HUMAN RIGHTS IN THE MIDDLE EAST, PROGRESS AND MAIN CHALLENGES

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Abstract - For decades, "human rights in the Middle East" was a subject of scrutiny, debate, and mobilizations spearheaded from outside of the region. Most of the literature on human rights in Middle East has focused almost exclusively on women rights, the theoretical debate on the relations between Islam and human rights, and the Palestinian right for self-determination. Of course these are important concerns but they should not be the only ones. Economic, social, civil and political rights within the Middle East states are also important as the current wave of rebellions in the region demonstrates. As our main question in the paper, we are targeting the main challenges facing the human rights statue in the Middle East and we try to illustrate the achieved progress. In the paper, a context analysis is conducted, adopting an Area Studies Approach to identify the major features of a Middle Eastern context where human rights norms experience the region's realities.

Key words - Middle East. Human Rights. Islam. Women rights.

I. INTRODUCTION

For decades, "human rights in the Middle East" was a subject of scrutiny, debate, and mobilizations spearheaded from outside of the region. Western governments frequently took up the region's dire human rights conditions and funded a variety of human rights initiatives to promote them. Arab Human Development Report (AHDR) in 2004 stated that the functioning of human rights in the Middle Eastern States has been affected by the colonial expansion into the Middle East in the late 19th and 20th century. (UNDP.2004)

The report claims that although Arab-Islamic tradition does hold unique importance for ideas of human welfare, history has proven that "they were not sufficiently prevalent in society to foster a culture based on a political contract, and allow for the legitimacy of differences of opinion, dialogue and transfer of power." Issues of the validity of democracy in the region and human rights are at the very center of the challenges facing Middle Eastern society today.(Devitt.2010)

Most of the literature on human rights in Middle East has focused almost exclusively on women rights, the theoretical debate on the relations between Islam and human rights, and the Palestinian right for self-determination. Of course these are important concerns but they should not be the only ones. Economic, social, civil and political rights within the ME states are also important as the current wave of rebellions in the region demonstrates. (Human Right & human welfare. 2011).

The rise of Islamic terrorism and conflict in the region has led to huge amounts of human suffering and poverty whilst the right to freedom of association and free speech has been denied in many countries stifling the emergence of civil society.

Before beginning this discussion, a few caveats are in order. First, there is great diversity in the human rights dynamics and political contexts of the region's countries—even when considering only those in which protests or uprisings have materialized.

To understand the complex reality of human rights in the Middle East region, we should address it from different levels of analysis: domestic, state, sub-regional (such as Gulf, North Africa, Mashreq), regional, international (United Nations, EU, US, and China) and transnational (global civil society). The violation or protection of human rights in the region is influenced by the complex interaction of forces that operate at these different levels. Any strategy to promote human rights in any state or region should take this complex reality into account.

The main explanation that few pessimist orientalists are eager to offer, implicitly or explicitly, is establishing an essentialist and unbreakable link between human rights violations and something original, such as cultural, civilizational or religious infrastructure, in the Middle East. This orientalist view of the Middle East tends to ignore Western, international and a variety of other non-essentialist factors that are related to the real context of the question. This one-sided approach overlooks important elements that are vital in understanding the region and its complexities.

Furthermore, such treatment is, not only far from giving a chance to human right betterment in the Middle East, but it also risks worsening the situation. It tends to provide a pessimistic conclusion about the region as a 'hell of human rights' and, accordingly, recommends a strong, mostly violent policy towards the Middle East, which worsens, commonly, the

human rights situation in the region, for example in Iraq and Afghanistan.

For illustrating a general review on the issue, we should divide debate into two dimensions: challenges and progress. As our main question in the paper, we are targeting the main challenges facing the human rights statue in the Middle East and we try to illustrate the achieved progress.

In this paper, a context analysis is conducted, adopting an Area Studies Approach to identify the major features of a Middle Eastern context where human rights norms experience the region's realities.

II. MAIN CHALLENGES

There are some main challenges, which face the human rights situation in the Middle East. They could be highlighted like so:

- Capital punishment
- Freedom of religion
- Status of women
- Education
- Children's rights

2.1.Capital punishment

The death penalty has proven difficult to eradicate in the Middle East due largely to many countries' legal systems being based around religion, which is more "resistant to change than systems based solely on legislation".

In most countries in the Middle Eastern region, the legal system is largely based primarily on Shari'a. However, Israel's legal system has different sources.

In criminal law determined by Shari'a, some crimes classified as Hudud are punishable by death and are considered dangerous for Islamic society.

Their punishments are fixed in the holy Qu´ran and the Hadith (Narrations from Prophet or Imams). They include adultery, apostasy, armedrobbery and rebellio n. "Moreover, some other execution methods are envisaged in the holy texts, such as flogging, stoning and amputation. Of course, there are the strict regulations to use these methods.



Figure 1: The death penalty in the Middle East region (CALVIERI. 2012)

2.2. Freedom of religion and belief

Freedom of religion and belief and the right to worship as one chooses fulfill a deep and abiding human need. The search for this freedom led the Pilgrims to flee Europe for America's shores centuries ago. All states are committed to freedom of thought, conscience and belief in the Universal Declaration of Human Rights, which has been the touchstone and the global standard for the protection of human rights around the world since 1948. The right to religious freedom is inherent in every human being.(BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR. 2012)

2.3. Status of women

As the governments of the Middle East and North Africa (MENA) undertake the difficult process of enacting social and political change, the unequal status of women presents a particularly formidable challenge. In Iraq, deliberations over women's legal status have been as contentious as negotiations over how to structure the government. In Jordan, measures to increase penalties for so-called honor crimes faced strong resistance by ultraconservative parliamentarians and ordinary citizens who believe that tradition and religion afford them the right to severely punish and even murder female relatives for

behavior they deem immoral. These debates are not just legal and philosophical struggles among elites. They are emotionally charged political battles that touch upon fundamental notions of morality and social order.(Kelly.2010)

2.3.1. Women`s Employment

Women throughout the Middle East earn less than men although there are labor laws in place that dictate equal opportunities for promotion and training and equal pay for the same type of work. These labor laws are frequently violated in regards to not only salary but also benefits such as loans for senior officials or housing allowances. Women in most countries throughout the Middle East can file complaints of discrimination with government agencies but these are often ineffective due to their inability to effectively investigate discrimination cases or impose penalties for employers who violate the labor laws. The 2010 edition of Women's Rights in the Middle East and North Africa identifies a complex set of obstacles that prevent women from enjoying the full range of political, civil, economic, and legal rights. However, the study and the accompanying data also indicate that certain gains have been made in recent years, providing grounds for cautious optimism. Economic Opportunities Grow Despite Persistent Challenges. On average, only 28 percent of the adult female population in the Middle East is economically active, the lowest rate in the world. In nearly all Middle East countries, however, women today are better represented in the labor force and play a more prominent role in the workplace than was the case earlier this decade. In Qatar, for example, the proportion of adult women with jobs has increased from roughly 36 percent in 2000 to 42 percent in 2007. Similarly, the proportion of working women has grown by 6 percent in Algeria (to 38 percent) and nearly 4 percent in Libya (to 27 percent). Compared with male employment, these figures remain glaringly low; depending on the country, the share of adult men with jobs ranges from 60 to 90 percent. However, male employment has remained static and in some instances decreased since 2000.

The growing number of workers appears to be the result of increased literacy and educational opportunities, slowly changing cultural attitudes, and in some countries, government policies aimed at reducing dependence on foreign labor. Although society as a whole tends to view formal employment and business as male activities, parents and husbands alike are starting to rely more on the financial support provided by their daughters and wives. In Egypt and Bahrain, several women interviewed for this study said that their marriage prospects improve if they hold a solid job, as "young men nowadays look for a wife that can help with family expenses."

Employment also gives women a degree of financial independence from families and husbands, something they lacked in the past. Divorced or widowed women increasingly seek employment to support themselves, instead of relying on their extended families. (Kelly.2010)

2.4. Children's Rights

In total, 14 out of the 20 countries in Middle East and North Africa (MENA) were found to have a legal instrument majorly concerned with the rights of children. However, only seven clearly mention the right to social protection, as in Egypt and the State of Palestine (SOP). Here too, orphans are commonly mentioned as a particularly vulnerable group, which should receive social protection services. In Egypt, the 2008 amendments to the national child statute stands out for affirming children's right to social protection by envisaging the introduction of a cash transfer program targeted at orphans and vulnerable children. Out of 154 non-contributory social protection schemes mapped in MENA (including cash and in-kind transfers, cash-for-work, educational fee waivers, school feeding programs, housing benefits, health protection programs and food and energy subsidies), more than half (88) are anchored in a legal framework. Programs for which a legislation was enacted between the 1950s and 1970s are mainly energy, fuel and food subsidies. In the Gulf countries, laws regulating social assistance date back to the 1970s and 1980s. Since the 1990s the region has seen the introduction of more social transfer-related legislations, especially in Algeria, Tunisia and Yemen. A number of the region's major flagship social protection programs have been introduced since 2010, such as Iran's cash transfer program introduced by the Targeted Subsidies Reform Act, Shamel in Sudan and Takaful and Karama in Egypt. (Bilo.2018)

III. PROGRESS BY A GRADUAL MOVE

There are some not deniable progress.

The Cairo Declaration of Human Rights in Islam was adopted by 45 member states of the Organization of Islamic Cooperation (OIC) in August 1990. This declaration undermines many of the rights the UDHR guarantees allowing all the member states to abide by a set of human rights based on Shari'a law. The Arab Human Rights Committee was established in 2009 to oversee compliance with the Arab Charter on Human Rights, which entered into force in March 2017. As of the beginning of October 2009, ten Arab states ratified the Arab Charter on Human Rights. For example, Article 18 of the UDHR establishes that everyone has the "right to freedom of religion, freedom to change his religion and freedom to manifest his religion in teaching, practice, worship and observance". Article 10 of the CDHRI establishes that "It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism." (Cairo Declaration.1990)

- Several cross-regional programs and initiatives are supporting Human Rights today, including:
- The Arab Network for National Human Rights Institutions groups together 14 National Human Rights Institutions from across the Arab World: Algeria, Bahrain, Djibouti, Iraq, Jordan, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Soudan, and Tunisia.
- The Arab Institute for Human Rights is an independent Arab non-governmental organization based in Tunisia. It was founded in 1989 at the initiative of the Arab Organization for Human Rights, the Arab Lawyers Union, and the Tunisian League for Human Rights and with the support of the United Nations Centre for Human Rights.
- The Coalition of Arab Cities against Racism, Discrimination, Xenophobia and Intolerance was launched in 2008, in Casablanca, Morocco. It is part of the International Coalition of Inclusive and Sustainable Cities (ICCAR), an initiative launched by UNESCO in March 2004. These regional coalitions seek to establish a network of cities interested in sharing experiences in order to improve their policies to fight racism, discrimination, xenophobia and exclusion.
- The Arabic Network for Human Rights Information, an NGO based in Egypt that collects publications, campaigns, reports, and statements from almost 140 Arabic human rights organizations across the region and republishes them in a daily digest.
- The Arab Master's in Democracy and Human Rights was created in 2015 with the support of the European Union. It groups together several universities from across the Arab Region (Jordan, Lebanon, Palestine, Morocco, and Tunisia) in joint activities, including a specialized master's program with theoretical, practical and critical features.

Beside the legal frameworks, We feel a good progressive move among the intellectual atmospheres. Shadi Mokhtari has pointed out to them.

First, in the realm of women's rights, there is space opening to move beyond the cycle of sensationalist and decontextualized narratives of the passive, oppressed Middle Eastern woman emerging from the West, and contrasting constructions of religiously and culturally "authentic" gender codes deployed by local actors in response. Women's rights are still widely marginalized in the Middle East but there are prospects for important new inroads in the long run, particularly as women in the Middle East continue to assert their presence in the realm of domestic politics and link their struggle with wider rights struggles in their societies. Second, Islamist political leaders and religious figures are increasingly engaging and endorsing rights discourses. Even though this is often done in opaque and contradictory ways and some of the most critical "Islam and human rights" contests are those that lie ahead as Islamists gain political power, the disposition of embracing the idea of rights provides an important point of entry for these nascent contests on specific areas of rights concerns.

Third, a fascinating dimension of the way conceptions of human rights are being formulated in the Middle East now is the way civil and political rights and social and economic rights have been entwined and increasingly invoked as equally pressing "human rights". (Mokhtari.2012)

Popular protests and civil society have moved human rights to the fore of contemporary Middle Eastern politics. Many of the region's governments, despite their efforts to undermine human rights progress, have found that they have little choice but to follow along. (Mokhtari.2012)

There is now good reason to be optimistic about the long-term future of human rights in the Middle East.

Foremost among them is a trend towards popular and civil society attempts to challenge both the appropriation of the human rights paradigm and the conflation of the human rights idea with Western treatment of human rights.(Borhani. 2018)

CONCLUSION AND LOOKING AT THE ROOTS

For decades, the Middle East saw human rights co-opted, appropriated, and instrumentalized on the one hand, and entangled with antiimperialist discourses and cultural politics on the other. What is emerging in the region today is unprecedented public and civil society challenges to the former and a more complex treatment of the latter. It is important to keep in mind the political, economic and cultural diversity within the Middle East region. It contains: Arab and non-Arab states (Israel, Iran and Turkey); different regime types such as monarchical and republican regimes; different colonial legacies; oil and non-oil states; rich and poor states, small and large states, and Western and non-Western allies etc. It is also important to remember that there is no one single factor that accounts for human rights violations or promotion in the Middle East region but rather a combination of domestic, regional and international factors. Politically, great powers have never seriously pressured the ruling regimes for democratization and human rights protection even after the end of the Cold War and the collapse of the Communist threat. The United States and the European powers have pursued regional stability in Middle East through supporting regime security, overlooking democracy and human rights concerns. But the traditional "stability promotion policies" pursued by the authoritarian regimes and great powers are actually one of main roots of the current instability in the region. This is most evident through the rise of an indigenous voice at the fore of current human rights contests—a voice that simultaneously rejects

subjugation by the region's domestic authoritarian structures and by the foreign policies of powerful international actors.

The advent of gender equality and political freedom as topics of heated debate in the Middle East suggests that the role that international human rights norms are taking in the further development of states in the region is a very significant one. As suggested above attempts to reform such as democratization, the empowerment of women and the establishment of human rights institutions and legal frameworks do not occur overnight, but rather occur over a period of time.

From one side, the colonial era is a common chapter in the relations between Western powers and the other parts of the world, including the Middle East. It is commonly considered, especially in the third world, as a bitter chapter of human history, which generated a considerable amount of sorrow, suffering and hostility. The colonial expansion into the Middle East during the late 19th and 20th Century has left an undeniable mark on the functioning of state systems in the region today. (Devitt.2010)

Western countries, previous imperial powers, are the first countries to declare the commitment to improving the human rights situation in the world, and show that they are trying to comply with the relevant codes. Nearly all international human rights organizations and worldwide NGO's are based in Western countries.

After all, there is a common understanding in the world, including in Middle Eastern countries, that the idea of 'human rights' originates in 'the West', and that in their current form, human rights norms are a Western product.

One important aspect, which completes a circle of lethal deadlock for human rights improvement in the Middle East refers to a dominant Middle Eastern difficulty in trusting the West, which leads many peoples in the region to take an opposing position against almost anything Western including values, education and even sometimes science. Several factors help create an environment of pessimism and opposition towards the West in the region.

Many of traditionalist Muslim leaders and Islamists argue that human rights are a cover for Western domination of Middle Eastern states.

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