rights were an alternative to the Palestinian Liberation Organization (PLO), the radical politics of the New Left, and the regional Arab nationalism that had failed the Palestinian cause. Both the form and substance of human rights supported a range of political ideologies.

### B. Mobilizing for self-determination in Palestine

The Arab defeat in 1967 made it clear that Palestinians could not rely on Arab States for liberation.<sup>64</sup> In the West Bank, Israeli State violence and increasing efforts towards annexation prompted more organized Palestinian resistance. Several Palestinian groups turned to violence, including the Popular Front for the Liberation of Palestine (PFLP), a revolutionary socialist group that occupied the ideological center of the Arab New Left but originated from within the Arab Nationalist Movement, and Fatah, an older resistance organization that came to dominate Palestinian politics after 1967.<sup>65</sup>

Al Haq's founders distanced themselves from Fatah, the PFLP, and other political parties, insisting on strict non-partisanship and a foundation in international law.<sup>66</sup> They embraced human rights as a non-violent way to oppose the occupation, using international legal standards to confer legitimacy on the

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61. On its face, the political trajectory of the Arab world mirrored that of Europe as portrayed by Moyn in *The Last Utopia*. But Moyn's focus on the United States and Europe obscured the different ways human rights functioned in the Third World. Human rights activism in the Arab world in the 1970s and 1980s was not a simple alternative to Arab nationalism. See also Antony Anghie, *Whose Utopia? Human Rights, Development, and the Third World*, 22 *Qui Parle* 63, 73 (2013) (noting how Moyn's focus on Europe's ideological development blinded him to the relevance of the New International Economic Order to his discussion of utopian visions).

62. Interview with Abdelhamid Amine, former President, AMDH, in Rabat, Morocco (Oct. 1, 2015); Interview with Abdelaziz Bennani, Co-Founder, OMDH, Imo (Sept. 22, 2016).

63. Interview with Esslami Abdelhafid, regional board member, AMDH, in Rabat, Morocco (Sept. 7, 2015).

64. JAMES L. GELVIN, *THE ISRAEL-PALESTINE CONFLICT: ONE HUNDRED YEARS OF WAR* 199 (2005).

65. Daniel Byman, *The 1967 War and the Birth of International Terrorism*, *Lawfare* (May 30, 2017), <https://perma.cc/RJ8Z-KLLH>.

66. Interview with Charles Shamas, Co-Founder of Al Haq, in East Jerusalem (Dec. 22, 2015); interview with Kuttub, *supra* note 47.

Palestinian national struggle.<sup>67</sup> Their strategy foregrounded daily life in occupied Palestine: documenting travel restrictions, land expropriation, harassment, torture and house demolitions.<sup>68</sup> They invoked both humanitarian law (governing armed conflict) and human rights law and principles (governing domestic action).<sup>69</sup>

Al Haq's founders were highly educated professionals who had studied abroad. Raja Shehadeh, who came from a family of distinguished lawyers, became familiar with the International Commission of Jurists (ICJ) during his legal studies in London.<sup>70</sup> The ICJ is an international organization founded in the early 1950s to advance human rights and the rule of law, focusing on the role of judges.<sup>71</sup> Shehadeh partnered with Charles Shamas, a recent graduate of Yale University, and Jonathan Kuttab, who had just finished a brief stint as a corporate lawyer after completing his law degree at the University of Virginia.<sup>72</sup> With support from ICJ Secretary-General Niall McDermott, their new organization became an ICJ affiliate.<sup>73</sup>

Al Haq had two broad goals: to promote human rights among Palestinians and to end the Israeli occupation.<sup>74</sup> The founders believed exposing the nature of the occupation would hasten its end.<sup>75</sup> They chose international law as their organizing framework because it held Israelis to impartial standards. In the words of Shamas, "when we made an argument, we made it in the way that was compelling to the audience, that they couldn't say no to it. And that gave us increasing legitimacy because it wasn't [that] we were our version of a human rights organization, but we were *their version of a defender of human rights too*."<sup>76</sup> The universal standards of human rights law combined with the practice of documentation created a particular type of knowledge that transcended the lack of credibility Palestinians had internationally.

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67. *Id.*

68. See RAJA SHEHADEH & JONATHAN KUTTAB, *THE WEST BANK AND THE RULE OF LAW* (1980); AL-HAQ: *LAW IN THE SERVICE OF MAN, PUNISHING A NATION: HUMAN RIGHTS VIOLATIONS DURING THE PALESTINIAN UPRISING, DECEMBER 1987-DECEMBER 1988* (1988).

69. *See id.*

70. Interview with Raja Shehadeh, Co-Founder of Al Haq, in Ramallah, Palestine (Dec. 15, 2015).

71. The ICJ was founded to investigate abuses in Soviet-occupied Germany after WW2 and secretly funded by the CIA. This became public in 1967, and Niall MacDermot sought to distance the organization from its ties to intelligence and become a pioneer in human rights. See YVES DEZALAY & BRYANT G. GARTH, *THE INTERNATIONALIZATION OF PALACE WARS: LAWYERS, ECONOMISTS, AND THE CONTEST TO TRANSFORM LATIN AMERICAN STATES* (2002) (positioning the ICJ's early activities and ties to the CIA within the landscape of American Cold War domestic politics). See also HOWARD B. TOLLEY, *THE INTERNATIONAL COMMISSION OF JURISTS: GLOBAL ADVOCATES FOR HUMAN RIGHTS* (1994) (detailing the trajectory of ICJ's advocacy from Cold War politics to human rights).

72. Jonathan Kuttab, Middle East Institute Profile, <https://perma.cc/CF2J-VX7U>.

73. Interview with Shehadeh, *supra* note 70.

74. Interview with Kuttab, *supra* note 47.

75. Interview with Shehadeh, *supra* note 70.

76. Interview with Shamas, *supra* note 66 (emphasis added).



### 1. *Structure and management*

During the 1980s, Al Haq grew from the passion project of a few individuals into a professional, elite organization. It operated similarly to a law firm, albeit a fairly democratic one.<sup>77</sup> The organization had a unique structure due to the particularities of Jordanian law and Israeli practice. Under the law governing the West Bank in the 1970s, organizations could register as either charities or businesses.<sup>78</sup> Instead of establishing a charity, which would have attracted greater oversight from Israeli authorities, the founders created a private corporation.<sup>79</sup> This classification shielded the organization from Israeli scrutiny at the outset and protected them from the appearance of collusion with Israeli officials.<sup>80</sup> Forming an NGO, instead of working through a law firm or existing political group, gave the founders independence, provided some separation between their day jobs and their voluntary work, and allowed them to form formal partnerships with peer organizations, including the ICJ, Amnesty International, the National Lawyers Guild, and other organizations abroad.<sup>81</sup>

The corporate legal structure maximized independence from both Israel and other groups within Palestine. This rationale extended to Al Haq's decision to seek funding from foundations in the United States and Europe.<sup>82</sup> The founders wanted to create an alternative vision for Palestinian nationalism, one that did not rely on violent resistance or existing political parties. They sought an international credibility that the PLO and other existing Palestinian groups lacked.<sup>83</sup> In order to separate themselves from these popular forms of social organizing, they had to distance themselves from actual or apparent reliance on existing groups within Palestinian society. Al Haq would not accept donations from States or political parties, and it carefully vetted—and sometimes rejected—funding from groups or individuals who seemed suspect or politically motivated.<sup>84</sup>

Al Haq's initial funding needs were manageable; the organization was small and could rely on administrative support from the Shehadeh family law firm. Significant foreign funding, however, eventually allowed Al Haq to hire a professional staff whose efforts were supported by volunteers and guided by two volunteer directors and a steering committee.<sup>85</sup> Staff members were organized into

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77. See Mouin Rabbani, *Palestine Human Rights Activism under Israeli Occupation: The Case of Al-Haq*, 16 *Arab Stud. Q.* 28 (1994).

78. Interview with Kuttab, *supra* note 47.

79. Registration of Law in the Service of Man as a Corporation, Reel 8686, Ford Foundation Records, Rockefeller Archive Center [RAC].

80. Shukri Nashashibi & James Fine, Preliminary Report: Consultancy on the Future of al-Haq, Aug. 10, 1997. Reel 8686, Ford Foundation Records, RAC.

81. Interview with Shamas, *supra* note 66.

82. Rabbani, *supra* note 77, at 28.

83. Interview with Kuttab, *supra* note 47.

84. *Id.*; Interview with Shehadeh, *supra* note 70.

85. Law in the Service of Man, Annual Report 1-5 (1984) (Reel 7240, Frames 001541- 001548, Ford Foundation Records, RAC).

different groups: fieldwork, database, research, library, and support. Throughout the 1980s, the full staff met weekly to discuss matters of institutional governance and operations. These were not merely pragmatic operational discussions—staff were engaged in setting the NGO's priorities and goals.<sup>86</sup>

The professional staff and large budget allowed Al Haq to carry out a robust slate of documentation, public education, and direct legal aid. It maintained rigorous evidentiary standards, developed several active public-facing programs, provided a wide range of client services, and developed close relationships with local and foreign organizations. Al Haq was transnational from the beginning, bringing together Palestinian staff with foreign volunteers. The organization targeted the United Nations, foreign governments, and the foreign press as well as Palestinian and Israeli audiences.

## 2. Documentation

Al Haq epitomized the ways in which human rights practices, particularly documentation, were intertwined with the content of international law. Fact-finding and legal analysis were at the core of Al Haq's practice. Al Haq's first significant action was to jointly publish, with the ICJ, a sweeping condemnation of Israeli governance of the West Bank.<sup>87</sup> The result was groundbreaking—not just in Palestine, but abroad as well. The premise of the work was that Israel must be held accountable to the Geneva Conventions.<sup>88</sup> Al Haq argued that under both customary international law and the Fourth Geneva Convention, an occupying power may alter local laws (in this case, Jordanian) only when necessary for the security of its forces or to implement the Convention itself.<sup>89</sup> Al Haq documented how Israel altered various legal provisions through its system of military orders, some of which did not state a security rationale as required by the Convention. Al Haq argued that these were *prima facie* violations of international law.

The report also documented substantive violations of human rights law, including civil, political, and economic rights. The authors focused on the violations that were least known, where their documentation would add something

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86. Interview with Kuttab, *supra* note 47; Rabbani, *supra* note 77, at 28.

87. Shehadeh & Kuttab, *The West Bank and the Rule of Law*, *supra* note 68.

88. Israel did not accept the position of the United Nations that it was bound by the Conventions as a belligerent occupier, but it did agree to abide by their principles. See Meir Shamgar, *The Observance of International Law in the Administered Territories*, 21 *Israel Y.b. on Hum. Rts.* 262, 266 (1971); see also ESTER ROSALIND COHEN, *Human Rights in the Israeli-Occupied Territories, 1967–1983* 93 (1986) and ALLAN GERSON, *Israel, the West Bank and International Law* 111 (1978) (noting that an Israeli military order stating that the Geneva Convention would take precedence over Israeli security legislation was deleted by a subsequent proclamation in October 1967); see further Adam Roberts, *Prolonged Military Occupation: The Israeli-Occupied Territories Since 1967*, 84 *Am. J. of Int'l. L.* 44, 62-66 (1990).

89. Geneva Convention Relative to the Protection of Civilian Persons in Time of War art. 64, Aug. 12, 1949, 75 UNTS 287.

new to the common understanding of the occupation.<sup>90</sup> These sections described violations of the freedom of assembly, speech, and expression; academic freedom; property rights; the right to development; and freedom of movement. Though it used international references, the report remained rooted in Palestinian experiences rather than relying solely on treaty law. For example, one section was titled “Right to Development and Adequate Government Services,” but it would be another five years before the United Nations would issue a declaration on the right to development.<sup>91</sup>

The report detailed specific violations without reducing them to isolated incidents stripped of the context of the occupation. Al Haq used individual violations to illustrate systemic patterns.<sup>92</sup> For example, Israeli settlers were regularly permitted to drill new wells while permit applications from Palestinians were denied. As a result, Palestinian agricultural activity was curtailed. Al Haq described the rippling economic effects on the community: “This policy of withholding permits for drilling wells meant that a large sector of the population who would otherwise be engaged in agriculture began to seek work in Israel as unskilled laborers, with the result that the West Bank has become dependent on Israel even for agricultural products.”<sup>93</sup> Other types of economic restrictions, including import and export limitations, stifled economic development and fostered dependence on Israel.<sup>94</sup> These violations of individual rights had communal economic effects.

Al Haq authored or co-authored nearly twenty reports in the 1980s, setting a pattern of well-researched, detailed work.<sup>95</sup> Most publications focused on a particular issue such as prison conditions, infrastructure plans, torture, military censorship, or deportations. These reports were bleak. One from 1984, starkly titled *Jnaid, The New Israeli Prison in Nablus: An Appraisal*, painted a detailed, visceral picture of life in the prison:

The prisoners in Jnaid suffer above all from extreme overcrowding, especially in the cells. In one cell of 21 square metres there are 12 prisoners, in another of 30 square metres there are 16 prisoners.... The prisoners sleep in bunks, 180cms long. The iron bedsteads are so constructed that the beds are not flat but wavy and ridged. The sponge mattresses supplied which are 5 cm thick, cannot remedy this.<sup>96</sup>

Here, Al Haq described the human experience of being imprisoned. Thin mattresses may not have been illegal, but the report leaves the reader feeling every

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90. Shehadeh & Kuttub, *The West Bank and the Rule of Law*, *supra* note 68, at 58.

91. Declaration on the Right to Development, Dec. 4, 1986, A/RES/41/128.

92. See Allen, *supra* note 50, at 48.

93. Shehadeh & Kuttub, *The West Bank and the Rule of Law*, *supra* note 68, at 66.

94. *Id.* at 65-68.

95. See Al Haq Publications, <https://perma.cc/8TBF-YJMJ>.

96. Law in the Service of Man, Jnaid, *The New Israeli Prison in Nablus: An Appraisal* 3 (1984).

indentation. Al Haq published the report after the overcrowding led prisoners to resist the introduction of yet more bodies into their cramped space by launching a hunger strike and issuing a list of demands.<sup>97</sup> Although the situation at Junaid was already well known within Palestine,<sup>98</sup> this report took that knowledge and transformed it into an evidentiary document that could be preserved, referenced, and understood by legal and international audiences. Other early reports by Al Haq served a similar purpose for military censorship, administrative detention, and deportation.<sup>99</sup>

The impact of any one of these reports is unclear, but together they established Al Haq as a credible voice before the First Intifada (uprising) in 1987. Al Haq's blistering account of human rights violations during the first year of the Intifada, *Punishing a Nation*,<sup>100</sup> solidified a new era in which human rights became a prominent discourse for discussing the Israeli-Palestinian conflict alongside Palestinian nationalism, Israeli security, and religion. This report documented the use of force, obstruction of medical treatment, administrative detention, house demolitions, school closures, and other violations.<sup>101</sup> It detailed threats to the freedom of association, life and liberty, and the rule of law.<sup>102</sup> Though the press also covered the Intifada, Al Haq's report became the "standard reference work for human rights groups, journalists and policy makers alike."<sup>103</sup>

*Punishing a Nation* marked a shift away from simply proving that violations were occurring. As noted in the introduction, this was "redundant" since Israel admitted many of the practices, many of which were adequately covered in the news.<sup>104</sup> Instead, the purpose of the report was "to indicate the scope of the practices . . . [to] help our audience in assessing the significance and implications of Israel's violations of international law."<sup>105</sup> Having achieved its initial goal of exposing the practices of the occupation, Al Haq then set about demonstrating that these practices were pervasive and important.

In what is now a hallmark of human rights reporting, Al Haq highlighted the voices of individual Palestinians. Personal testimony served as evidence, but it also brought violations to life. *Punishing a Nation* included extensive quotations from witnesses and victims as well as full affidavits that include the name, age, residence, and profession of the affiant. The identification numbers attached to

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97. I use the more common spelling Junaid. It is sometimes also rendered al-Junaid in English.

98. Law in the Service of Man, *supra* note 96, at 2.

99. VIGIL FALLOON, *Excessive Secrecy, Lack of Guidelines: A Report on Military Censorship in the West Bank* (2d edition, 1986); JOOST HILTERMANN, *Israel's Deportation Policy in the Occupied West Bank and Gaza* (1986); EMMA PLAYFAIR, *Administrative Detention in the Occupied West Bank* (1986).

100. *Supra* note 68.

101. *Id.*

102. *Id.*

103. Joost Hiltermann, *Al Haq: The First Twenty Years*, MERIP Middle East Rep. 214 (2000).

104. Al Haq: Law in the Service of Man, *Punishing a Nation*, *supra* note 68, at 6.

105. *Id.*, at 6.

the affidavits suggested that there were hundreds more.<sup>106</sup> Al Haq was able to bring so much lived experience into its reporting because of its pioneering fieldwork unit.<sup>107</sup> After training in how to collect affidavits, Al Haq fieldworkers collected more than 500 testimonies in just one year,<sup>108</sup> and this almost doubled in the next two years.<sup>109</sup> Al Haq developed a standard procedure for collecting evidence: “In each instance, information was taken down as dictated by the affiant. Questions were asked on points of which he or she might have been unsure. The rule against hearsay was followed, as well as other rules relating to evidence that are observed in judicial inquiries. Finally, the written version was read to the affiant who was asked to sign it.”<sup>110</sup> An internal vetting process ensured that testimony was accurate and reliable.

Al Haq’s reports were more than legal documents; they were chronicles of Palestinian history. This function of human rights reporting was particularly significant to Shehadeh. He worried that without rigorous documentation, Palestinians would lose track of their own history: “How did the settlements happen? How did the land get taken over? How did the Israelis re-define and change the law and so on? I was concerned that we would be confused. And I think this confusion is a big part of colonization.”<sup>111</sup> Compiling the affidavits into a cohesive narrative was another form of resistance, one that had value even if it did not end the occupation. “Maybe we cannot stop this,” Shehadeh continued. “We cannot stop them from taking the land and building settlements on it, but at least we would know how they did it. And that would be very important. And we would know and we would be able to say to them you didn’t do it legally, as you claim. And this is why.”<sup>112</sup>

### 3. Public Engagement

In addition to its documentation efforts, Al Haq carried out a robust program of public education.<sup>113</sup> The organization regularly produced instructional pamphlets, authored weekly newspaper columns, and operated a legal aid clinic. It hosted lectures and opened Ramallah’s first public library dedicated to law and

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106. For example, the affidavits offered in support of the portion of the report documenting the use of force were numbered 1151, 1161, 1233, 1245, 1447. *Id.* at 53-71.

107. FATIH SAMIH AZZAM, *WAITING FOR JUSTICE: AL-HAQ IN 2004: A TWENTY FIVE YEAR PROSPECTIVE*, AL-HAQ: 25 YEARS DEFENDING HUMAN RIGHTS (1979-2004) 6 (Rouba Al-Salem, ed. 2005).

108. Al Haq: Law in the Service of Man, Punishing a Nation, *supra* note 68, at 3.

109. Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986 (Reel 7240, Frames 001421 – 001481, Ford Foundation records, RAC).

110. WORLD COUNCIL OF CHURCHES, *IN THEIR OWN WORDS: HUMAN RIGHTS VIOLATIONS IN THE WEST BANK: AFFIDAVITS COLLECTED BY LAW IN THE SERVICE OF MAN* 9 (1983).

111. Interview with Shehadeh, *supra* note 70.

112. *Id.*

113. Law in the Service of Man, Yearly Report 1984 (Reel 7240, Frames 001541- 001542, Ford Foundation records, RAC).

human rights.<sup>114</sup> Like other NGOs around the world, Al Haq created “Know Your Rights” pamphlets to educate Palestinians about land seizure, town arrest, taxation, travel restrictions, military courts, and arrest.<sup>115</sup> These pamphlets promoted law as the arbiter of correct behavior in interactions between Palestinians and Israeli State and military officials. They also educated Palestinians about what behavior could be considered illegal, which might assist in future documentation efforts.

Al Haq also provided free legal aid. From September 1981 to the end of 1982, Al Haq spent more than ten percent of its total budget on legal services.<sup>116</sup> In 1985, Al Haq opened a legal advice bureau where lawyers and staff were available on a weekly basis to provide advice on any legal question, not just human rights issues.<sup>117</sup> After the first six months, the bureau had to open twice a week to meet demand.<sup>118</sup> By October 1986, Al Haq had provided advice in 111 cases.<sup>119</sup> Hosting an advice bureau was more than just good publicity — it promoted law as a tool for resolving conflict, educated the public about legal tools, and strengthened Al Haq’s credibility. The organization hoped the clinic would make legal remedies more accessible to the public both in disputes related to the occupation and in private matters.<sup>120</sup>

While it offered many consultations, Al Haq also accepted a few cases with broader policy implications for full legal representation.<sup>121</sup> Al Haq used litigation as another advocacy strategy in its toolkit: a way to force hidden practices into the open, establish a factual record, and redress individual wrongs. But eventually, the organization decided not to establish a specific unit devoted to strategic litigation. Al Haq struggled to identify robust criteria to select lawyers and

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114. *Id.*, at Frame 001545.

115. Town arrest refers to restricting the movement of an individual through administrative order without bringing criminal or civil charges. Individuals were usually limited to a single town or village, confined to their homes after dark, and required to report to a local police station every day. The practice became common in the early 1980s. Amnesty International, *Town Arrest Orders in Israel and the Occupied Territories*, 14 *J. of Palestine Studies* 186, 186 (1985)

116. Law in the Service of Man, Yearly Report 1982 (Reel 4848, Frames 0234-0244, Ford Foundation records, RAC).

117. Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986 (Reel 7240, Frames 001432, Ford Foundation records, RAC).

118. Law in the Service of Man, Newsletter No. 9, 11-12 July – October 1985 (Reel 8686, Ford Foundation records, RAC).

119. Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986 (Reel 7240, Frames 001432, Ford Foundation records, RAC).

120. Law in the Service of Man, Newsletter No. 9, *supra* note 118.

121. Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986 (Reel 7240, Frames 001421 – 001481, Ford Foundation records, RAC). Al Haq staff were not the first lawyers to challenge the occupation through litigation. Two Israeli lawyers, Felicia Langer and Leah Tsemel, began representing Palestinians in military courts shortly after the 1967 war. See Lisa Hajjar, *From the Fight for Legal Rights to the Promotion of Human Rights, in Cause Lawyering and the State in a Global Era* 78-82 (Austin Sarat and Stuart Scheingold, eds. 2001).

cases.<sup>122</sup> There were concerns about how to handle cases that did not have attorneys already, as well as how to balance the private law practices of the founders with their role in selecting and possibly arguing cases. This was a limitation of the part-time, voluntary nature of the founders' role at Al Haq, though it did not prevent the organization from continuing legal aid or intervening in ongoing cases.

By its nature as a Palestinian organization documenting Israeli action, Al Haq operated in a more international sphere than many other rights NGOs. It was an organization for and of Palestinians, but it also sought to change narratives in the United States, Europe, the United Nations, and Israel. Transnationalism was embedded in the very structure of the organization. As an affiliate of the ICJ with funding from exclusively foreign organizations, Al Haq was enmeshed in an international network of human rights and advocacy professionals. The organization maintained and developed these ties through small meetings, conferences, and personal relationships. Staff members participated in conferences abroad, and foreign delegations often visited Palestine. Al Haq hosted lawyers, journalists, students, professors, women's groups, and NGOs from within Israel and Palestine, as well as from abroad. These ties brought friendship and solidarity as well as funding and training. Al Haq's staff also included several foreign volunteers who were integral to early operations. According to a volunteer fieldworker, who later joined the leadership, Al Haq was like a "school" for young activists from the United States and Europe.<sup>123</sup>

Al Haq participated in several workshops, conferences, and meetings through the United Nations, but the founders had little hope that these would make a difference. The U.N., according to Shehadeh, "paid lip service and nothing more."<sup>124</sup> It is hard to dispute his perception; the United Nations has issued dozens, if not hundreds, of resolutions on Israel and Palestine to little effect.<sup>125</sup> Indeed, the initial draft of Al Haq's first report was put together as testimony for a United Nations hearing on Palestine and only published as a book once McDermott, the head of the ICJ, convinced Shehadeh that nothing would come of his testimony. This experience illustrates the limited utility of the U.N. The institution itself rarely forced change on the ground, but it provided opportunities for Al Haq to establish public record and connect with supportive allies. In later years, Al Haq participated in conferences related to women's rights and human rights more

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122. Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. (Reel 7240, Frames 001421 – 001481, Ford Foundation records, RAC).

123. Interview with Shawan Jabarin, General Director, Al Haq, in Ramallah, Palestine (Dec. 21, 2015).

124. Interview with Shehadeh, *supra* note 70.

125. More broadly, the United Nations has had little success pressuring Arab states to change behavior. See Fateh Azzam, *The UN Human Rights Game and the Arab Region: Playing Not to Lose in Land of Blue Helmets* 253, 266 (Karim Makdisi & Vijay Prashad, 2017).

generally.<sup>126</sup> These offered platforms to normalize and publicize Palestinian perspectives, even if they were not likely to generate immediate action.

#### 4. *Other activities of the founders*

Human rights work was only one component of the founders' broader approach towards opposing the occupation. They also pursued other forms of organizing and resistance. Shehadeh is an accomplished memoirist who used personal narrative to bring attention to the daily lives of Palestinians.<sup>127</sup> The title of his first book, *Samed: Diary of a West Bank Palestinian*, refers to the concept of steadfastness—the power of remaining in place, opposing the occupation by refusing exile. In Israel, the book was titled *The Third Way*, a reference to practices of inmates at the Treblinka concentration camp. The third way is an alternative to “exile or submissive capitulation to occupation, on one hand – or blind, consuming hate and avenging the wrongs done to them, on the other.”<sup>128</sup> Shehadeh's vision of a third way meant building institutions that would challenge the occupation and preserve Palestinian history. Human rights reporting was one way of participating in “resistance *sumud*,” which moved beyond merely remaining on the land and “emerged as activist and effective in seeking ways to build alternative institutions, and thus to resist and undermine the occupation.”<sup>129</sup> Al Haq's focus on documenting the lives of Palestinians was a form of resistance *sumud*.

The other founders supported several different organizations that emphasized direct interventions in the lives of Palestinians. Kuttab divided his time between human rights and faith-based groups. He helped to start the Palestinian Center for the Study of Nonviolence in 1983 and the Mandela Institute for Political Prisoners in 1990 and served as the lawyer for Christian Peacemaker Teams.<sup>130</sup> Shamas founded a separate organization, Mattin, which experimented with organizing labor and capital in ways that would advance international recognition of Palestine.<sup>131</sup>

All these efforts were consistent with, and in some cases overlapped with, human rights work, but forming an NGO brought advantages that were not available through other forms of mobilization. The universality of humanitarian and human rights law gave Palestinians access to the same legal protections as Israelis as they struggled to articulate a nationalist vision that would resonate

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126. See, e.g., Law in the Service of Man, Newsletter No. 9, *supra* note 118, at 10.

127. Shehadeh has published at least eight memoirs, including *SAMED: JOURNAL OF A WEST BANK PALESTINIAN* (1984), *STRANGERS IN THE HOUSE: COMING OF AGE IN OCCUPIED PALESTINE* (2003), and *PALESTINIAN WALKS: FORAYS INTO A VANISHING LANDSCAPE* (2007).

128. Shehadeh, *Samed: Journal of a West Bank Palestinian* 38 (1984).

129. *Id.*

130. Katie Hurst, *Jonathan Kuttab: Peacemaking as a Way of Life*, *The Mennonite* (Mar. 6, 2017), <https://perma.cc/BX6Q-7897>.

131. Interview with Shamas, *supra* note 66.



where previous articulations had failed. Al Haq forged a non-partisan, non-violent Palestinian nationalism that differed from both the older visions of Arab Nationalists and those of the New Left. Al Haq's documentation strategy generated a history of the occupation that centered Palestinian lived experience. It laid bare the reality of occupation while building a Palestinian identity using shared language immediately understood around the world.

International law has been both central to Palestinian history and devastatingly irrelevant to the lives of its people. International indifference to the occupation, and Palestinian antipathy towards legal advocacy, created an uphill battle for Al Haq. It was only through a decade of work that Al Haq convinced the international community that Palestinians were full individuals, worthy of protection, and convinced Palestinians that their grievances could be productively framed as violations of international law.

### C. *Mobilizing for political rights in Morocco*

Like Palestinians, Moroccans have a long history of mobilization against foreign occupation.<sup>132</sup> However, by the time members of the Moroccan political opposition turned to human rights in the early 1970s, their antagonist was a domestic king rather than a foreign power. After Morocco's independence from France and Spain in the late 1950s, King Mohammad V sparred with the nationalist political party, Istiqlal. The King, who had aligned himself with the nationalists against the French, declined to share power proportionately and implemented minimal political reforms. Frustrated with the slow pace of change, more radical members of Istiqlal splintered into a separate party: the National Union of Popular Forces (UNFP).<sup>133</sup> With the primary goal of national liberation achieved, other movements began to challenge both the king and established political parties.<sup>134</sup>

After Mohammad V's death in 1961, his son Hassan II consolidated power through violence and political maneuvering. He initiated "a reign of terror . . . marked by sheer violence and utter repression of all those who were considered a threat" known as the Years of Lead.<sup>135</sup> Hassan II used violence and manipulation to keep any one party or group from gaining significant political power.<sup>136</sup> As many as 50,000 people were detained, abused, tortured, raped, disappeared, or killed.<sup>137</sup> In 1963, thousands of UNFP members were arrested, prompting

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132. SUSAN MILLER, *A HISTORY OF MODERN MOROCCO* 129-136 (2013).

133. El-Hussein A'boushi, *The Socialist Union of Popular Forces Party in Morocco* in *A Return to Partisan Politics? Partisan Logics and Political Transformation in the Arab World* 131, ¶ 18 (kindle version) (Myriam Catusse and Karam Karam eds. 2010).

134. ALMA RACHEL HECKMAN, *THE SULTAN'S COMMUNISTS* 144-45 (2020).

135. FADOUA LOUDLY, *TRANSITIONAL JUSTICE AND HUMAN RIGHTS IN MOROCCO: NEGOTIATING THE YEARS OF LEAD* 71 (2014).

136. Miller, *supra* note 132, at 16.

137. Loudly, *supra* note 135, at 73.

resistance and even calls to end the monarchy from the influential Moroccan National Students Union (UNEM).<sup>138</sup> Though Hassan II had some popular support, he faced rising dissatisfaction due to wage stagnation and price inflation.<sup>139</sup> Popular demonstrations became a regular strategy of the Moroccan opposition during the mid-1960s, with strikes, protests, and riots attracting students and disaffected workers. The King responded by suspending the Constitution, bypassing parliament, and ruling directly until 1970.<sup>140</sup> This sidelined political parties, pushing political organizing into increasingly informal spaces.

As in other parts of the Arab world, Moroccans—particularly young people and students—turned to revolutionary Marxist-Leninist groups. Abraham Serfaty, Abdelhamid Amine, and other Communists broke with their former party in 1970 and formed a new underground group that organized under the name *Ila al-Amam* (Forward). Unions and syndicates provided spaces for these leftist activists to organize and work together openly and together they formed a Committee Against Repression in Morocco. Amine, who later became a leader of AMDH, sat on the Committee as a representative of UNEM, which was aligned with this resurgent leftism. The Committee was primarily concerned with political prisoners, not international law *per se*.<sup>141</sup> The Moroccan League for the Defense of Human Rights (LMDDH), founded in 1972 in affiliation with the nationalist Istiqlal party, observed political trials and published reports on unfair trials of opposition members.<sup>142</sup> The fate of political prisoners gained more salience among leftists when many of the leading members of *Ila al-Amam* and the Committee Against Repression were arrested and imprisoned in 1972. Amine would remain in prison until 1984, Serfaty until 1991. Some of their colleagues were tortured to death. The short-lived committee dissipated after this wave of arrests.<sup>143</sup>

### 1. *Non-partisanship and the origins of AMDH and OMDH*

As opposition and crackdowns continued, family members of political detainees began to organize. They joined with members of the Socialist Union of Popular Forces, a radical party which had broken from the UNFP over its decision to cooperate with Istiqlal in a National Unity government,<sup>144</sup> and other leftist activists to form the Moroccan Association for Human Rights. Unlike Al Haq,

138. See Frédéric Vairel, *Politique et mouvements sociaux au Maroc* 102-06 (2014).

139. Miller, *supra* note 132, at 173.

140. Susan Waltz, *Human Rights and Reform: Changing the Face of North African Politics* 114 (1995).

141. Interview with Amine, *supra* note 62.

142. JAMES SATER, *CIVIL SOCIETY AND POLITICAL CHANGE IN MOROCCO* 43 (2007).

143. Abdelhamid Amine, *Entretien avec Abdelhamid Amine, vice-président de l'OMDH (sic): 'Tant que nous combattons pour les droits humains, l'avenir ne peut être que meilleur [Interview with Abdelhamid Amine, vice president of OMDH (sic): 'As Long as We Fight for Human rights, the Future can Only be Better]*, interview by Montassir Sakhi, *Libération*, May 30, 2009.

144. A'boushi, *supra* note 133, ¶¶ 39-40.

early rights activism in Morocco was intimately connected with radical politics and the New Left. Many early activists were involved in both party politics and human rights.<sup>145</sup> They formed NGOs to complement their partisan work as a direct response to State violence.<sup>146</sup> Within an NGO, they could focus on issues that benefited all members of the political opposition—political prisoners, freedom of speech, and freedom of association. As in Palestine, both documentation of violations and the language of universality were important, but the claim to non-partisanship was also a core motivating factor in organizers' decision to employ human rights.<sup>147</sup> The separate organizational structure allowed for formal institutional independence, though even so, the NGOs struggled to be free from partisan influence.<sup>148</sup>

Many members continued to be active in political parties and syndicates. Human rights activism complemented those forms of organizing. Najia Labrim, whose husband was a political prisoner, was involved with AMDH from its earliest days.<sup>149</sup> She also worked extensively within a syndicate and with families of detainees. Labrim explained why international law appealed to her:

[I]t was an amalgam of several civilizations . . . . There's a little religion. There's a little of the French revolution, the history of humanity. So we cannot have a law more advanced than this. Impossible. And more than that, I do a comparison between these laws and national laws, and I see that there is a very large difference. In Moroccan laws there is a lot of discrimination, a lot of injustice . . . . Anyway Morocco ratified many and it is obligated to change its local laws.<sup>150</sup>

For Labrim, international law represented the best the world had to offer and, most importantly, provided a universal standard that was higher than domestic law. Morocco had signed both the ICCPR and the ICESCR in January 1977 and ratified them in May 1979, giving AMDH binding international reference points.<sup>151</sup>

AMDH's limited activities stopped completely after a government crackdown in 1983 when the State imprisoned its most active members.<sup>152</sup> AMDH was too closely associated with a radical wing of the USFP, which refused to

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145. Waltz, *supra* note 140, at 145.

146. *Id.*

147. Interview with Khadija Riyadi, former President, AMDH, in Rabat, Morocco (Oct. 1, 2015).

148. Interview with Amine, *supra* note 62.

149. Interview with Najia Labrim, Section President, AMDH, in Rabat, Morocco (Oct. 28, 2015).

150. *Id.*

151. United Nations Treaty Collection, Status of Treaties, International Covenant on Civil and Political Rights, <https://perma.cc/ZRT5-93NP>; United Nations Treaty Collection, Status of Treaties, International Covenant on Economic, Social and Cultural Rights, <https://perma.cc/7LJZ-XMV5>.

152. AMDH, Wathā'iq Marjiyya [Reference Documents] 14 (2014) (Ar.).

participate in elections, for the State to tolerate its existence.<sup>153</sup> Extensive repression limited the ability of both AMDH and LMDDH to function in the early 1980s. In the late 1980s and early 1990s, Moroccans began to create more social and political organizations that were not as closely linked to political parties.<sup>154</sup> Human rights, with their international legitimacy and (formal) non-partisan character, were a natural framework to unite members of the opposition. While LMDDH and AMDH were repressed, there was no domestic organization devoted exclusively to human rights activism and Moroccans inclined to support international law found a “gap.”<sup>155</sup>

In 1988, political elites formed a new organization, the Moroccan Organization for Human Rights (OMDH). Like the human rights activists of the 1970s, the founders saw international law as a useful framework in responding to widespread State violence. But OMDH rejected the radical politics of AMDH. Though focused on many of the same issues and employing many of the same strategies, the new organization envisioned gradual change.<sup>156</sup>

Wary of experiencing the same type of repression as the earlier NGOs, OMDH sought to identify as a non-partisan.<sup>157</sup> Of the three founding members who occupied early leadership positions, two were political independents.<sup>158</sup> The founders sought political balance among members by implementing a quota system for members with partisan affiliation and those without.<sup>159</sup> Use of the quotas, however, seemed to accept the principle that individuals could not separate their partisan identity from human rights work. In fact, OMDH’s efforts to insulate itself from government repression were initially unsuccessful. The State prevented OMDH from holding an event to mark its founding three times in

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153. José M. González Riera, *Des Années de plomb au février: Le rôle des organisations des droits humains dans la transition politique au Maroc* [*The Years of Lead: The Role of Human Rights Organizations in the Political Transition in Morocco*], 3 *Confluences Méditerranée* 35, 45 n. 3 (2011).

154. Sater, *supra* note 143, at 52-53.

155. Interview with Bennani, *supra* note 62.

156. See Vairel, *supra* note 138, at 118.

157. Interview with Bennani, *supra* note 62.

158. Omar Azziman and Mahdi Elmandjra served as the Chair of the National Bureau and the founding President, respectively. Azziman was a professor at the University of Rabat and a prominent non-partisan public figure. He had been involved with UNEM and was a leader in the National Syndicate for Higher Education. He had participated in some of the early conversations about AMDH but never joined. (Marguerite Rollinde, *Le Mouvement Marocain Des Droits De L’hommes* [The Moroccan Movement for Human Rights] 289 (2002)). Elmandjra was another prominent political figure with no partisan affiliation. He was also a professor at the University of Rabat and spent more than a decade with various positions at UNESCO. He was also active in the World Futures Studies Federation, a transnational organization that brought social science approaches of modeling and prediction to bear on questions of the future of peace and democracy. (Kaya Tolon, *Futures Studies: A New Social Science Rooted in Cold War Strategic Thinking*, in *Cold War Social Science: Knowledge Production, Liberal Democracy and Human Nature* 53-54 (Mark Solovey and Hamilton Cravens, eds. 2012)).

159. Rollinde, *Le Mouvement Marocain Des Droits De L’hommes* [The Moroccan Movement for Human Rights] at 271.

1988,<sup>160</sup> only relenting after negotiations with public officials. Finally, OMDH marked the fortieth anniversary of the adoption of the UDHR on December 10, 1988 by holding its opening congress.

OMDH quickly established that human rights activists could work with state officials. Activists began meeting with government officials and remained committed to dialogue even in the face of continuing violations.<sup>161</sup> The organization did not fundamentally contest the legitimacy of the monarchy.<sup>162</sup> Though OMDH was less combative than the earlier organizations, its existence signaled that the State might be more open to human rights organizing. International organizations, foreign governments, and the foreign press also put pressure on the King to change State practices at a time when he was trying to build Morocco's international reputation. The dormant members of AMDH and LMDDH took advantage of the opening to again engage in public advocacy.

OMDH and AMDH had radically different visions for Morocco's future, but they used international law for many of the same reasons. Human rights provided non-partisan framework for political engagement. The universalism of human rights allowed NGOs to mobilize all Moroccans without drawing directly on ineffectual or insular party structures. AMDH and OMDH were less successful in mobilizing universalism to secure their own institutional legitimacy because so many of their leaders and members were active in political parties. It was difficult to separate the goals of the human rights organizations from those of the political opposition. Nevertheless, international law gave activists of the Arab New Left, who were ruthlessly persecuted, a way to advocate for greater political space.

## 2. *Mass organizing*

If Al Haq epitomized one version of a human rights NGO—centralized, professional, and well-funded from abroad—the Moroccan organizations offered contrasting visions of mass organizing. Though AMDH was often characterized as a mass organization while OMDH was viewed as more elite, both chose organizing structures that drew on large memberships. Their connections to political parties, membership bases, and mass appeal kept them more integrated into the existing associational fabric of society than was the case for many NGOs. AMDH in particular held on to its radical roots. Their greater connectivity, however, made it difficult to be independent from party politics.

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160. *Pour la troisième [sic] fois . . . L'Assemblée est interdite* [For the Third time . . . the Assembly is Prohibited], Sept. 16, 1988, in *L'Organisation Marocaine des droits de l'homme à travers ses communiqués et déclarations : mai 1988 – mars 1991* [The Moroccan Organization of Human Rights: through its communiqués and declarations, May 1988 – March 1991] [hereinafter *communiqués and declarations*] 15 (1991).

161. *Conséquences dramatiques de l'obstination des autorités*, [Dramatic consequences of the stubbornness of authorities], August 21, 1989, in *id.* at 72-73.

162. Sater, *supra* note 142, at 55-56.

AMDH formed sections across the country. Volunteers, rather than professional staff, provided most of the labor. During its early years, before it was effectively shuttered by the State, the organization focused on Palestine, rising prices, and political prisoners.<sup>163</sup> Activities were limited, as Morocco was still in the midst of intense repression and widespread State violence. Still, AMDH managed to hold a founding congress in 1979 and build its membership base. Mass organizing was a core principle. As one early member noted: “Elites cannot assert human rights. It’s the masses, and masses that are organized and trained.”<sup>164</sup>

By 1981, more than a dozen sections were meeting across the country. At this point, organizing *was* practice. AMDH began in an era of strict repression, when “it was not possible to talk about human rights . . . belonging to a human rights group . . . was like talking or being subversive, opposing to the regime.”<sup>165</sup> Human rights were decidedly not apolitical; they signaled opposition to the regime. Holding meetings of like-minded individuals was difficult, and information was sparse. Though there were hundreds of political prisoners in dire conditions, knowledge about secret prisons spread through small meetings of members of the opposition. Most of AMDH’s early members were already active in parties and unions, or they were family members of political prisoners. Human rights activism complemented these activities and united members of the opposition and their families by centering the concerns of prisoners.

AMDH’s organizational structure gave it a fundamentally different character than many other human rights organizations. Instead of operating like a quasi-law firm such as Al Haq, AMDH owed more of its form to labor unions and political parties. Its goals were not merely to produce well-documented reports or influence government policy, but to change political consciousness around human rights.<sup>166</sup> This was more than a difference in strategy; it reflected fundamentally different understandings of social change. Al Haq’s founders were convinced that exposing human rights violations would be a path towards ending them. AMDH never placed such reliance on reporting. It was concerned with both producing knowledge and mobilizing people. Its outreach was not based primarily on public education about the law, as was Al Haq’s, but on mass participation in a social movement. AMDH epitomized an alternative vision of human rights organizing that prioritized mass mobilization with an emphasis on domestic consciousness-raising.

When AMDH was effectively shut down in the mid-1980s, the lesson for other members of the opposition was that political independence was essential.<sup>167</sup>

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163. Susan Waltz, *Making Waves: The Political Impact of Human Rights Groups in North Africa*, 29 J. of Modern African Stud. 481, 486 (1991).

164. Interview with Abdelhafid, *supra* note 63.

165. Interview with Mohamed Elboukili, member of the administrative committee, AMDH, in Rabat, Morocco (Sept. 15, 2015).

166. Interview with Abdelhafid, *supra* note 63.

167. LMDDH was also quiet during this time due to extensive repression.

Outsiders perceived AMDH to be too closely linked to partisan politics, though AMDH contested that this was, in fact, true. The overlap between individuals' partisan work and human rights activism presented a challenge for the organization on both an ideological and practical level; it was hard for AMDH to claim that it advocated for neutral legal principles when its central figures were so politically active. And the association between radical, revolutionary politics and human rights limited the appeal.

But despite efforts by OMDH to recruit political independents, many of the founders were firmly rooted in partisan and labor organizing. These ties shaped their early practices. Like AMDH, OMDH sought to hold an inaugural national congress, a decision more reminiscent of a political party than a professional human rights organization. This decision put the nascent group on a collision course with the regime. Securing the right to organize a large founding meeting was fundamental to OMDH, just as preparing a book-length investigative report was fundamental to Al Haq.

In many ways, OMDH was the elite organization described by its own members, scholars, and—pejoratively—AMDH. Members were mostly professionals and its language was that of gradual change. But structurally, OMDH was closer to the mass organization of AMDH than the highly technocratic Al Haq. OMDH established sections outside of the capital with membership open to those who were not full-time human rights workers. OMDH's membership was smaller than AMDH's, and its sections tended to be in larger cities, but this is still a far different model from that of many other human rights NGOs with a small professional staff.

### 3. *Documentation and Public Engagement*

As with most human rights organizations, fact-finding and research occupied a central place in the work of Moroccan NGOs. Like Al Haq, Moroccan organizations sought to counter official narratives that denied and minimized human rights abuses. However, unlike their Palestinian counterparts, Moroccan activists did not mobilize human rights as part of a nationalist struggle against a foreign occupier.<sup>168</sup> They were far less concerned with re-writing history. Even OMDH, with its more elite character, pursued documentation alongside more direct methods of intervention. This may explain why Moroccan organizations favored frequent press releases, shorter reports, newsletters, and direct action over book-length reports. Documentation was only one element in a panoply of core activities.

The first task for Moroccan NGOs was to expose the system of State repression of political dissent through secret prisons and abuse. These efforts, as

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168. Sahrawi activists in Western Sahara are an exception, though they did not organize into formal NGOs until later. A Sahrawi human rights NGO was formed in early 2005 and recognized by the Moroccan government in 2015. See Human Rights Watch, *Morocco/Western Sahara: Rights Group Legalized* (Aug. 24, 2015), <https://perma.cc/T7MK-58EV>.

well as advocacy by Amnesty International, had some success. In May 1989, fifty political prisoners were freed, when previously amnesty had only been granted to those serving criminal sentences.<sup>169</sup> Even as the State began releasing some political prisoners who had been held for years, many more remained in detention. In the summer of 1989, both OMDH and AMDH published detailed lists that were difficult to refute. In June, AMDH published a list of 175 detainees, along with their location of arrest, place of detention, profession, and family status.<sup>170</sup> Just a month later, OMDH published a list of 226 names with details of their locations and length of detention.<sup>171</sup>

In addition to documentation and publications, both organizations pursued a range of activities designed to change the public conversation around human rights. Education was particularly important to many of the early members of AMDH because of its potential for reaching the masses. The organization convened seminars and conferences on political prisoners, equality between men and women, and Palestine.<sup>172</sup> Perhaps the most notable effort to set the terms for public debate was the joint effort to issue a common set of standards specific to Morocco, which all the major rights organizations endorsed. AMDH, OMDH, and LMDDH worked with lawyers' associations, and with support from international groups, to issue a common National Charter of Human Rights on December 10, 1990.<sup>173</sup> AMDH had begun a similar effort by 1981, so this was not a novel idea.<sup>174</sup> But the Charter had more impact coming from a united front of NGOs. Crucially, this effort was not in opposition to universal, international standards, but in furtherance of them.

#### 4. *State co-operation*

Despite many collaborations, OMDH and AMDH faced their starkest area of disagreement when it came to interactions with the State. During its early years, AMDH demonstrated a limited willingness to work with State officials but became more wary of government cooperation. OMDH cultivated a different stance, demonstrating that human rights advocacy could coexist with participation in the governing structure. According to scholar Margarite Rollinde, this decision “was about standing out from AMDH, perceived as in opposition to the regime,

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169. Amnesty International, Morocco: A Pattern of Political Imprisonment, “Disappearances,” and Torture 4 (1991).

170. AMDH, *Aperçu sur la détention politique au Maroc* [Overview of Political Detention in Morocco], Attadamoun 10-13 (July 1989) (on file with author).

171. *Présentation du dossier de presse relative aux prisonniers politiques* [Presentation of the Press Dossier on Political Prisoners] (July 1989), in *Communiqués et déclarations*, *supra* note 160, at 68.

172. Interview with Elboukili, *supra* note 165.

173. *Charte Nationale des Droits de l'Homme* [National Charter of Human Rights] (Dec. 10, 1990), in *Communiqués et déclarations*, *supra* note 160, at 141.

174. *Mīthāq Huqūq al-Insān* [Human Rights Charter], Attadamoun 5 (June 1988) (on file with author).



and perhaps also, of finding potential allies against the ‘hard-liners’ in the regime.”<sup>175</sup>

The creation of the State-sponsored Consultative Council on Human Rights highlighted this key difference between AMDH and OMDH. The Council was a vehicle for the King to rehabilitate his image after several embarrassing incidents abroad.<sup>176</sup> It brought together government officials with representatives from unions, political parties, civil society, and the Moroccan bar association to investigate and make recommendations on human rights practices. Structurally, the organization was not set up to generate significant change. Its purview was limited, and the King selected the members. Some of the ministers on the Council were themselves implicated in the mistreatment and torture of detainees. AMDH refused to participate.<sup>177</sup> OMDH participated but criticized the Council’s inaction.<sup>178</sup> Nevertheless, the formation of the Council as well as the appointment of Omar Azziman, a founding leader of OMDH, to the newly created position of Minister for Human Rights institutionalized the State’s commitment to some reforms of pre-trial detention and prison conditions.

Azziman’s position illustrated OMDH’s greatest challenge: demonstrating sufficient independence from the King and the government. The biographies of OMDH leaders reveal the revolving door between the organization and government positions.<sup>179</sup> In addition to Azziman, there was Habib Belkouch, who served as Vice President of OMDH before being named the head of a public research institute. More recently, former OMDH President Amina Bouayach was appointed Ambassador to Sweden and Latvia in 2016 and President of the National Human Rights Council in 2018. One former member of OMDH viewed these connections critically, as a sign that OMDH had lost its initial independence and become too beholden to government interests.<sup>180</sup> But in many ways this is a matter of degree; OMDH had always pursued a strategy of gradual change, working within the system rather than seeking to overthrow it.

##### 5. *International relations*

Regional and international relations were another area where AMDH and OMDH took different approaches. Disputes over partnerships with European NGOs initially divided the organization but OMDH quickly joined several

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175. Rollinde, *supra* note 159, at 272.

176. These included Amnesty International’s reports of torture and abuse, the publication of a damaging book in France, *Notre Ami le Roi*, and the failure of the King’s rehabilitation initiative in Paris.

177. Rollinde, *supra* note 159, at 263.

178. Biyyān al-makṭaba al-waṭanī bimināsiba ‘āshir dijanbar (sic) [Statement from the General Office on Dec. 10, 1992] (Dec. 10, 1992) (on file with author).

179. Vairel, *supra* note 138, at 119.

180. Interview with a former member, OMDH, in Rabat, Morocco (2016).

international and regional partnerships.<sup>181</sup> AMDH did not seek out strong foreign ties until later in the 1990s, giving OMDH the upper hand in framing Morocco's human rights practices internationally. AMDH was primarily concerned with building a Moroccan social movement that centered mass action. International networking was not necessarily at odds with this goal, but it was not a priority.<sup>182</sup> However, when AMDH did decide to devote greater resources to its international presence, it found the landscape somewhat unwelcoming.<sup>183</sup> OMDH already spoke for Morocco. As OMDH became more closely associated with the State and State-sponsored efforts to adopt human rights language, its amplified voice on the world stage was particularly problematic for AMDH. As Khadija Riyadi said, "we cannot accept that OMDH speaks in our name . . . . It does not represent our positions, is not in agreement with them, so it is necessary to have another voice."<sup>184</sup> AMDH did not want OMDH to be the sole voice speaking for the country in international networks, so it stepped up its international presence.

AMDH and OMDH competed to advance their vision of social change, even as they cooperated under the umbrella of human rights. In doing so, they demonstrated that human rights language and practice were broad enough to accommodate multiple, contested visions of what it meant to practice human rights in Morocco.

#### D. Mobilizing for Arab Democracy

Human rights activism in Palestine and Morocco was in response to the decline of Arab nationalism, but for some Arab nationalists, human rights activism was another way to continue the movement. Arab nationalist intellectuals created the Arab Organization for Human Rights to promote democratic governance and political unity. Though Arab nationalism as practiced under Nasser was on the decline in the 1970s, "the [1967] war did not sound the death knell of Arab nationalism as a political force."<sup>185</sup> Many Arab nationalists were persecuted and imprisoned for their partisan activities. In Egypt, radical leftists and remaining Nasserists were marginalized in the 1970s under Anwar Sadat.<sup>186</sup>

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181. E-mail from Abdelaziz Bennani, founding Secretary-General, OMDH (Sept. 4, 2016) (on file with author); *Affiliation à l'Organisation Arabe des Droits de l'Homme [Affiliation with the Arab Organization for Human Rights]* (n.d.) and *Déclaration d'Alger sur le Maghreb des Droits de l'Homme [Algiers Declaration on Human Rights in the Maghreb]* (Feb. 13, 1989), in *Communiqués et déclarations*, *supra* note 160, at 34–37. On the conflict with the Paris-based International Federation of Human Rights, see Waltz, *supra* note 163, at 493.

182. Interview with Riyadi, *supra* note 147; Interview with Amine, *supra* note 62.

183. Interview with Riyadi, *supra* note 147.; AMDH, *L'Unité d'Action dans le Domaine des Droits de l'Homme [The Unity of Action in the Field of Human Rights]*, Attadamoun, 4 July 1989 (on file with author).

184. Interview with Riyadi, *supra* note 147.

185. Rashid Khalidi, *The 1967 War and the Demise of Arab Nationalism*, in *The 1967 Arab-Israeli War: Origins and Consequences* 264 (Wm Roger Louis & Avi Shlaim, eds. 2012).

186. Bahey el-Din Hassan, *A Question of Human Rights Ethics: Defending the Islamists*, in *Human Rights in the Arab World* 42-3 (Anthony Chase & Amr Hamzawy, eds. 2008).

Torture was re-introduced in the 1980s under Hosni Mubarak.<sup>187</sup> Persecution was not limited to leftists; violence against secularists, Coptic Christians, and foreigners increased.<sup>188</sup> Creating a regional human rights organization was a practical way to foster the Arab unity that proved elusive at the political level while protecting increasingly threatened civil and political rights.

International human rights law offered an organizing framework that could accommodate a range of political goals and pragmatic political reforms. The universal claims of human rights law created opportunities for AOHR to pressure foreign governments about internal affairs. This transnational quality is one of the reasons why human rights law can be a tool of more powerful States against less powerful ones, but it also facilitated the regional activism of AOHR. By grounding complaints in international law, the central body of AOHR amplified domestic voices, synthesized regional analysis, and intervened directly with States in ways that aligned with the regionalism of Arab nationalism, even after the political movement for Arab unity seemed lost. Universalism also allowed national affiliates to make legal arguments that did not depend on domestic law, which was especially important when it came to the rights of minorities and non-citizens.

### 1. *Founding of AOHR*

In 1983, thirty-five activists met in Hammamat, Tunisia and agreed to a short Declaration calling for “Democracy and the fundamental freedoms it implies” as “fundamental goal[s] in themselves.”<sup>189</sup> The Declaration laid the groundwork for the founding of AOHR at a subsequent meeting, held in Cyprus because the governments of Egypt, Kuwait, and Jordan would not permit it.<sup>190</sup> Though many of the founders of AOHR were Arab nationalists, they centered democracy, not Arab unity, in the founding document:

The last 30 years have witnessed the complete disappearance of democratic freedoms in the Arab world. This suppression of democracy has been justified in various ways and under different pretexts. It sometimes was justified by the need to build socialism and to pursue economic development, sometimes by the need to establish Arab unity, and at other times by the requirements of defending independence and in the name of struggle against Israel, when in fact none of these objectives could be achieved without democracy.<sup>191</sup>

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187. *Id.*

188. *Id.*

189. *The Hammamat Declaration*, 120 MERIP Middle East Rep. (1984).

190. Jill Crystal, *The Human Rights Movement in the Arab World*, 16 Hum. Rts. Q. 435, 439 (1994).

191. *The Hammamat Declaration*, *supra* note 189.

The Declaration went on to specifically reference the rights enshrined in the UDHR, particularly political rights and those regarding political prisoners, extra-legal courts, emergency laws, and secret police.<sup>192</sup>

Though it was a regional network, Egyptians were central to the creation of AOHR. As in Morocco, the imprisonment of dissidents from across the political spectrum sparked their embrace of human rights law as a framework separate from partisan advocacy. In Egypt, Sadat detained opponents from different political persuasions in the final months of his presidency.<sup>193</sup> After Sadat's assassination on October 6, 1981, many of these detainees were released and found they had common ground in their support for political rights. Some formed an Egyptian Committee for the Defense of Democracy that included liberals, communists, and Islamists.<sup>194</sup> The Committee did not last, but it sparked the initiative that became AOHR.<sup>195</sup>

AOHR was an eclectic group, but the initial members were politically engaged, educated professionals. In addition to Egyptian dissidents, they included several authors and poets: Abbas Beydoun of Lebanon, the Syrian poet Adonis, and the Egyptian journalist Ahmad Bahaeddin.<sup>196</sup> Others were academics, like prominent sociologist Saad Eddin Ibrahim of Egypt. As in the Moroccan and Palestinian NGOs, members of AOHR engaged in other forms of social organizing. Some were active in political parties, others in civil society. Ibrahim launched a center on democracy in Egypt and the Arab world that organized pro-democracy trainings and monitored elections.<sup>197</sup> Jassim al-Qatami of Kuwait was a successful politician. Some, like Beydoun, had been imprisoned and tortured for political activism.<sup>198</sup> Several of AOHR's founders lived in exile or had strong ties to the United States and Europe.

AOHR was not a revolutionary organization. Naseer Aruri, an AOHR founder who also served on the boards of Amnesty International and Human Rights Watch, described the organization as having a "non-confrontational demeanor, non-political character and middle-class values."<sup>199</sup> Many early members were former officials or had family ties to the state. As political scientist Jill Crystal noted, "they were disillusioned, aware that the states that they helped

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192. *Id.*

193. Crystal, *supra* note 190, at 437-38.

194. *Id.* at 438.

195. *Id.*

196. All three signed the Hammamat Declaration.

197. See Saad Eddin Ibrahim, *Human Rights and democracy are a matter of principle, and they should be supported across the board*, The Forum on Women, Religion, Violence & Power, The Carter Center (June 10, 2016).

198. Abbas Beydoun, *Writing the Language of Absence* 10/11 Banipal: Magazine of Modern Arab Literature (2001).

199. Naseer Aruri, *Disaster Area: Human Rights in the Arab World*, 149 MERIP Middle East Rep. 7 (1987).

build were not working as well as intended.”<sup>200</sup> These were well-connected elites who were dissatisfied but not necessarily pushing for massive social change or economic transformation.

AOHR focused primarily on political and civil rights that most affected political engagement: personal freedom and security, the rights of prisoners, the right to a fair trial, freedom of expression and association, and the right to participate in the management of public affairs.<sup>201</sup> AOHR did not engage in mass organizing to promote social change but instead prioritized high-level organizing such as planning conferences, publishing reports, launching international campaigns, and engaging with the United Nations. It established a headquarters in Cairo and formed chapters in eight Arab countries, several European nations, and the United States.<sup>202</sup>

## 2. *Advantages and disadvantages of regionalism*

AOHR’s structure allowed it to aggregate and analyze violations from the entire region, giving rigor to the underlying belief of many of its founders that Arab governments were dismally failing their citizens.<sup>203</sup> In its first few years, AOHR focused on documentation and direct petitions to governments. By January 1987, AOHR had received 155 complaints from 19 countries.<sup>204</sup> It relayed these complaints to Arab governments, forcing replies in contexts where domestic complaints could be more easily ignored. Responses were not always promising. Aruri, the AOHR founder, noted that “[g]overnment responses ranged from total rejection of the very concept of human rights to the usual denial of serious violations,” though “some governments expressed willingness to discuss practical steps to improve the situation on a modest scale.”<sup>205</sup> Moderate wins included permission to conduct prison visits in Egypt and Libya and the release of a prisoner in Jordan. Other missions were less successful. AOHR was permitted to join the defense team of Tunisian labor union leader al-Habib Ashour contesting charges related to a strike; Ashour, however, was still sentenced to imprisonment.<sup>206</sup> Even failed efforts reflected a growing, if begrudging, recognition from Arab governments.

Despite the limited protection afforded to AOHR by its regional status and international profile, the organization still had to devote considerable effort to

200. Crystal, *supra* note 190, at 452.

201. Al-Jam‘iyya al-‘Arabiyya lil-Huqūq al-Insān [Arab Organization for Human Rights], *Huqūq al-Insān fī al-Watan Al-‘Arabi* [Human Rights in the Arab World] (1988).

202. Crystal, *supra* note 190, at 443.

203. See Bahey el-Din Hassan, *A Question of Human Rights Ethics: Defending the Islamists*, in *Human Rights in the Arab World* 42 (Anthony Chase and Amr Hamzawy, eds. 2008).

204. Naseer Aruri, *Disaster Area: Human Rights in the Arab World*, 149 *MERIP Middle East Rep.* 9 (1987).

205. *Id.*

206. *Id.*

merely exist in the face of State opposition. Egypt showed more tolerance than most other Arab governments—allowing AOHR to locate its headquarters in Cairo and establish a local branch—but that also gave the Egyptian government the greatest ability to impede operations of central leadership and staff. In 1986, Egypt prevented AOHR from holding its first general meeting, scheduled three years after the founding meeting in Cyprus.<sup>207</sup> Having made it impossible for AOHR to officially register, the State then faulted the organization for operating without a license.<sup>208</sup> Denying official recognition was a common way for Arab governments to limit activities of human rights NGOs. AOHR found a more welcoming reception in Sudan, where it was permitted to hold its first general meeting the following year.

AOHR's Arab nationalist background and regional orientation opened it to discord in the face of regional conflict. This arose most clearly in the case of the First Gulf War, which tested the organization's commitment to universalism. As the head of the Iraqi faction of the pan-Arab Baath party, Saddam Hussein had positioned himself as an Arab unifier.<sup>209</sup> Pan-Arabism notwithstanding, however, AOHR was no ally to Saddam and had published a report on human rights violations in Iraq in 1990.<sup>210</sup> But when Iraq occupied Kuwait and the U.S. military intervened, AOHR faced the dilemma of how to critique an act of military aggression by an Arab State followed by military intervention by a foreign power. Eventually, the organization settled on a course of action that "stood steadfast by the principles on which it was founded," condemning all violations and taking positions against both the occupation of Kuwait and the subsequent American invasion and sanctions against Iraq.<sup>211</sup> The conflict over the Iraqi and American military action illustrates the challenge of building supposedly universal, apolitical human rights standards. These standards did not provide a unifying political vision in the face of regional conflict.

### 3. *Documentation and research*

Like Al Haq and the Moroccan organizations, much of AOHR's efforts were devoted to documenting rights violations. The organization published numerous book-length reports that systematically collated violations in more than twenty countries. Published in Arabic, these reports were remarkable for making this information available in one volume. Some of the material was available in reports published by individual NGOs or Amnesty International. By compiling a regional

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207. *Id.* at 7; Crystal, *supra* note 190, at 440.

208. Mohsen Awad, *Pan-Arab Civil Organizations: The Arab Organization for Human Rights*, 1 *Contemporary Arab Aff.* 621, 622.

209. See John Devlin, *The Baath Party: Rise and Metamorphosis*, 96 *The Amer. Historical Rev.* (1991).

210. AOHR, *Huqūq al-Insān fi al-'irāq* [Human Rights in Iraq] 1990.

211. Awad, *supra* note 208, at 627. See also Crystal, *supra* note 190, at 448.

dossier of violations, AOHR was able to identify trends and variations and locate certain violations in specific political dynamics.<sup>212</sup>

The nature of these reports reflected how AOHR navigated legal, political, and social analysis. The annual reports contained a section on each country and also documented regional trends. The 1989 report summarized the commitments of Arab States to follow international law as well as their failure to do so.<sup>213</sup> In the dry language common to many human rights reports, AOHR noted: “The fact that most Arab countries have manifestly failed to adapt their domestic legislation in a manner consistent with their ratification of these conventions has sometimes created a certain degree of incompatibility between their domestic legislation and their international obligations.”<sup>214</sup> The “degree of incompatibility” was made abundantly clear as the report went on to document widespread violations, accompanied by domestic legal protections that fell far short of international obligations.<sup>215</sup>

In addition to cataloging violations, AOHR took an academic approach to the study of politics, democracy, and human rights. It organized conferences and published edited volumes on human rights and international relations. In 1989, AOHR hosted a symposium in Vienna on human rights and the international system in the Arab world. Other topics included prospects for democracy and the UDHR. Though AOHR aligned its annual reports with standards from the United Nations and collaborated with UN bodies and foreign NGOs, its publications were in Arabic and sought to further regional connections. Holding events in Europe—ironically—facilitated participation from activists throughout the region by avoiding travel to Arab countries that would be politically sensitive for certain members. AOHR also undertook significant efforts to educate the public. It published a regular magazine and research journal in addition to episodic reports on specific issues.<sup>216</sup> It played an integral role in the creation of the Arab Institute for Human Rights, based in Tunis, which focused on education and training.<sup>217</sup>

These events and publications established AOHR as more than a clearinghouse for individual violations: they set the stage for AOHR to become a leading intellectual force among Arab NGOs, and potentially within a broader movement for political reform. The organization self-identified as “the conscience of the Arab nation.”<sup>218</sup> However, this promise never came to fruition. Arab human rights organizing remained fragmented and subject to political cleavages. Even AOHR, where many members and leaders shared a general political philosophy,

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212. Aruri, *supra* note 204, at 11.

213. Arab Organization for Human Rights, *Human Rights in the Arab World*, 12 Arab Stud. Quarterly 105 (1990).

214. *Id.*

215. *Id.*

216. Awad, *supra* note 208, at 625.

217. *Id.*

218. AOHR, *supra* note 208, at 120.

was susceptible to political discord. Abdullahi An-Na'im, a legal scholar originally from Sudan who has long studied (and participated in) human rights efforts, cited political fragmentation as one of the reasons why AOHR "failed to develop a comprehensive strategy for the movement as a whole, thereby forcing NGOs to seek independent coordination among themselves."<sup>219</sup> An-Na'im remarked that AOHR "alienated those of other political and philosophical orientations and undermined the credibility of [the] umbrella organization," finding that "external political competition and rivalries tended to be reflected in the leadership and activities of AOHR."<sup>220</sup> Even supporters found themselves excluded if they lacked the right connections. One Kuwaiti activist, who often collaborated with members of AOHR, still felt that he "didn't have much entry, I guess, still. It had this elitist structure. And [members] mostly are politicians who used to know each other in the political struggle for Arab nationalism, mostly Arab nationalists."<sup>221</sup> Though the speaker thought highly of AOHR, and was involved in some of its projects, the organization did not create the openness necessary to welcome people from outside its original political tendencies. Its activities—aggregating reports, publishing studies, and convening conferences—provided few onramps.

#### 4. *Early Human Rights Activism in Kuwait*

True to its Arab nationalist roots, one of AOHR's goals was to strengthen regional integration by supporting national chapters, some of which eventually spun off into independent organizations like the Kuwait Society for Human Rights (KSHR). Several prominent Kuwaitis were involved with AOHR from its beginning in Cyprus, including al-Qatami and Su'ad al-Sabah, a member of the Kuwaiti ruling family.<sup>222</sup> Al-Qatami, who later became known as the "godfather" of the Kuwaiti human rights movement, was a leader in the Kuwaiti political opposition and a long-standing Arab nationalist.<sup>223</sup> He and others formed the local chapter which eventually became KSHR.

Compared to its neighbors on the Arabian Peninsula, Kuwait had a history of open interactions between State and society, though not without sporadic bursts of political repression.<sup>224</sup> The emir (leader) repeatedly disbanded parliament,

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219. Abdullahi An-Na'im, *Human Rights in the Arab World: A Regional Perspective*, 23 *Hum. Rts. Q.* 717 (2001).

220. *Id.* at 728.

221. Interview with Ghanim al-Najjar, Professor of Pol. Sci., Kuwait Univ., in Kuwait City, Kuwait (Apr. 18, 2016).

222. Mahmoud Harbi, Jasim al-Qatami: al-'ruba wa dimaqrāṭiya wa Huqūq al-Insān [Jasim Al-Qatami: Pan-Arabism, Democracy, and Human Rights] 27 (2012).

223. Interview with Maha Albargas, Vice President, AOHR, in Kuwait City, Kuwait (Apr. 19, 2016).

224. MARY ANN TÉTREAU, *STORIES OF DEMOCRACY: POLITICS AND SOCIETY IN CONTEMPORARY KUWAIT* 59-75 (2000).



banned political parties, and limited freedom of the press.<sup>225</sup> Kuwait's economy revolved around oil revenue that funded education, guaranteed employment, and subsidized social services.<sup>226</sup> These entitlements engendered bonds of loyalty between many Kuwaitis and the State.<sup>227</sup> The State further solidified these bonds by supporting quasi-independent organizations that facilitated social ties and civic engagement, including women's organizations and professional societies.<sup>228</sup>

This relatively harmonious relationship between State and society was shaken in the late 1980s by the war between Iran and Iraq and the oil price crash of 1986. The war heightened domestic upheaval resulting in a restive parliament, heightened pro-democracy activism, and increased government repression.<sup>229</sup> The drop in oil prices created economic pressure on the State,<sup>230</sup> which began restricting financial entitlements to Kuwaiti citizens.<sup>231</sup> This excluded large segments of the population, including foreign workers and stateless residents. Women also did not have full rights of citizenship; they could not vote, run for elected office, or pass citizenship to their children.<sup>232</sup> Established women's organizations stepped in to advocate for the rights of women and their children.<sup>233</sup> They primarily relied on the Kuwaiti constitution, though they often partnered with human rights NGOs on issues of mutual concern.<sup>234</sup>

Other groups who found themselves shut out of government programs could not, however, use the constitution as a legal basis for their claims. Foreign workers with few legal protections made up a significant element of the labor force. Kuwait's stateless residents, known as Bedoon, were particularly vulnerable. Bedoon, which means "without" in Arabic, refers to the children of Kuwaiti mothers and non-citizen fathers and to communities who historically lived within the boundaries of Kuwait but had never registered for citizenship. As non-citizens,

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225. Neil Hicks & Ghanim al-Najjar, *The Utility of Tradition: Civil Society in Kuwait*, in *Civil Society in the Middle East 190-91* (1995).

226. *Id.* at 70.

227. JILL CRYSTAL, KUWAIT: THE TRANSFORMATION OF AN OIL STATE 70-71 (1992).

228. Hicks & al-Najjar, *supra* note 225, at 187; Interview with Lulwa al-Mullah, Chair of the Bd., Women's Cultural and Soc. Soc'y, in Kuwait City, Kuwait (Feb. 23, 2016).

229. Ghanim Alnajjar, *Human Rights in a Crisis Situation: The Case of Kuwait after Occupation*, 23 *Hum. Rts. Q.* 188, 192-95 (2001).

230. John Kifner, *An Oil Glut and a War Close in on Kuwait's Utopia*, *N.Y. Times*, Apr. 23, 1986.

231. Mary Ann Tétreault & Haya al-Mughni, *Gender, Citizenship and Nationalism in Kuwait*, 22 *British J. of Middle Eastern Stud.* 64, 68-71 (1995).

232. Margot Badran, *Gender, Islam, and the State: Kuwaiti Women in Struggle, Pre-Invasion to Postliberation*, in *Islam, Gender, and Social Change 190-208* (Yvonne Yazbeck Haddad and John Esposito, eds. 1998); Tétreault & al-Mughni, *supra* note 231, at 74.

233. Haya al-Mughni, *Women's Movements and the Autonomy of Civil Society in Kuwait*, in *Conscious Acts and the Politics of Social Change 173-76* (Robin L. Teske and Mary Ann Tétreault, eds. 2000).

234. Interview with Lulwa Al-Qatami, Founder, Women Cultural and Social Society, in Kuwait City, Kuwait (Feb. 24, 2016).

Bedoon had few rights under Kuwaiti domestic law. Until the mid 1980s, Bedoon could access education and employment benefits, but beginning in the late 1980s, the State excluded Bedoon from many subsidies and treated them more like foreign workers.<sup>235</sup>

International law became particularly valuable to Kuwaitis who opposed the exclusion of Bedoon and others because it leveled the playing field for citizens and non-citizens alike. Human rights law could elevate the plight of non-citizens who were excluded from State entitlements and the patronage networks that animated Kuwaiti society. Limited human rights activism began in the 1980s through the work of Ghanim al-Najjar, a political scientist at Kuwait University. Al-Najjar joined Amnesty International as a student in London and then founded a branch in Kuwait.<sup>236</sup> However, the local branch did not survive long after al-Najjar stepped away from a leadership role after the Iraqi invasion.

Around the same time, the Kuwait Society for Human Rights began limited activities under the umbrella of AOHR. KSHR held general meetings and promoted publications of AOHR.<sup>237</sup> It was largely decentralized, comprised of individuals with a shared political persuasion,<sup>238</sup> and did not form a large social base. KSHR focused on creating an intellectual space for like-minded elites to develop ideas and push for political change, though often on behalf of less elite populations. In the early 1990s, the Iraqi invasion and its aftermath spurred rapid development in the human rights field.

##### 5. *Impact of the Iraqi invasion*

The Iraqi occupation revitalized Kuwaiti human rights activists, who invoked international law to advocate for disfavored groups, non-citizens, and Kuwaitis detained in Iraq. Before the war, basic rights were more respected in Kuwait than in many other countries. Giving faint praise, Aruri noted in 1987: “Kuwait, by no means a citadel of enlightenment, is probably least bad.”<sup>239</sup> This may have contributed to the relative quiescence of the small Kuwaiti branch of AOHR before the war.<sup>240</sup>

During and after the war, however, the treatment of foreign workers, particularly Palestinians, deteriorated significantly.<sup>241</sup> Palestinians and Bedoon

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235. Amnesty International, *The ‘Withouts’ of Kuwait: Nationality for Stateless Bidun Now* (2013).

236. Interview with al-Najjar, *supra* note 221.

237. Al-Jam‘iyya al-‘Arabiyya lil-Huqūq al-Insān – Far‘ al-Kuwītīya [Arab Organization for Human Rights – Kuwait Branch] al-Taqrīr al-Sanawī ١٩٩٣ [Annual Report 1993] 6 (1993).

238. Interview with al-Najjar, *supra* note 221.

239. Aruri, *supra* note 199, at 11.

240. Al-Jam‘iyya al-‘Arabiyya lil-Huqūq al-Insān – Far‘ al-Kuwītīya [Arab Organization for Human Rights – Kuwait Branch] al-Taqrīr al-Sanawī ١٩٩٣ [Annual Report 1993] 6 (1993).

241. Human Rights Watch, *Nowhere to Go: The Tragedy of the Remaining Palestinian Families in Kuwait* (1991).

were accused of collaborating with Iraqi forces.<sup>242</sup> Many lost their jobs and their children were prohibited from going to government schools.<sup>243</sup> Some were killed, disappeared, tortured, or expelled.<sup>244</sup> Hundreds of thousands of Palestinians left Kuwait, where many of them had lived for decades.<sup>245</sup> The stateless Bedoon, of course, had nowhere to go. Human rights activists took up their cause, as well as the plight of Kuwaiti prisoners of war detained in Iraq. Al-Najjar, the founder of the Kuwaiti chapter of Amnesty International, started a new organization called the Kuwaiti Association to Defend War Victims, which worked closely with international organizations and journalists.<sup>246</sup> Advocates engaged the Kuwaiti government as well as private employers and the U.S. government to advocate for Kuwaiti prisoners of war as well as marginalized communities within Kuwait.<sup>247</sup>

Initially supportive of efforts to work for the release of Kuwaitis detained in Iraq, the State quickly soured on continued human rights activism. The new entities, as well as older ones like KSHR, were not officially registered. In August 1993, the State shut down all unlicensed organizations, cutting off the most dynamic organizations in the country.<sup>248</sup> KSHR was able to continue work through the Graduates Society, an NGO licensed in the 1960s that enjoyed State support.<sup>249</sup> Under its umbrella, KSHR escaped the most severe State repression.

A few months earlier, in December 1992, KSHR had taken the first steps to establish itself as a separate entity from AOHR, which would allow it to pursue official recognition.<sup>250</sup> The war and its aftermath prompted KSHR to re-organize as an independent organization and become more active domestically, regionally, and internationally. From its founding meeting as an organization separate from AOHR, KSHR called for addressing all human rights abuses against both Kuwaitis and foreigners.<sup>251</sup> Though KSHR's membership remained fairly small and primarily drew from politically connected Kuwaiti citizens, the organization

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242. William Gasperini, *Stateless Bedoons are Shut Out of Kuwait*, *Christian Sci. Monitor*, Aug. 20, 1991.

243. Human Rights Watch, *A Victory Turned Sour: Human Rights in Kuwait Since Liberation* 9 (1991).

244. *Id.*

245. Youssef M. Ibrahim, *Palestinians in Kuwait Face Suspicion and Probably Exile*, *N.Y. Times*, Mar. 14, 1991.

246. Al-Najjar, *supra* note 228, at 198.

247. *See, e.g.*, Ghanim Al-Najjar, *Speech to National Press Club*, Jan. 22, 1992, <https://perma.cc/8RGG-2NU4>.

248. Human Rights Watch, *Kuwait Closes All Human Rights Organizations* (1993).

249. Interview with Albargas, *supra* note 223.

250. Fadi Abdullah Burikan, "Al-jam 'iyya al-kuwītiya al-ḥaqūq al-ānsān tatanatkhāb hī'taha al-ta' sīsiyya" [The Kuwait Society for Human Rights Elected its founding body], *Al-Siyasa* (Kuwait), Dec. 26, 1992, University of Kuwait Library—Center for Kuwait and the Gulf (on file with the author).

251. "Al-jam 'iyya al-kuwītiya al-ḥaqūq al-ānsān ta'qid ājtimā' hā al-ta' sīsi wa tatanatkhāb jāsm al-qatami r'īsā" [The Kuwait Society for Human Rights held its founding meeting and elected Jassim Al-Qatami as the President], *Al Amal Magazine* (Kuwait), Mar. 31, 1993, University of Kuwait Library—Center for Kuwait and the Gulf (on file with the author).

focused on the rights of marginalized populations. Its early practices centered around publicizing the organization and the concepts of human rights. In contrast with the urgency of advocacy during the war, when the aggressors were Iraqi, its post-war activism focused more on changing public values about human rights. This led to a greater focus on education and awareness, though KSHR also engaged in limited direct advocacy.

#### 6. *Elite Activism*

KSHR stressed education and cultural change more than confrontation. The organization took advantage of its elite membership to try to integrate human rights awareness into political, social, and educational institutions. Members worked to establish a permanent human rights committee within parliament. Al-Qatami advocated for rights education in schools and universities.<sup>252</sup> The organization sponsored a two-week art exhibit in 1993 and began planning additional, educational cultural exhibits.<sup>253</sup> Several members published articles about human rights in Kuwaiti newspapers.<sup>254</sup>

Government relations were relatively collegial for KSHR because several members came from politically connected families or were members of parliament. The organization published Kuwaiti legislation and commentary related to human rights and advised legislators on controversial issues, including rights for Bedoon and naturalized Kuwaitis.<sup>255</sup> However, the real power in Kuwait lay with the ruling family, not parliament.<sup>256</sup> KSHR was still affected by State action against all unlicensed associations in August 1993. In addition to State pressure, KSHR faced low levels of awareness about human rights within the population and among government officials.

Though KSHR did not take on individual cases, members were able to use personal connections to resolve some human rights violations in an ad hoc manner. For instance, some government-run stores were treating employees differently based on their religion and KSHR leaders were able to intervene.<sup>257</sup> But litigation and public shaming were not significant tactics of the organization, which relied more on persuasion and individual networks. The organization was not structured as a small technocratic group of legal professionals, like Al Haq. With 187 members in 1993, it was not a mass political movement like AMDH

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252. Faril Al-Ataar. "Ahzābnā tanadī bi al-dīmaqrāṭīya . . . wa tuṭabīq al-diktātūrīya" [Our Parties Call for Democracy . . . and apply Dictatorship], *Al-Qabas* (Kuwait) Feb. 16, 1994 (on file with the author).

253. KSHR, Annual Report, *supra* note 240, at 10, 12 (1993).

254. *See id.* at 11.

255. *Id.* at 10.

256. Hicks & al-Najjar, *supra* note 225, at 186.

257. KSHR, Annual Report, *supra* note 240, at 11.

either.<sup>258</sup> Instead, KSHR functioned more as a group of elites working to change perceptions and practices among other elites.

KSHR was quite active regionally and internationally. It participated in regional trainings and networking opportunities. In 1993 KSHR sent a delegate to a training on human rights education and democracy in Tunisia organized by the Arab Institute for Human Rights. Afterwards the organization presented a report to the Minister of Education and a KSHR member on the faculty at Kuwait University proposed a new course on human rights.<sup>259</sup> KSHR also sent delegates to conferences in Cairo and Beirut. The 1993 World Conference in Vienna was a significant opportunity for KSHR to make an impression internationally.<sup>260</sup> In its written submission, which was distributed to all attendees, al-Qatami asserted that the “decision to liberate Kuwait [from Iraqi occupation] is a clear example of the world community’s refusal of acceptance or tolerance of any violations on human rights.”<sup>261</sup> It was hardly a consensus position that the American-led coalition of military forces invaded Kuwait on a humanitarian mission, but Al-Qatami cleverly positioned Kuwait as the lynchpin in the global commitment to human rights. Invoking the “new world order” of the post-Cold War era, he made the case that political rights in Kuwait, and the release of Kuwaiti POWs, were issues of global concern.

AOHR and its Kuwaiti branch illustrate yet another vision for the future of the Arab world grounded in human rights. Other Arab human rights organizations participated in regional networks but regionalism was a core element of AOHR’s political vision. Through fairly elite activities—conferences, reports, exhibits, and behind the scenes advocacy—AOHR and KSHR put a greater emphasis on cultural and intellectual change. KSHR, in particular, demonstrated the relevance of human rights even in a political context that valued acquiescence and conformity. The non-partisan framework of human rights was valuable in a context like Kuwait, where political parties were banned and citizenship was limited. International law provided a way for those denied full citizenship rights to claim them under a different legal scheme. But perhaps most significantly, human rights provided a vehicle for regional integration at a social and cultural level while promoting protections for members of the political opposition.

### III.

#### IMPLICATIONS

It is tempting to return to the image of Raja Shehadeh on the plane to Geneva, nervously carrying a draft of the manuscript that would become Al Haq’s

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258. *Id.* at 98-102.

259. *Id.* at 9.

260. *Al-qaṭāmī yughādir alā fīyinā* [*Al-Qatami leaves for Vienna*], *Al Qabas* (Kuwait), (June 12, 1993) (on file with author).

261. Position of Kuwait Society for Human Rights: Agenda for World Conference, Annual Report 73 (1993) (on file with author).

first publication, and see a momentous rupture—the beginning of something entirely new. Al Haq’s form of activism, echoed across the region, was novel yet still based in the universal claims of international law. Suggesting that human rights arose in the 1970s out of nowhere, as Moyn does, ignores the ties between the growth of NGOs and the specific content of international treaties.<sup>262</sup> The continuity between post-war agreements and late 20th century organizing suggests that the trajectory of human rights—as ideas, practices, and laws—have multiple points of rupture and continuity rather than a single origin.

The histories of Arab organizations illuminate the timeline of human rights internationally by shifting the focus away from ideological change within Europe as the only explanation for the growth of rights NGOs. Regional context is crucial. Arab rights activism blossomed in the late 1970s and 1980s, not only because of the decline of international Socialism, but also because of the relevance of international law to national and regional crises after the 1967 war. The success of national independence movements meant that human rights activism became a tool of individuals against their own governments, rather than foreign powers. International law united political opposition against State violence.

The embrace of human rights by members of the domestic opposition complicates characterizations of international law as foreign or Western. Regimes often accused human rights activists of being Western agents and tried to discredit international law as an imposition on domestic sovereignty, but doing so required denying the ideological commitments of the activists themselves. Even critical analysts of Arab rights activists acknowledge that these commitments were real.<sup>263</sup>

The work of Arab NGOs demonstrates that universality is not determined solely in a moment or a document. The treaty drafting process was significant, and clarifying the role of less powerful States is a valuable contribution to our understanding of the provenance of the UDHR and subsequent treaties. But it is not the final answer on whether the documents, and the subsequent organizing they engendered, are universal. The diversity of ideologies and practices found among this small group of NGOs— and a larger selection would show even more variety—suggests that the human rights framework is broad enough to support vastly different political visions. Perhaps ironically, it is precisely this diversity that indicates that universality can be seen over time; it does not rest exclusively on the text of a treaty or the context of its drafting. Instead, evidence for universality can be found progressively.

This is not to say that human rights were universally accepted. Clearly, they were not. The endorsement of human rights by a moderate number of activists in the Arab world does not demonstrate universal embrace of international law in the region. But it does show that arguments about the

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262. Moyn, *supra* note 6.

263. See LORI ALLEN, *A HISTORY OF FALSE HOPE: INVESTIGATIVE COMMISSIONS IN PALESTINE* 15 (2019) (“[T]here is evidence of Palestinians engaging in canny readings of the performative demands of the powerful. But we also see them enacting their liberal-legal mode of being through professional and moral discourse that they believed to be not just effective, but the correct way of going about things.”)

fundamental incompatibility between human rights and Islam, or human rights and Arab cultures, have a formidable challenge to address: the tens of thousands of Arabs (Muslim, Christian, and secular) who not only embraced human rights but paid dues and volunteered with organizations explicitly dedicated to international law. Even the smaller organizations without mass membership, like KSHR, showed the relevance of human rights through research, education, and public engagement. The work of these NGOs makes an important contribution to the understanding of the nature of human rights.

Finally, it has become increasingly vogue to focus on the ‘failure’ of the human rights movement.<sup>264</sup> Why should we care so much about human rights law when it has objectively failed to dramatically change the power dynamics of the Arab region or mitigate human suffering? Morocco is an outlier in that State violence has markedly declined since the period considered in this Article in response to a domestic and international rights advocacy campaign. But elsewhere, the situation remains grim. Palestine is still occupied, the Kuwaiti Bedoon still lack citizenship, and Egyptians still suffer arbitrary detention and torture.

The language around the failure of human rights, however, misunderstands human rights to be a single, complete framework for social change. This is not how Arab NGOs operationalized human rights. Arab activists saw human rights as one avenue to affect state and society even as they continued to call for political and economic reform through other channels— political, civic, and religious. Human rights activism was part of broader political agendas. Rights work was often seen as a step to securing political protections like freedom of expression that would create conditions for more expansive social change. Activists were aware of both the promise and the limitations of rights work. Al Haq’s founders, for example, were idealistic but also pragmatic and at times deeply skeptical of their own work. As Raja Shehadeh was devoting his nights to writing Al Haq’s first report he opined, “[b]ut these documents we are collecting are on the state of law, and it seems too late to speak of law now. They are just words, and it all seems too late.”<sup>265</sup> Shamas, who harbored concerns about the ability of human rights to convince powerful actors to change their behavior, nevertheless noted that “it was not just a question of the value of human rights. It was a question of its relevance—its relevance to solving problems.”<sup>266</sup> These activists—not just in Palestine but in Morocco, Egypt, Kuwait, and beyond, demonstrate that human rights were relevant and even integral to multiple visions for the future of the Arab world.

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264. See Moyn, *supra* note 6; Hopgood, *supra* note 9; Eric Posner, *The Twilight of Human Rights Law* (2014).

265. Shehadeh, Samed, *supra* note 127, at 50.

266. Interview with Shamas, *supra* note 66.

