



Arab Reform Initiative

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# The Formal Birth of the Human Rights Movement in Egypt

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Human rights defenders accused of working for unlicensed NGOs and receiving illegal foreign funds, stand in a cage during the opening of their trial in Cairo, Egypt, February 2012 © Mohamed Omar / EPA



## The Birth of the EOHR

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

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



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

### A Brief History of the EOHR

According to founding members the real start of Egypt's human rights "movement" should be linked to the EOHR's separation from the AOHR and its move into a new independent premise in 1989. This move coincided with the change in leadership from Secretary General Sherif Hatata to new Secretary General Bahey el Din Hassan, considered by many as the leading figure of the EOHR. The move was not only in terms of office space and leadership, but it was also a qualitative and substantive leap regarding the work the organization produced. The type of work the EOHR had been engaged in changed from receiving complaints and simply forwarding them to the concerned ministerial entities to taking active positions, issuing statements and holding press conferences as well as observing trials.<sup>4</sup> In other words, the EOHR evolved into what is classified today by many as a general, professional proactive human rights organization. Therefore, whereas older generations such as Mohamed Fayek and Saad el Din Ibrahim were the actual founders of the organization, the so called "movement" started with the involvement of younger and less state-connected activists such as Bahey el Din Hassan, Hani Shukrallah, Hala Shukrallah, Hisham Mubarak, Aida Seif Al Dawla, Nabil el Hilaly, Nigad al Borai, Mohamed el Sayed Saiid and many others. These were young politically active individuals, who came from student movements of the 70s or underground Marxist organizations or the Labour Communist Party. Some also came from a nationalist Nasserist background. The older generation had a diametrically opposed background as



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Fayek was a former minister under Nasser and a former intelligence officer in the 1950s while Ibrahim was very close to former president Sadat and his family.

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

## 1989

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

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

As left-wing movements were declining in Egypt and abroad, combined with the rise of Islamism in Egypt, it was natural for founders of the EOHR to divert into the human rights path. According to some founders, it was not a substitute path, but there was rather something authentic in redefining and revisiting certain leftist notions. Some argue that there was a genuine belief in the necessity of a human rights movement as it was unfolding all over the world. This view challenges the idea that the EOHR was actually being used as a platform for political activity. It seems that many of the interviewed EOHR founders agree that despite the fact that many of them came from politically active backgrounds, the EOHR was not a



place they sought to continue engaging in politics. Instead it was an “authentic and genuine” human rights awakening.<sup>7</sup> Accordingly, the kern of all upcoming disagreements among EOHR founders and members was not caused by ideological differences between for example Marxists and Nasserites or leftists and Islamists. Rather, it seems that conceptual and even sometimes personal disagreements, were behind the eventual fragmentation of the EOHR membership.<sup>8</sup>

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

## 1991

The General Assembly in 1991 witnessed the first waves of disagreement over the issue of foreign funding – a highly controversial issue to date. As the confrontation between Islamists and the State continued to unfold, increase and intensify, violations against Islamists in detention or outside became increasingly systemized and the organization continued to grow in its work and legal representation, which meant it required more funding to sustain itself. Those who objected to foreign funding in principle argued that the West is economically stronger and donors would have agendas behind funding Egyptian NGOs, which would create a relationship of dependency.<sup>10</sup> Even a few years following the fragmentation of the EOHR Shukrallah expressed that “the impact of [...] foreign aid [...] has been quite negative.” In his view, funding comes with “strings attached.” He gave the example of the focus on civil and political rights, as a typical replication of Western NGOs’ priorities that without foreign funding would not have been necessarily the direction of a local human rights movement in Egypt.<sup>11</sup> While Shukrallah was suspicious of foreign funding he did understand the pragmatic need for it and was of the opinion therefore to resort to foreign funding, but only under very stringent terms and conditions. Indeed, he wrote down conditions including that the organization would not accept funding from



American entities, it would not accept funding from governments generally and the funding had to remain extremely minimal to guarantee only the survival of the organization while maintaining volunteerism as its nature as a membership organization.<sup>12</sup> The concept of foreign funding was opposed more dramatically by Nasserites and after the General Assembly when it was voted that the EOHR would resort to foreign funding (even though with stringent conditions) Nasserites like Helmy Shaarawi and Nader Farjani resigned from the organization over the issue.

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

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

## 1993

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



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mass mobilization on a bigger scale. The debate on the new form of the EOHR sheds some light on the other three challenges as well, as they are all interlinked.

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

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

The second and most popular of the visions was maintaining a "closed organization."<sup>19</sup> This option, according to Shukrallah, had the most support, including that of people such as Mohamed El Sayed Said and Bahey el-Din Hassan, who both a year later would found the Cairo Institute for Human Rights Studies



(CIHRS) under this prototype. Under this scenario, the EOHR's members and board would consist of human rights practitioners mainly concerned with the human rights situation in Egypt, making sure the organization remains completely independent from Egypt's political scene. The organization's main reference would be international human rights law and its instruments.<sup>20</sup> According to supporters of this option, this would be the one way to maintain the organization's objectivity and independence and hence its credibility as well.<sup>21</sup> The closed organization scenario would effectively mean limiting and controlling new membership and avoiding turning the organization into a platform for political factions to pursue political power at the expense of a newly born human rights discourse. Bahey el Din Hassan, who took the lead in defending this option, also argued that keeping the organization "closed" would save the EOHR from "the challenge [Islamists] pose to human rights organizations."<sup>22</sup>

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

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

When asked about this scenario in 2016, a few of the members who were



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supportive of it explain that they aimed at building a human rights “movement” more than an organization and that the professional aspect of it should stay at a bare minimum, so it doesn’t turn into a bureaucratized institution with self-interest in reproducing itself.<sup>25</sup>

They wanted to create a current.<sup>26</sup> Some of them admit in retrospect that given the conditions of the 1990s the “closed organization” scenario might have been the only practical and realistic path to walk.<sup>27</sup>

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

All these challenges were debated extensively in the special meeting of the EOHR in August 1993. From then on, one camp led by Shukrallah, was campaigning and supporting the mass mobilization concept, whereas those with a Nasserist background in addition to others supported limiting the organization’s expansion and changing its structure to a closed organization. At its Fifth General Assembly in January 1994 the Nasserist faction became a majority on the executive board, alienating many founders and leadership members that came from other camps. This General Assembly is perceived by many founding members as a black spot in the history of the EOHR. As the arguments sharpened between the two camps, what happened exceeded difference in opinions. One member in coordination with the main supporters of the “closed organization” scenario manipulated and arguably forged memberships in retrospect for people from his hometown to come and vote at this specific General Assembly, in order to exclude supporters of the opposing team. From this member’s point of view, it was a matter of survival, these were tactics to win and elections are campaigned for this way.<sup>29</sup> To him it was a war and it was important to be the last one standing. From the other perspective, this incident and the General Assembly as a whole is perceived as a



shameful black spot in the history of the EOHR, in which elections were manipulated and forged in a human rights organization.<sup>30</sup> Some of them expressed that they were shocked as to the degree of politics and tactics involved to reach the desired outcome. One disappointed member recalls that “yes, the disagreements were many, but at the end of the day they were conceptual and philosophical disagreements. I never expected that for the sake of winning such people could reach that low level and turn things into personal attacks.”<sup>31</sup> Another member considers what happened on that day a “crime” and holds one particular individual responsible for that General Assembly.

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

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

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

## The Litigation wave

In 1994 Hisham Mubarak, a young and active leftist human rights lawyer, left his position at the EOHR and founded the Centre for Human Rights and Legal Aid



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(CHRLA), the first and “most aggressive” human rights organization to use litigation as its main strategy in fighting human rights violations in Egypt. Its main mission was to provide free legal aid to victims of human rights abuses, and use the abundant number of cases it litigated for the purpose of advocacy through publicizing the human rights situation in Egypt. In terms of funding, the CHRLA relied solely on foreign funding, which allowed for its growth and ability to open two more branches in Alexandria and Aswan.<sup>32</sup>

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

Crucial to the choice of litigation as a strategy to combat human rights violation was the faith in a relatively independent judiciary in Egypt – a factor that has arguably deteriorated significantly post the 2011 revolution. According to former director of the CHRLA and current executive director of the Egyptian Initiative for Personal Rights Gasser Abdel Razeq, “in Egypt, where you have a relatively independent judiciary, the only way to promote reform is to have legal battles all the time. It’s the only way that we can act as a force for change.” According to Moustafa, by 1997, litigating human rights cases and challenging government legislation relating to rights had “unquestionably become the dominant strategy for human rights defenders because of the difficulty of creating a broad social movement under the restrictive Egyptian regime.”<sup>34</sup>

The reliance on litigation and promoting an independent judiciary led in 1997 to the foundation of the Arab Center for the Independence of the Judiciary and the



Legal Profession (ACIJLP), with former legal director of the EOHR, Nasser Amin as its director. The ACIJLP, even though not directly involved in litigation, complemented the newly formed network of human rights organizations that adopted litigation as its main strategy. The ACIJLP built ties with international human rights organization and adopted a strategy of international advocacy to put pressure on the Egyptian government and judiciary to minimize harassment of lawyers and guarantee the professionalism of the judicial system.

## Institutionalizing Advocacy and Documentation

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

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



and systemic among the most vulnerable and the poor. Upon this experience the work of Al Nadeem grew into including human rights advocacy as opposed to being strictly a clinic.<sup>37</sup>

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

## A New Generation of NGOs, A Continued State Onslaught

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

As early as in 1986, the Egyptian government refused to acknowledge the EOHR and ignored its request to register as an NGO.

Ironically, despite the peak of using litigation as their primary strategy for challenging the regime, NGOs were left without a solid legal status due to the restrictions of Law 32/1964, intact since the Nasser era.<sup>41</sup> The law prohibited civil society organizations from working on “religious or political issues” and established a government-appointed monitoring body to review NGOs finances and activities, with the apparent function of restricting foreign funding.<sup>42</sup>

The regime's discomfort with human rights organizations increased dramatically



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

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

## A New Generation and a New Restrictive Law



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

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

EIPR's establishment came partially as a reaction to the former incident, but also due to a need to introduce young and passionate blood to the field. By 2002, directors of the first wave of human rights organizations were still in their same posts and recruited from the same communities since the early nineties. Working in the field in a local organization meant for young practitioners that commitment to the work came from a personal interest and it came with a minimal salary and a



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sense of sacrifice. EIPR, since its first day, aimed at attracting a caliber of young professionals that would usually aim to work in international organizations or the UN, for the lack of potential local organizations had to offer in the early 2000s. The idea was that local human rights organizations should be able to offer a career to young aspiring human rights professionals instead of having them go to an international organization based abroad and still work on Egypt from London or New York.<sup>50</sup> Furthermore, EIPR was not only a new model in terms of the caliber it attracted, but also in terms of the subjects it chose to work on. It chose to work on “forgotten or avoided rights” and initially started leading the battle of sexual and religious minority rights.

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

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

Similarly, the Association of Freedom of Thought and Expression (AFTE) was established in 2006, initially for the purpose of defending students’ rights, and fighting for academic freedom, on digital platforms, and in artistic production. Just as EIPR chose to work on under-represented rights, AFTE chose to work with an under-represented segment of society – the youth. According to its founder, it was shameful that over a period of 20 years, since the first wave of human rights NGOs, no NGO decided to focus its work on defending Egypt’s politically active



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students, who represent Egypt's future and were being continuously oppressed and interrogated by the State's security apparatus on campus. The organization was established and led by Emad Mubarak, who experienced such oppression as a student and believed academic freedom, freedom of expression and student activism needed a dedicated institution, which can monitor, represent and advocate for those issues. Ten years later, AFTE has become the most prominent organization working on the issues; its founder has resigned and sits on its board.

Nazra for Feminist Studies was established by Mozn Hassan in 2007 aiming to change the discourse on women's rights in Egypt. The organization adopted a research-based approach to women's rights and engaged in advocacy encouraging women's political participation. It also created a programme solely dedicated to the protection of women human rights defenders.

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

In 2008, when the famous Mahalla labour strike took place, the Front to Defend Egyptian Protesters (FDEP) was established as an informal group of activists and national NGOs employees to defend citizens' rights to freedom of assembly and provide them with legal aid.<sup>54</sup> However, one of its founders explained that the Front was gradually forming even before 2008, as lawyers were volunteering to represent political detainees from small protests or Kefaya between 2005 and 2008. The FDEP is an exceptionally interesting model, which has grown and been replicated following the 2011 revolution. The Front, whose members are 34 NGOs and at least 55 lawyers, provides free legal aid to detained protestors and disseminates information on the status of protestors especially when they are arrested or referred to trial across the country. The Front's meetings were hosted in Hisham Mubarak and NGOs that were members included AFTE, Al Nadim, Hisham Mubarak and many more. It has a loose structure with a rotating coordinator position to manage the division of legal representation across the country and between volunteering lawyers. According to one of the founders, the reason behind the continuity of the Front, as opposed to other models, was the



fact that it did not seek to become politicized. It does not issue statements or take positions on any matters. They simply provide legal representation as lawyers.<sup>55</sup> In addition, the sustainability of the Front can be arguably linked to the fact that all its individual members are either human rights lawyers in NGOs or corporate lawyers and hence their livelihoods do not depend on the Front.

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

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

The way in which the Ministry of Solidarity and Social Affairs dealt with registering NGOs and the way it applied the law is also indicative of the mentality behind the legislation. It most certainly was used as a tool to control as opposed to regulate NGOs.

In 2003 EIPR decided to register under Law 84/2002. One reason was its recent establishment and rather unknown name, which meant it did not enjoy the leverage and recognition that Al Nadeem or Hisham Mubarak enjoyed and hence it wouldn't cause a public opinion issue if it were shut down. Secondly, EIPR's health



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programme required a lot of interaction with government bodies, which would be difficult without the NGO's papers.<sup>59</sup>

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

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

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



### Post 2011, One Step Forward, Two Steps Backward?

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

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

Having issued the ultimatum, the government simultaneously drafted another more restrictive NGO law. Twenty-nine independent NGOs dismissed the proposed



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

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



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

Similarly, another director of an active NGO established in 2013 also views the government crackdown on NGOs as independent from the issue of foreign funding. However, his approach towards dealing with the legal limbo in which NGOs find themselves is to create a parallel system, in which the headquarters are registered as a company but in reality, the NGO is the first trying to implement the open membership scenario, which was last suggested by Hani Shukrallah and his camp in the earlier days of the EOHR. Since then, it seems this is the first serious trial to revive that model. The NGO follows a model of decentralization, started in different governorates simultaneously. The programmes of each governorate differ based on the immediate needs and violations specific to that geographical location. Each governorate office raises its own funds and has its own membership and own elections. When asked whether this model is actually applied on the ground, the NGO director explained that they are still trying to figure out a way to be able to apply the membership model without being registered as an NGO and that so far, some aspects are fulfilled, such as the decentralization and the difference in programmes priorities, while other aspects of the model such as membership fees and elections remain unfulfilled given the difficulties with implementation in the absence of a formal legal structure that allows this.

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

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



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

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

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

## What Do We Need to Study Further?

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



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

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

The paper tackles these issues comprehensively and compares different models of organizations that approached these issues in innovative ways. However, over the different generations of human rights practice in Egypt, it seems that the



independent organizations' existence in legal limbo has put their internal governance and accountability questions as a second priority. In addition, being in a legally grey position, accountability and internal governance become voluntary acts that some NGOs adopt because they believe in their benefits and necessity, as opposed to being required by law. In addition to the organizations' legal position, the author argues that the most recent crackdown since 2013 "hindered a possible and expected revisit to the questions of internal governance that organizations had to grapple with as they expand and grew."<sup>69</sup> Therefore, while the possibility to grow brought with it needed governance and accountability reforms, having to shrink under a crackdown has also placed governance and accountability issues as lesser priorities.

Thirdly, there is a need to unpack and analyze the relationships between human rights organizations and other civil society actors such as political parties, trade unions, religious institutions, student unions and even other NGOs focusing more on development and aid activities. In coordination with this research and with a special focus on economic and social rights, Adly in his paper "the Human Rights Movement and Contentious Politics in Egypt (2004-2014)" explores an example of such relationships. He examines the interaction between what he calls the Economic and Social Rights Movement (ESRM), which are predominantly human rights professionals and NGOs concerned with economic and social rights and use a rights discourse, and the wider contentious movement, comprising mainly of collective contentious actions against a neo-liberal government in Egypt since 2004. Adly examines the interaction and (attempts at) collaboration between these two groups. Despite some successful examples, he concludes that the ESRM failed to "cultivate" organizational links with the broader contentious movement and hence failed in advancing "basic economic and social rights as public claims over state actions and distributional policies."<sup>70</sup> ) It basically failed to prepare the contentious movement against an authoritarian reversal that took place in 2013.

Similarly, the broader contentious movement, according to Adly, did not capitalize on the professionalization and institutionalization that unfolded within the ESRM, but rather continued to be characterized by what he describes as "localism and particularism" which weakened the chances of articulating a wholesome and nation-wide change of public policies as opposed to local and specific targets. The



author, through his examination, portrays the contentious movement as a leaderless body, which has a disconnected head, the ESRM, with the latter being unable to give signals or coordinate the rest of the body. Alternatively, he suggests that the role of an assisting hand, instead of a controlling head, has proven to be a more successful role for the ESRM in order to ensure the contentious movement the necessary autonomy and organic growth required for political organization and political change. It seems from Adly's study that the lack of a political class in Egypt burdens the ESRM with a much bigger role and responsibility it cannot and should not fulfill. While Adly's study has a special focus on contentious movements and its relationship with rights groups, other types of relationships between actors of Egypt's civil society should be subject to further research.

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

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

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



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

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

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



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