

**Human Rights and Humanitarian
Action in the Arab World**

Haytham Manna

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Child Rights in Arab Islamic Culture

Can a society that alleges respect for human dignity shut its eyes to child rights? Though Arab governments master the rhetoric of defending and protecting childhood, the reality of childhood in the Arab world is too cruel to beautify by speeches. How can we speak of the right to life while the infant mortality rate of Arab children is higher than in Bangladesh? How can we speak of education when there are more than ten million Arab children deprived of it (fifteen million according to some sources)? Can we ignore malnutrition in the Arab world, and overlook the twenty million handicapped children, only 25% of whom receive any care? Can we not be affected by the great discrepancy between Arab children in the countries of "black gold" and their siblings in the Arab shanty towns? How can we deal with the rights of children without touching on the absence of opportunities for food, medical care, and education, and on such adult crimes as familial and social domination, discrimination according to gender, and economic sanctions which affect children most of all and rarely affect the rulers?

This is not an attempt to escape from the living reality to the "cultural", but rather an endeavor to entrench the enlightenment cultural capital of people, which is one of the main tools for escaping such a swamp, with the belief that the solution will not come down from the sky nor the palace of the ruler. It is a matter that concerns all individuals in society. In this way the convergence of collective

consciousness constitutes one of the means of defending child rights.

Methodological Premises:

Enlightenment ideas remind us of the relation between beauty and the human subconscious: they cannot be enjoyed except by an admirer who can and wants to experience some sort of pleasure in tackling them. Therefore, these ideas cannot take their due status by arbitrariness or come about by violence. In the same vein, a prisoner of presuppositions cannot breathe the whiff of freedom within the intricacies of progress if he cannot reorder the cultural reservoir which brought about and entrenched these presuppositions. For twenty years I have believed in the necessity of the exploration of the "self", its riches and disgraces, as an indispensable passageway to self-liberation.

However the attempt to explore remains danger-ridden and surrounded by the fences of other forms of treating history and indigenous culture. The first of these dangers is the feeling of the superiority of the past over the present. The second is of opportunistic intellectuals on this feeling, under the pretext of defending the identity. The third is counter posing to the latter approach a nihilistic vision commanding that the whole lot should be-buried history.

Away from these approaches, the writer tries to compose a tetra-logy to link the private and the public; the past, the present and the future. This tetra-logy consists of:

- 1) Child in the Arab Islamic culture.
- 2) Human Rights in Arab Islamic culture.
- 3) Citizenship in the Arab Islamic history.
- 4) Rights and Freedoms in the *Nahda* Thought⁽¹⁾.

It is not an encyclopedic work; it only aspires to open windows onto new horizons. It is neither an attempt at a modern understanding of religion nor a human rights interpretation of our heritage. For I am not, by any means, a supporter of verifying a certain matter by establishing the presence of a certain quotation on it, whether by the Prophet Mohammed or "Uncle Marx".

Moreover, I have no desire to establish anything except that, like other histories, Arab history is a non-romantic process, and is the outcome of certain intellectual and social struggles which produced valuable as well as regretful results that form a necessary lesson and an indispensable cognitive accumulation, and constitute a part of our contemporary struggle. I also aspire to prove that the future needs to transcend the past in the way that international critical thought defines transcending philosophy, Le., not to negate it by the scratch of a pen.

In this tetra-logy, the term "Arab Islamic culture" covers the cultural cognitive, religious, and popular spheres. Thus, in the survey of history and the history of thought, the following coexist: al-Sa'alik (the Vagabonds) and the Hanifites, Ghillan al Demashky and the Murjeites, Ibn al Rawendy the atheist and al-Hallaj the Sufi, Abu Bakr al-Razi the philosopher and Abu Nowwas the profligate, Abu Haneifa the official jurrudent and the Kharidjites.

The methodological starting points are the following:

- 1) My sincer belief that human rights are universal in the full sense of word, as is the concept of progress that rose in the East which no single serious researcher can call Eastern. Although the term "human rights" is of Western origin, it is - like computers - no more restricted to the ones who

invented it. The question, in my opinion, is not how many Arabs witnessed the preparation or the signing of the Universal Declaration of Human Rights, but rather the answer to a simple and naive question: do these rights fulfill actual needs and requirements of our peoples, or does our society have a greater need to master the arts of amputating hands, legs, and necks in reverence of an old legal tradition?

2) Since 1980, when I started my early critical writings about our heritage, I have been examining the major struggles within this heritage between the supporters of reason and the supporters of imitation; between temporal knowledge and ancestral wisdom; between the supporters of the dominant and the obsolete and the pioneers of renovation.

The more we probe into some peoples culture, the more we discover the backgrounds of its perspective on the major humanist concepts such as equality, liberty, and tolerance, and the more we feel the importance of tracing, the roots of the tree of freedoms and rights in all human cultures, considering its contribution to the cultural formation of Francis Bacon and Jean-Jacques Rousseau, or - if it did not do that directly - its capacity to enrich and develop what they have produced. In respect to rights, as with the sciences, accumulation is the necessary condition for the generation of knowledge. And although al-Khawaresmy did not invent the computer, algebra had its indirect contribution to this invention.

3) Exploring the different aspects of history is not a problem, but one of the most important contemporary cultural problems is holding to the past as the master of the present, and the de reading of this Past, at the "me time that critical and inductive perspectives are wanting. Hence was

our insistence on rehabilitating the factors of the Eastern renaissance: innovation and reason as uncompromising adversaries of imitation and copying, the humanism of, the "Us"; denouncing the cancellation of the "Into the benefit of the social or doctrinal" "Us"; and the emphasis on the first lesson of the epoch of Western enlightenment: "treating history as an event, not a judge"⁽²⁾.

Thus this endeavor does not seek, or consider as one of its tasks, to search for support or authority for this or that article of the Universal Declaration of Human Rights or of the Bukhari collection of prophetic traditions. It aspires to delve into a cognitive jungle whose nectar has contributed to, the production of the cultural honey of humanity. For, in my opinion, the passive break with the past is a reaction to its hallowing which allows the supporters of sanctification of the past to monopolize the discussion of an essential component of the human personality: the civilizational factor and dimension, i.e., the giant moments in the cultures and experiences of peoples, and their role in inter-civilizational interaction, in contradistinction to that identity which comprises female circumcision, the despotism of Bani Uthman, and clannishness as basic factors of specificity.

The Pre-Islamic Arab Society:

People have noticed - for thousands of years according to our knowledge - that children need tranquility, protection, love and play. However, many old societies have laid over these considerations, or through them, some practices that annulled their content. For example, fear that a foe would en-girl-child has led some tribes to sacrifice their children to the gods or bury their girl-children alive to protect the group's honor. Also, we find among combatant groups some

traditions of dishonoring their enemies through their children and wives.

Although the parental instinctive impulse has always reflected a love which can reach an excessive level of possessiveness and protectiveness, human beings have known some tribal and religious ideologies which associated children with the group and its interests and beliefs even more than with this instinctive impulse.

There are many accessible texts about the status of children in the pre-Islamic Eastern, cultures in - Egypt, Iraq, Syria, Lebanon, and Palestine. However, this article will limit itself to the period which extends from immediately before Islam to the time of Arab/ Islam - de flourishing, considering that those four centuries still, to date, have their extensions in minds and traditions - and even in laws - in more than twenty Islamic countries.

The definition of a "child" in any culture is linked to the elements of duties and rights, whether directly or indirectly. In the Arabic language, we find that the definition of a "child" is related to the "tender and soft body and the little of anything" as stated in the *Lissan al-Arab* (The Arab's great dictionary) and the *Mohkam* (the Exact) dictionaries⁽³⁾. Abul Haytham, the linguist, gives a concrete definition: "The boy is called a child from the moment he is born until he ejaculates"⁽⁴⁾.

Guardianship was turned to the lineage of the father because traditions stipulate that the child is reared in the house of the father (or whoever takes his position if he is deceased: his son, father or brother) until the child can fully exercise the activities, duties and rights of the tribe and family⁽⁵⁾. In pre-Islamic times, Arabs founded orphanages for children whose fathers were lost, dead or

killed in war. Tribes' chiefs and notables supervised the upbringing of those children and supported them from a solidarity fund made up by donations from notables and the spoils of war, as was the case, for example, with the orphans of *Ghatfan*.

The Arabs concern with children could be shown, as Dr. Adel Gassem al Bayaty mentions,- by the fact that "when they reconciled and joined in alliance after a war, they' used to exchange rearing children as a symbol of goodwill and also as hostages to be used against anybody who would break the reconciliation and the alliance. This proves the depth of their affection towards children, for their alliances were not assured by money, or any other worldly goods, for in that case someone might have betrayed the terms of the alliance. Children, however, were the firm tie which bound them to the alliance and kept them away from treachery. Therefore, anyone who treacherously harmed his hostage children was severely punished - killed"⁽⁶⁾. The Arabs of *Dawmatil Jandal* used to sacrifice a child every year to the planet Venus, which was represented by a statue of a naked child. The idea of sacrificing animals was one of the first signs of discarding such practice. There are many stories similar to the story of Abraham and the sacrificing of his son Ismail, the latest of which is the story related to Al-Hutai'a and his sacrificing of a wild cow instead of his son.

In poetry, we can find splendid expressions of the affection towards children, as for examples the following verses by Hattan Ibn al-Mu'alla:

Our children are our hearts walking on earth

If the wind blows on them, my eyes would know no rest

Or the pride poem of Amr Ibn Kalthoum:

*When a boy of ours reaches ablactate
The mighty fall on their knees for him*

Like the boy-child, the girl-child enjoyed a high status in many tribes. Also, we can find rich poetic material dealing with the intimate relationship between fathers and daughters. Probably the best expression of such a powerful emotion can be found in the poetry of Malek Ibn al Raib. Once he was leaving for travel and his daughter stopped him, saying that she was afraid his travel would last too long or that death would separate them so he wept and said⁽⁷⁾:

*When my daughter wept from deep sorrow with a
grieved heart,
And from the pain of separation she shed her tears,
That almost wounded where they crossed,
Or left what they passed over scarred,
Fearing that her father might die,
Or that he would find new home elsewhere,
I told her: stop! Your, tears have cut into my heart.
Many a time daughters' tears have excruciated hearts.
Would God ward off what you fear until I return.*

Arabs allowed girls to dance as they allowed boys. It is related that al-Zobair Ibn Abdel Muttaleb used to let his daughter dance and say:

*My daughter is noble and highborn.
She would not deny the needy fire or tinder.*

There were also tribes and towns that surnamed the parents after either their daughters or sons, such as Yathreb where parents were surnamed after their first child regardless of sex.

Early Islam:

The Koran prohibited killing children for whatever reason, and stated: "And kill not your children for fear of poverty. We provide for them and for you. Surely, the killing of them is a great sin" (al-Isra-verse 31).

The Koran also censured the practice of burying girl-child alive by some tribes, stating: "And then the female infant buried alive shall be asked" (al Takweer, verses 8-9)".

Many sayings of Prophet Mohammad emphasize justice between children- boys and girls, elder and younger. For example the Prophet said: "Equate between your children in expenditure as you like them to equate between you in filial devotion and kindness". (Al-Tabari). Anas related that a man was in the presence of Mohammad and a son of his arrived, so the man kissed him and made him sit on his lap. Then a daughter of the man arrived and he made her sit in front of him. The Prophet told him: "Would you not equate between them?"⁽⁸⁾.

The Koran enhanced the notion of the equality of children regardless of sex or age, and thus it stated: "And when the news of the birth of a female child is brought to any of them, his face turns black and he becomes grieved. He hides away from the people because of the evil he was told. Should he keep her with disgrace or should he bury her in the earth. Indeed, wrongful is their judgment." (Al-Nahl, verses 58 - 59.) Linking the sex of the child to the will of God, the Koran states: "He bestows female children upon whom He wills, and bestows male children upon whom He wills." (Al-Shura, verse 49). The order in this verse has made some Muslims regard the birth of a female child before a male child as a good omen.

As al-Zobair used to dance and sing with Prophet Mohammed when a child, the Prophet himself used to play with children. Jaber Ibn Sumrah narrated that the Prophet once saw some boys racing and ran with them, and that he used to let boys ride with him on his camel and jest with them to make them happy⁽⁹⁾. Dr. al-Shatty cites the following prophetic saying: "He who has a child should act childishly with," explaining that this means that parents should "be humble, friendly and genial in word and in acts with their children. And the child means both the boy and the girl"⁽¹⁰⁾. It is also related that one of the governors under the, Caliph Omar Ibn al-Khattab visited him and found him, Lying on his back while his children played around him. The governor criticized Ibn al-Khattab for tolerating the children's play, The Caliph asked him: "How are you with your family?" The governor answered: "When I enter the house everyone be comes silence" The Caliph said: "You are deposed. You are not kind to your family and children, so how would you be kind to the nation of Mohammed!"⁽¹¹⁾.

The first thing to be noticed about the Prophetic sayings which reflected the spirit of that age and of the Koran is, that they stressed the humanness of the relationship between the child. and the adult, and prohibited any injustice that could be committed against the child in the name of the sacred or otherwise "Indeed lost are they who kill their children, from folly, without knowledge" (al-An'am, verse 140), for children according to the Koran are the "ornament of life."

On another level, Prophetic sayings vary, greatly as regards, the way of raising children. On one hand, there are sayings that grant the child a margin of independence and freedom, and on the other hand there are those that delineate the way of upbringing - step by step, and stage by stage -

commanding that the child should be obliged to practice the worship rituals, and favoring imitation to judgment and compulsion to choice, expressing the totalitarian ideology which took shape, gradually reaching its zenith in the epochs of degeneration.

We could find some very advanced remarks on children's education and how adults should treat them, as for example Ali Ibn Abi Taleb's words emphasizing the importance of time in child-rearing: "Do not rear your children on your customs, for they are created for different times than yours." And also what is narrated about Mu'awiyeh, Ibn Abi Sufian when he got angry at his son Yazid and sought the advice of al-Ahnaf Ibn Qais who answered him: "They are the souls of our hearts and the bone of our back. We should be to them like soft ground and shady sky. If they ask you something give them, and if they are angry appease them, for they give you their sincere affection and do love you to their utmost. You should not be heavy-handed with them, or they will become weary of your life and hope for your death".

Children's Pain and Divine Justice:

Surveying the status of the child leads us to discern the social and cultural differences between societies. In this regard it is noteworthy that the most important debates and struggles in die history of Arab Islamic society were over the issues of tormenting children and divine justice on one hand and the freedom of the child and the concept of responsibility on the other. Examining the historical intellectual struggles, we can notice the significant place occupied by the issue of children's pain and its purpose as understood by the different Islamic sects and trends.

Since the second century (AH), several opinions have

come to prominence in answer to the important question - if the child is not responsible, what is the divine purpose in making him suffer pain? The orthodox trends answered that God could torment children, and if he did it would be just, basing their answer on the Koran verse: "No calamity befalls on the earth or in yourselves but is written before We bring it into existence. Verily, that is easy for Allah." (al-Hadid, 22.) However, the Mu'tazelite rationalists denounced this notion. al-Nazzam argued that in essence God cannot commit evil and cannot do injustice to anybody, adding that "Allah cannot blind somebody who sees, or sicken a healthy person, if He knows that eyesight and health is better for them"⁽¹²⁾. While al-'Allaf argued that, "Allah is capable of doing both good and evil, but He does not do evil and does not want to because of its ugliness". And on another level, Bishr al-Mutammer said, that, "Allah created neither might nor weakness, neither death nor life, neither health nor sickness. Such indications are the doings of the bodies where they exist"⁽¹³⁾. Ibn Hazim answered al-Mutammer by saying, "Know that this profligate has excluded half the world from God's creation".

Abdullah Ibn Eissa expressed the opinion of many of the *Kharidjites* on children's pain by saying, "Lunatics, beasts, and children under the age of puberty do not feel pain from whatever afflicts them, for Allah does not do injustice to anybody"⁽¹⁴⁾. The holders of this opinion relied on the verse: "And they say that it is from Allah, but it is not from Allah" (Al-'Imran, 78). And, needless to say, the rationalist atheistic trend went into the battle, where Ibn al-Rawendy devoted his book "*al-Tadeel Wal Tajweer*" (Modification And Falsification) to discussing the sickness, pain and poverty that afflict those who are not responsible and the people of good deeds,

where, as al-Khayatt narrated, he wrote, "He who sickens his slaves is not wise in what he does to them, nor is he their guardian, nor merciful with them, and the same applies to he who impoverishes and afflicts his slaves".

The *Rafedites* (Shiites) were divided between saying that the child suffers pain by the direct action of God, by the instrumentality of material means, by the act of God in some instances, and by other causes in others. The last is the opinion of the *Imamites*.

The different positions of the Mu'tazelites can be summarized as follows:

- 1) Children suffer pain. God is the causer of pain. God does not recompense pain but He will not punish children in the hereafter.
- 2) Children suffer pain. God is the causer of pain. It is intended as a warning lesson for adults. God recompenses children for the pain they suffered, because He is not unjust.
- 3) Children suffer pain. God is the causer of pain. Without pain children would be better, but God is not obliged to do what is better.
- 4) Children's pain is the making of nature, not the act of God.
- 5) Injuries and pain can occur to children by the act of God, because they are figurative and not actual. This is the opinion: of Wassel Ibn 'Atta'a, and Qasem al-Demashky. .

On the other hand, the *Kharidjites* were divided between two opposing opinions:

- 1) God judges a child by the deeds of his parents. What

afflicts the child is because of the parents. It is a warning lesson for adults.

- 2) The child is not judged. The child is not related to his parents' deeds. The child does not suffer pain because Allah is not unjust. In case the child suffers pain, God will recompense him for this.

Summis, Ismaili Shiites and Asha'irites were of the opinion that the fate of children is in God's hands: if He wishes he torments them, and if He wishes otherwise he does, and if He inflicts pain and disease on a child it is just of Him and for a purpose of His. al-Ash'ary said, "the life of everybody contains both graces and ordeals. There are ordeals that should be withstood, such as the calamities of disease and malady, and the calamities which befall one's children and money or the like. And there are those which should not be tolerated such as disbelief and all other sins"⁽¹⁵⁾. Elsewhere he added, "if some one asks whether God will cause pain to children in the hereafter, he should be answered. God could, and if He does that, then it is just"⁽¹⁶⁾. Although the external sense of this official stance is concordant with the notion of the omnipotent God, this simplistic theme, as Nasr Hamed Abu Zeid wrote, ascribes "all the manifestations of injustice and evil to the divine will as it is considered the prepotent will"⁽¹⁷⁾. For their part, physicians divested the causality of children's pain of any dimension beyond the "nullity or deficiency of the functions of the organs, aches in the organs, or the turbulence of the mood"⁽¹⁸⁾.

The keenness of the different trends, each according to its viewpoint, on linking the concept of justice to childhood, shows the emphasis on the principal of child protection in Eastern cultures. This protection, which exceeds its limits for the ancestors with their tendency towards possessiveness and

forcing children to reproduce the parents' image, is evident in the agreement of temporal and religious knowledge in the sixth article of the contemporary Convention on Children's Rights, e.i., the inalienable right of every child to life. In contradistinction to the position of ancient Greek philosophy and medicine on the right to life of the psychologically or physically disabled, according to the positions that reached us from the epoch of the Arab Islamic flourishing, none of the symbols of secular knowledge (philosophers, physicians, writers, etc.) or of religious scholarship (Christian, Jewish, and Islamic) has tolerated any exception that would allow for the disposing of children's right to life.

Responsibility and Freedom:

The issue of responsibility (of and towards the child) constitutes one of the basic elements of the inter-Islamic controversy on the child, his legal status and doctrinal position. For on this issue of responsibility depend what is known as the religious succession (the child of a Muslim father is Muslim) on one hand, and the legal status of the child on the other.

Opposite to the predominant idea about the self-evidence of the child's belonging to the same religion as the father's, we could read even in such conservative writings as *al-Tawdih Liltankih* (Exposition for Emendation) what follows⁽¹⁹⁾:

Juvenility, though a natural state of human beings at the outset of their lives, is considered a contingency because it is not an exigency of the essence of humanity - the essence of humanity does not require juvenility. By contingencies barring competence we mean the same, a state that is not inescapable and nullifies competence. And because God-bas

created :the human being to undertake the burdens of His orders and to recognize Him, thus in accordance He should create people in a state that is conducive to achieving the goal of creation, that is to be from the beginning of their lives judicious, competent and able. Juvenility is a condition which negates these capacities, therefore it is considered a contingency barring competence.

We should not be surprised by the opinions of some Islamic sects which granted children the freedom to choose their belief, when the Koran states: 'There is no compulsion in religion". Perhaps the *Ajaridah of Kharidjites* was the first and most outspoken of these sects, for it is established that they maintained that "when a child reaches puberty, he should be called on to embrace Islam, and he is not judged as a Muslim before"⁽²⁰⁾. Also, Ibn Hazm narrated that they said, we do not coerce children before puberty, nor forsake them. But we respite them until they declare their Islam after puberty"⁽²¹⁾.

Early Sunnis held that children "should not be punished, and performing worship rituals is not incumbent upon them. For some of them, practicing religious rituals is a must as a way of precaution"⁽²²⁾. This matter contradicts a flood of sayings and admonitions with which so many books dealing with al-kaba'er (the grave sins) overflow.

One of the most expressive texts on the relationship between growth, need and reason is what al-Jahez narrated about a wise man who was asked, 'When did you begin to reason?" He answered, "The moment I was born." When the wise man noticed that his inquirers did not approve of his answer, he added, "I cried when I was in fear, sought food when I was hungry, sought the breast when I needed, and was quiet when I was appeased.. that was the range of my

needs, and whoever recognizes the measure of his needs - if he is given or denied them - needs no more reason"⁽²³⁾.

Responsibility towards the child can be divided into the responsibility incumbent upon his parents and the responsibility of the state. The early Islamic Caliphate - at least in the capital - offered a sort of allowance for children, which grew into a more comprehensive health and economic protection in the eras of flourishing. The highest form of social insurance was a salary decreed for every Muslim infant born in the land of Islam who reaches ablactate. After that decree people hasten to wean their infants in order to collect the salary, and thus Omar Ibn al-Khattab said: "Do not rush your children to ablactate, we decree [a salary] for every Muslim newborn"⁽²⁴⁾.

For most jurists, custody means the upbringing and nurturing of the child, as well as carrying out all the necessities of his life from birth until he becomes able to dispense with the assistance of his mother in procuring his necessary needs. The Koran thus spoke of custody: "The mothers shall breastfeed their children for two whole years, that is for those who desire to complete the term of suckling, but the father of the child shall bear the cost of the mothers food and clothing on a reasonable basis. No person shall have a burden laid on him greater than he can bear, No-mother shall be harmed on account of her child, nor father on account of his child. And on the heir is incumbent the like of that [which was incumbent on the father]". (al-Baqara, verse 332).

There is not one Prophetic saying that specifies the custody of a child after the guardianship of his mother ends. Al-Sahfei said that the child should stay with his mother until he reaches seven years of age, then the child should be

given the choice between the parents, and this is the highest of interpretative judgments concerning the right of the child. Malek supports this opinion in one of two narratives related about him. Abu Haneifa was of the opinion that the child should be turned over to his father or to his paternal lineage (this is the judgment followed by the Syrian, the Egyptian, and most of the Arab countries' legislators). However, in another instance, Malek linked the right to custody to the sex of the child: the girl should remain with her mother until she gets married, and the boy should be with the father until he dispenses with his assistance. In devotion to their totalitarian reputation, the disciples of Ibn Hanbal hold that the choice should be made by the ruler. Ibn Taimiyah narrates a story about two parents who contended for their child and litigated with the ruler. The ruler gave the boy the choice and he chose the father. The mother told the ruler: "Ask him for what reason he chose his father!" When the ruler asked him the boy said: "My mother sends me everyday to the religious scholar and the scholar beats me. And my father lets me play with the boys". And so the ruler ordered that the boy should be entrusted to his mother⁽²⁵⁾.

Regarding the responsibility of the child, there is a generally accepted division into two phases: first, the stage where, the child cannot make proper judgments (the pre-discernment phase), which extends from the child's birth until he turns seven. During this stage, the child cannot be punished for any religious responsibility; there is only a civil responsibility for his wealth lest others would be harmed. The second stage is the "discernment phase", where the child can make some judgments. It extends from seven years of age until puberty. The child in this stage is responsible for undertaking the duties related to harming others but not to

those of a contractual nature. The child is not to be punished nor obliged to practice religious rituals. For some, practicing religious rituals is necessary as a precautionary measure, but the Prophetic sayings which mention such an obligation are dubious, inconsistent, and contradict the Koranic principle denouncing any compulsion in religion⁽²⁶⁾.

There is no Koranic verse which orders that a child should be disciplined by beating. There are some dubious Prophetic sayings that have been sanctioned as jurisprudential rules whereby is a near consensus among traditionalists that the father, the grand father, the custodian, the elder brother, the tutor (whether a school teacher or a trade master) have the right to discipline the child by beating. There is another opinion which argues that the child cannot be beaten by anybody other than his father or guardian except by their permission.

Believing that punishment should be the means of discipline of the last resort, Ibn Sina (also known as Avicenna) wrote⁽²⁷⁾:

"It is necessary to start by edifying the child and accustoming him to the best of virtues starting from abstinence, before the ill-favored habits - which are difficult to eradicate if they become deep-rooted in the soul of a child - are infused. But if it is necessary to resort to punishment, one should be cautious, for the child should not at first be treated with violence but with gentleness, and then desire should be mixed with fear. At times frowning or what scolding is required should be used, and at some other times praise and encouragement are more viable than scolding, and this is according to each individual case. However, if the resort to beating has become incumbent, the educator should not hesitate to make the first strokes painful.

The same opinion is held by Ibn al-Jazzar in his "Handling and Managing Children". Both emphasize the link between the methods of upbringing and the different personality of each child.

There is "an advanced educational opinion, held by many physicians, that concentrates on non-violent methods in creating children, as for example using gentleness, frowning, encouragement and praise, and does not prescribe any thing beyond verbal scolding. Physicians since Abu Bakr al-Razi have emphasized the necessity of taking care of children during the period of their Progress towards puberty, which in our contemporary terminology is called adolescence. It suffices here to cite the opinion of Ibn Sina:

The greatest attention should be given to taking care of the child's manners, so that he grows up right. And that is by protecting him lest he is afflicted by severe anger, fear, grief or amnesia. One should at all times discern what the child likes and longs for to bring it near to him, and what he hates to put aside from him. There are two benefits in this: one for the child's soul - to grow up from childhood with good manners that become a part of his character -and the other for- his body, for in the same way that shabby manners bring about bad temperament, if these manners are of one's character they entail bad temperament... Thus, rectifying manners secures the health of both the soul and the body⁽²⁸⁾.

The Right to Care:

In Arabic medieval writings, one finds an important place given to the child's right of care by physicians, philosophers, and a number of jurists. It is known that Abu Bakr al-Razi was the first to separate pediatrics and gynecology, while the child had been always studied and dealt with in

relation to the mother. Thus the attempts of dealing with the child by himself began. The first of these attempts was the treatise of Abu Bakr al Razi on pediatrics around the year 900 AD, which is available today in Hebrew, Latin, English, and Italian, although the Arabic original is lost.

Also, among the most important writings is the book, "Handling and Managing Children," by the physician Ahmad Ibn al-Jazzar al-Qairawany. We find also that in that period instructions for care started with the embryo: pregnant women were instructed to sing for their babies and to caress their bellies. Ali Ibn Habal al-Baghdady advised pregnant women to "avoid severe exhaustion and long stay in baths. Delicate sports are beneficial, and the pregnant woman should enjoy the breezes of air, delights, promenading and all that gratifies the soul and enlivens the spirit. If a disease befalls a pregnant women, she should be treated with care, and she should avoid hemorrhage and diarrhea"⁽²⁹⁾.

Gharieb Ibn Sa'ad devoted a chapter of his "The Creation of the Embryo and the Handling of Pregnant Women and Newborns" to the care of the mother and its, impact on infants. He warned of anything that might annoy the pregnant women, and he prohibited them from fasting: "Pregnant women should not get hungry and should not be obliged to fast for that harms her and the unborn young".

Addressing the issue of psychological health care, Ibn al-Jazzar stated⁽³⁰⁾ that a child "should not cry a lot or else he could be afflicted by 'apolempisia.' So [the child] should be quieted in the manner mentioned earlier, and by anything that is known to divert his attention and stop him from crying, as for example by carrying him in the arms gently and delicately and moving him, and also by making, nice sounds for him and chanting nice tunes. This is so because pleasant

sounds delight the soul, and thus if a pleasant tune is chanted for children - giving them pleasure - they hush, calm down and sleep quickly. Also, a child should be brought the things which are known to make him happy, and he should be brought together with his peers. A child should be guarded against things with loud voices and against scary faces that frighten children as for example faces with veils on them, and also against horrific things, for all of that and the like make the child acquire a stern look".

Ibn Sina held that "in order to refine the temper [of a child] two things are imperative. One is gentle rocking and the other is the music and intonation customary for inducing children to sleep. According to the child's predilection, he should be prepared for sports and music, one for his body and the other for his soul"⁽³¹⁾.

Physicians have made comments regarding walking, talking, running, sleep, as well as other educative advice. Thus, for example, we find Ibn Sina advising that the child should be in the company of well-behaved children because he acquires, a lot from his peers, and emphasizing the importance of children's mingling⁽³²⁾:

"Conversing helps broaden the mind and makes the incomprehensible clear, because each [child] speaks- of the sweetest of what he saw and the sweetest of what he heard, and the oddity of his words is a cause for wonderment and thus a cause for memorizing, and also a reason for others to talk. Also, their companionship refines their manners and animates their spirits".

Scholars have differed regarding the age at which children should begin their education; some, like al-Abdary, specified it at seven, and some others left it for parents to decide. Also some scholars define the years of

education and others leave it open. Regarding the choice of vocation, al-Razi and al-Qayrawany emphasize the necessity of developing the dispositions of the child and of respecting his choices. The latter wrote: "When the child reaches twelve, he should be satisfied knowing what he needs of education and knowledge"⁽³³⁾. Ibn Sina, however, had a different opinion: "Not every vocation that a child might desire is suitable and convenient, [the suitable vocation] is that which corresponds and to his character. And thus the guardian of the child should study his character, examine his faculties and intelligence, and accordingly decide on a vocation for him".

All scholars emphasize the necessity of amusement, play and entertainment for children. Imam al-Ghazaly supported this general view of philosophers and physicians. In his "The Revival of the Religious Sciences", he wrote that "after finishing his studies [the child] should be permitted to play nice games to ease off the fatigue of studying, and he should not be fatigued by play. Denying a child play and exhausting him by incessant studying debases his heart and nullifies his brain and embitters his life, making the child try every intrigue to escape studying".

Physicians, along with a number of religious scholars, concede that the most important phase of upbringing is the first seven years. In his "Spiritual Medicine" Ibn al-Jozi writes: "The best conditioning is that which takes place in childhood. Otherwise, if the boy is left to grow up with a certain character, its rectification will be difficult." This opinion is shared by Imam al-Ghazaly, Ibn al-Jazzar, and Ali Ibn Abbas al-Majoussy.

In the time of Omar Ibn al-Khattab, elementary schools were founded, and (according to several narratives) the

treasury used to remunerate the tutors and the students. Later, elementary schools became widespread; some of them were established by philanthropists for poor children and orphans, and some were founded by the al-Daywahji mentions the existence of segregated and mixed elementary schools⁽³⁴⁾.

Instruction was entrusted to both men and women. Ibn Hazm al-Andalussy mentioned that he had been a student of women, who taught him the Koran, poetry, calligraphy, and sciences till the age of twenty. There were prominent women instructors as, for example, al-Shaffa'a Bint Abdullah alAdawiyah, Karima Bint al-Miqdad, Um-Kalthoum Bint Uqba and 'Aisha Bint Sawad. Mawlat Abi Imamah was known to teach women voluntarily in the mosque of Hams. With the civilizational deterioration of the Arabs and Muslims, mixed schools started to disappear, and prominent women came to supervise all-women associations for the education of poor and handicapped women in Baghdad, Najaf, Damascus and Cairo.

Preliminary Conclusions:

It might be easy to reduce the Arab Islamic experience using expressions such as "the rules of Shari'a" and "the position of Islam," but in this case we would not only be negating the accumulated wealth of the Islamic experience, but also the richness of the products of the struggle between it and the secular experience in the Islamic countries. This article provided evidence that the right to difference was the locomotive of ideas and the dynamo of enlightenment: al-Ghazaly was not ashamed of drawing on the heretical physicians in his comments on socialization, and likewise Ibn Sina appropriated some of the positions of Abu Haneifa and

al-Shafei. Although some fanatics find fault with Arab pediatrics because it introduced music to hospitals as well as story-tellers to entertain children, it is a source of pride to every Arab today that the infirmaries treatment by music and by entertainment with story-telling.

It is certain that this article would frustrate anyone who had awaited a comprehensive historical reading of the contents of the UN Convention on Child Rights, or else what is the meaning of progress? And although there were some leaps here and there, is it possible to compare a condition where the judgment of slave-girls before the law is different than that of free women to a world where all forms of slavery (through trade, capture in war or inheritance) has been abolished? And can we forget that the door of independent judgment had been closed centuries before the opening of the human rights file?

Our culture made its contributions to the attempt to answer to the needs of the child and the requirements of the child's development and care as did others. It sanctioned a number of child rights that could not but be a source of pride for ail of humanity, and to a great extent it succeeded in this because it opened its heart to the knowledge of Greece, Rome, Persia, India and China, without fear, and tried to assimilate their treasures without bigotry.

If there is a task to be shouldered,, it would be to escape the logic of comparison which loses all its meaning when situated beyond time and place, and to embrace the logic and spirit of our times, in order to answer the fundamental questions that face., us and respond to the existential challenges that confront us, in the manner of the renaissance tree which knew how to absorb from the waters of history and contemporaries and how to be enriched by the fertilizers,

of the great human cultures in order to produce new fruits for new generations.

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ten, and separate their places of sleep" (cited by Jadul Haq, op. cit, p.32), as well as. "On the seventh day of his birth, a lamb should be slaughtered for the sake of the boy, he should be named, and protected from dangers. When the boy reaches six, he should be disciplined, and when he reaches even his bed should be separated. At thirteen he should be beaten for prayer and fasting, and at sixteen his father should marry him off and then help him out." (Cited by Muhammad Attiya al-Ebrashy, Islamic Upbringing and its Philosophy: The Stages of Up ringing, p.52.)

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Humanitarian Organizations in The Arab Culture

The practice of activities of a humanitarian nature is a very ancient phenomenon in the world. Driven by various motives, it has taken on different forms and functions throughout the Chinese, Greek, Indian and Persian civilizations of the Ancient World.

The existence of non-governmental organizations and charismatic personalities can be traced throughout the ancient history of the East. In the Christian tradition, numerous sects succeeded in creating a space for themselves that was both engaging and independent from that controlled by governments. The creation of this space, in turn, played a substantial role in the spread of knowledge, as well as earthly and religious culture; like those of the Nestorians and Jacobeans. In fact, one might claim that in preserving an important distance from political authorities, the Eastern Church laid the cornerstones for public traditions. Using this space also enabled some religious movements to provide social protection against government or foreign occupation. These movements either expressed the interests of the masses and/or appeased the anger of the crowds by performing important functions that the government was failing to fulfil.

During Pre-Islamic times, Sa'sa ben Naji ben Akl, the grandfather of the renowned poet Al-Akhtal (whom Moncef Marzouki singled out as the godfather of the Arab Human Rights movement) was never satisfied with the mere

condemnation of the killing of children and the live burial of newborn girls⁽¹⁾. On the contrary, and in the absence of any law against such tragic tribal traditions, he went as far as paying a ransom for each newborn girl so that he may save her from these burials, often driven by the poverty of her family. These ransoms were paid by Sa'sa to save the newborn girls regardless of any considerations such as tribal background or blood-ties. Many Arab personalities followed in his footsteps, only to be called 'the revivers of the buried newborn girls'. In honor of his forefather, the poet Al-Farazdaq was quoted to have said:

"My grandfather is the one who prohibited burying female newborns and revived the buried from their death."

One of the earliest patterns of humanitarian attitude to emerge was displayed towards orphans. In pre-Islamic times, Arabs had orphanages that took in children who had lost their fathers, either through natural deaths or deaths caused by wars. Heads and masters used to supervise the orphans and care for them, using the alimony that was collected from the wealthy, contributions made by tribes or gains made from the enemy in times of war. Today, the Ghatfan orphanage is often cited as one of the most famous humanitarian homes for orphans of that period⁽²⁾.

At the end of the sixth century, the Alliance of Al-Fudhul was founded. It became one of the earliest forms of joint liability alliance to defend the interests of individuals marginalized by their societies. Based on Historic accounts, a Yemeni from Zubaid delivered goods for a man of Al-Sahem from Mecca, who in turn refused to pay him back. As a result, the Yemeni climbed the mountain of Abu Qais and appealed to Mecca's virtuous personalities for assistance. Hearing his claim and taking note of the justice of his

demands, they soon after committed the merchant of Mecca to compensate the Yemeni for the price of his goods. Ben al-Hareth al-Jarhami, Ben Wada'ah al-Qatouri and Ben Fadalah al-Jarhami, were the first individuals to take this case to the alliance. It was not long after this incident in which the alliance reiterated the duty to respect the rules of commerce, that oppression of any sort was to be abolished in Mecca.

The 3 individuals mentioned above soon embarked on expanding the alliance, and membership was made open to the whole population of Mecca. A treaty was signed at the home of the eldest Abdullah ben Jad'an (who was also renown for his honesty), in the presence of individuals such as Beni Hashim, Beni al-Mutaleb, Beni Assad ben Abdullah al-Azza, Zahra ben Kilab and Taim ben Murrah. As Iben al-Atheer in relation to this event states, all agreed: "to support any oppressed resident in Mecca against the oppressor until justice was done". Quraish called this alliance 'Al-Fudhul'. Prophet Mohamed witnessed this agreement and was later quoted to have said: "I witnessed with my uncles at Jad'an home an alliance, which if I would have been called for in Islam I would have responded"⁽³⁾.

The Holy Koran itself advocates works of a humanitarian and beneficiary character, and contains multiple references to them throughout its verses:

"There is no good in most of their secret talks save (in) him who orders Sadaqah (charity), or Ma'ruf (all the good and righteous deeds which Allah has ordained), or conciliation between mankind, and he who does this, seeking the good Pleasure of Allah, We shall give him a great reward". (An-Nisa'a: 114)

"By no means shall you attain Al-Birr (piety, right-

eousness, etc, unless you spend of that which you love". (Al-Imran: 92).

"And those who, before them, had homes (in Al-Madinah) and had adopted the Faith, love those who emigrate to them, and have no jealousy in their breasts for that which they have been given (from the booty of Bani An-Nadir), and give them (emigrants) preference over themselves, even though they were in need of that". (Al-Hashr:9).

"Who is he that will lend to Allah a goodly loan so that He may multiply it to him many times? And it is Allah that decreases or increases (your provisions), and unto Him you shall return". (Al-Baqarah: 245).

Also, according to one famous Hadith, Prophet Mohammed was quoted to have said:

'Do the favor for whoever deserves it or not, if it is directed for the proper person, then he deserves it, if not, then you deserve it'.

Islam concentrated on a central idea that is: 'the good deeds and charities have a self-benefit and a benefit for the other people'. Interesting to note is the fact that this attitude corresponds to similar approaches advocated in Taoism in China. In this regard, the Koran states the following:

"Whoever does a righteous good deed it is for (the benefit of) his own self and whoever does evil, it is against his own self". (Fussilat: 46). Also, "And whatever you spend in good, it is for yourselves". (Al-Baqarah: 272).

Abu Talha al-Ansari was the first Muslim to donate the best of his properties in the form of an endowment. It was a well named Birja⁽⁴⁾. *Prophet Mohamed also endowed seven groves which he bequeathed from some warriors.* Al-Ansari said: "I know that all the capable companions of the prophet,

the immigrants and the supporters (ansaar), reserved endowments for charities that cannot be sold, bequeathed or given"⁽⁵⁾. If we compare this sentence with the definition of the word 'Foundation' that appears in the last edition of the universal encyclopedia for human rights, we find that the central concept governing the establishment of a foundation appears to have originated in the first years of Islam.

With the emergence of newly established cities and the increase in the human and cultural areas that fell under the direct control of the Arab-Islamic Empire, many new developed humanitarian forms and patterns emerged. Some of these forms were of personal nature or had local and/or global ambitions. During the 1st and 2nd centuries of Islam, the school of Hassan al-Basri (642-728 / 110-196 A.H.), became one of the most prominent phenomena, to seek real independence from both the influence of political authority, and political-religious oppositions. Thus, it could be argued that it expressed the characteristics of what we presently term as a 'Counter-pouvoir'. Al-Basri refused to be a mortgaged judge employed to serve the political authority. On the contrary, he insisted on his right to act as the criticizing bell, sounding off the concerns of those whose voices could not be heard. He particularly dedicated himself to eradicating violence and sedition. When people asked him about sedition and fighting, he cautioned them not to "be on either side." Asked in return: "What about Emir al-Mu'menin?" he was quoted to have said: "Not even with the Emir"⁽⁶⁾. We also find other personalities, who were followers of the same school of al-Basri, such as Ayoub al-Sakhiati, Furqod al-Sabkhi, Malek ben Dinar, Mohamed Ben Wase' and others. This trend defended the rights of scientists, scholars and jurists to be fully independent from

the Authorities, in addition to having a moral charismatic Authority figure to defend the society from the governor's radicalism.

Since the 1st century of Hijra, voluntary groups emerged advocating numerous political, social, and cultural claims (*rights?*). These groups included the assemblies of literature, science and religion that were led by a prominent scientist or well established personality, such as for example, the assembly of Sakina Bent al-Husain. During the Abbasid, other groups emerged and spread widely such as the beneficiary endowments for health, education and sustenance.

At the end of the 1st century A.H. (7th century A.D.), a new tradition emerged that gathered people of the same profession in a specific market. Later, throughout the century, the new professional relations succeeded in gaining the recognition of the judge and obtaining a legal status for organization and accountability. Varying from one epoch in history to another, the caliphate either approved the elected head of professionals or imposed one head of its personnel. In general, the groups of professionals organized forms of solidarity, which preserved their professions within acceptable margins, in addition to creating uniform prices across the industry and protecting its professionals through peaceful means. This phenomenon spread widely in Palestine, Syria, Iraq, Egypt, Persia, Morocco, Andalusia and mid Asia, but retreated after the fall of Baghdad and the political troubles that followed.

In his book "From the Wonders of Our Civilizations," Dr. Mustafa al-Siba'i noted that the beneficiary and humanitarian societies could be classified in two broad types: "One governmental type: Which included large

endowments, and a second type established by individuals like, Emirs, leaders, rich personalities and prominent women"⁽⁷⁾.

The most important beneficiary (*benefactor?*) organizations were foremost concerned with building Mosques, followed by schools and hospitals. In addition, these organizations built inns and hostels for passengers, and shelters 'Tekyas' to house homeless people and those who preferred solitude. Other forms of charitable works included the creation of water springs in public places and long roads, of wells for passengers, the dissemination of plants and livestock in remote areas, which spread between Baghdad, Damascus and Medina, and other Islamic cities and capitals. Some social organizations exerted efforts to maintain roads, archways and bridges, while others donated lands for public cemeteries and contributed coffins, thus enabling the poor people to bury their dead.

Other organizations focused on supporting foundlings, orphans, disabled, aged and blind people through a range of provisions including shelter, food, clothes, education and general assistance.

Public restaurants also distributed food for those in need. This phenomenon persisted well into the 20th century. It was witnessed in Damascus, like 'Tekyah of Sultan Saleem' and 'Sheik Muhie al-Deen' and it spread to all the lands controlled by Mecca. Nowadays, the old tradition of 'Mawa'id Al-Rahman' is still followed during the month of Ramadan in Egypt and many other Islamic countries. There are multiple examples of humanitarian based activities, still evident in India and Persia, which offer complimentary meals for individuals in need.

In addition, other beneficiary organizations were specia-

lized in facilitating marriages and affording the expenses or the dowry of the brides. Others supplied mothers with milk and sugar. In relation to this, it was said that Salah Al-Deen al-Ayobi ordered one running tube of milk and a second one of sweetened water to run open for mothers and children twice a week free of charge.

Many organizations also that took care of animals, especially those abandoned, sick or old. Today, it is an established fact that the National playing field of modern Damascus used to be a green field for the horses and sick animals to graze upon until they died.

Today, the governments of more than 30 Islamic countries forbid humanitarian organizations from assisting prisoners, despite the fact humane treatment of all captives (including prisoners of war) was a well established principle in Arab-Islamic History.

One of the principal rights of prisoners, acknowledged in the Arab-Islamic societies during the 1st century A.H., was the aid or alimony (Sadakah) of those captured or imprisoned. Unfortunately, such a tradition retreated, soon to be forgotten in our modern times. According to Abu Yosef, the author of 'Al-Kharaj', and many other historians, the first individual to recognize alimony for prisoners, was Imam Ali Ben Abu Taleb in Baghdad. Mua'wiah Ben Abu Sufian allowed the same practice in Damascus and was soon followed by many other Caliphs. This principle was advocated in the Koran, which contains verses that urge the feeding of the poor, the orphan and the captives. Arabs used the word 'captive' to refer to any imprisoned person to be locked in a cell. The linguist, Mujahed, used the term: 'the captive prisoner'. Referring to the rationale that guides the provision of alimony to prisoners, Al-Tha'labi was quoted to

have said: "Although captivity is not a deformity, it turns the captive into a wounded and bitten creature". Many wise men mentioned that 'there should be no extra punishment over the punishment" and that "to commit a mistake of forgiveness is far better than the mistake of punishment". This concurs with basic regulations for the treatment of prisoners, approved by the United Nations, which considers imprisonment as sufficient punishment in itself, and does not allow for further harming.

The Caliph Ameer ben Abed al-Azeez preserved the prisoners aid that covered their food and needs by appointing a person from outside the prison authority to supervise the distribution of this charity. He demanded that a well-known and honest person be chosen to register the names of the poor prisoners and to pay them a monthly sum. That person then would call the names of the prisoners one by one and pay each 10 Derhams per month, in addition to supplying them with winter and summer clothes. Naturally, not all the prisoners were in need for such assistance designed to improve their conditions and rehabilitate them. As a result, various humanitarian organizations emerged dedicated to improving the living conditions of prisoners. They ensured prisons were kept clean, the provision of basic dietary requirements and education. In addition, they taught them a profession to facilitate re-establishment into society and enable them to secure an income after their release⁽⁸⁾.

This rich and varied historical account provides a solid counter-argument to all those who claim that civil non-governmental organizations are a foreign phenomenon with no foundations in Arab and Islamic societies. *In particular, it answers the advocates of 'Comprehensive theories', i.e. those who relate everything to Caliphate, and the dominant*

Secularist trend, present in all schools advocating a one party system in which public organizations are to serve only the purposes identified by the party and thus through strictly controlled measures.

With the advent of the renaissance period in the 19th century, the phenomenon of non-governmental organizations re-emerged in the Arab world. New charitable and religious organizations were re-established in Egypt and Lebanon in the first half of the 19th century. In the second half of the last century, the organizations seeking an educational enlightenment role began to exist, openly or secretly in Syria, Palestine, Tunisia and Iraq. Abdallah al-Nadim (1845-1896) was the first to defend the need for civil society and its independent expressions in the Arab world. He was also the first Arab personality to prioritize the work of NGOs, over other forms of political or party activity. In addition, he considered the street and village to be the first school for reformation and revival. On the other hand, Al-Nadim favored viewing 'politics' as an art, as defined by the noble Greek meaning of the word, instead of what he called: 'The administrative practical politics'⁽⁹⁾. Consequently, he disseminated his thoughts in Egypt and during his exile, in Yafa, and advocated them through, the magazine "Al-Ustath", an important resource of knowledge during this period.

Farah Anton inaugurated the 20th century by translating the Declaration of Human and Citizen Rights into the Arabic language and demanding that it be taught in schools⁽¹⁰⁾. Although the new democratic ideas, mainly among the supporters of "constitutionalism" in Egypt, Turkey, Iraq, Syria and Lebanon acknowledged and advocated the natural rights of humans, the subject of

Human Rights remained confined to the sphere of enlightened writers, and did not become a general social or cultural trend. A number of charismatic personalities such as, Jamal al-Deen al-Afghani, Abd al-Rahman al-Kawakebi and Mohamed Husain al-Najafi al-Na'ini played an important role in consolidating the idea of Shurah (consultative council) and the principle of participation between the governor and the governed in organizing public affairs.

During this time, independent organizations continued to grow in Arab countries. While the British authorities in Egypt accepted early on the idea that people have a right to their own professional, cultural and artistic organizations, Ottoman law did not recognize such a right until the 24th of April 1912. This law in turn organized the activities of the various associations, and continued to operate during the French mandate in Syria and Lebanon and the British mandate in Palestine and east of Jordan. The first article of the law annulled all the old associations and acknowledged the right of each professional group to establish its own independent association. The Tunisian Constitution in 1861, although not long lasting, also affirmed the principle that civil society ought to enjoy freedom to form independent organizations. The same occurred later in the Ottoman constitution of 1876, the Iranian constitution in 1906 and the Moroccan constitution in October 1908, all of which were written by enlightened individuals.

Many individuals and well established personalities who have defended Human Rights, raised this issue in the Arab world, including Mohamed Mandour, Mahmoud Azmi and Riad Shams al-Deen in Egypt; Edmon Rabat, Sami Kayali and Najat Kassab Hassan in Syria; Charles Malik, Raif

Khoury and Saleem Khyatah in Lebanon; Ali al-Wardi in Iraq⁽¹¹⁾.

Contrary to logic, with the creation of the Universal Declaration of Human Rights in 1948, the Arab world during the same year witnessed the unfolding of a catastrophe or Al Nakbah with the establishment of Israel. The events in the region increased doubts in Arabic public opinion about the functions and efficiency of the United Nations and its related organizations. While the world embarked on a path to rediscover the importance of Human Rights, not one Arab organization was established until the beginnings of the Sixties. In 1949, Raif Khoury called upon the Lebanese intellectuals to establish an independent organization of Human Rights, with a constitution that incorporated the Universal Declaration of Human Rights, but to no avail⁽¹²⁾. In fact, it was not until 1962 that we witnessed the establishment of the first Arab organization for Human Rights⁽¹³⁾.

In fact, it was not until one century after the first Constitution licensed the establishment of NGOs, that the first Human Rights NGO emerged in this part of the Arab world. Indeed, it took one and a half centuries, after the establishment of the first charitable association during the recent Arab ages, to view the emergence of an NGO engaged in the defense of Human Rights. The reason might be due to historical traditions that charitable associations were established in a spontaneous fashion, without much attention paid to legal formalities. Furthermore, traditions of solidarity and charity prevailed as a necessity to undermine oppression and support the poor, but also as a moral and religious duty in all Islamic societies.

The dominance of authoritarian forms of government

greatly affected the work and functioning of existing donor and humanitarian organizations, particularly since they neglected the positive traditions of Arab society and have chosen to ignore the good principles manifest in Western society and tradition. As a result, while NGOs were successfully flourishing on the universal level, civil organizations in the Arab world witnessed a significant decline in number within a relatively short period of time. Thus, under the pretense of belonging to political opposition groups or forbidden parties, even organizations that specialized in teaching Moslems to memorize the Koran and assisting the handicapped were soon banned by the state. Cultural and sports clubs and associations were nationalized. Authoritarian governments in many Arab countries also formulated exceptional laws to punish any well established civil gathering and founded 'semi-formal governmental associations' to replace them.

The decline in the legitimacy of the one party system and totalitarian authority in the region, coupled with the liberation wars or civil wars that erupted in many Arab and Islamic countries, all required an assessment of the need for donor and humanitarian organizations. In the Palestinian case, Palestinian civil organizations in exile focused on providing support to the Palestinian resistance in the camps and Palestinian society under the occupation. They played an important role in preserving the social unity and national consciousness of the people throughout the period of Israeli occupation and its inhuman conditions. The unfolding Afghan tragedy was another event that stimulated the growth of this phenomenon in the Gulf countries and throughout the Arab peninsula. In fact the Soviet occupation of Afghanistan was an important catalyst in improving the

standard of living in these countries, due to the resulting rise in oil prices that was witnessed following the invasion.

Although most organizations in the Gulf adopted Islamic characteristics, they varied from each other. Some were official organizations like: 'Al-Amer bel-Ma'roof and Nahi an al-Munkar' in Saudi Arabia, others were directly affiliated with political Islamic movement, or ancestral (antecedent) "fundamentalist" movement, while others still were part of what was called in the last two decades the 'Al-Jihad movement'.

Without doubt, Islamic humanitarian organizations benefited a lot from their interaction with Western or international humanitarian organizations and played a role in extending their influence to regions, which thus far had not been affected by the West or were out of their sphere of influence and/ or interest. Despite the advent of radical political activism and the fact that it colored the work of an increasing number of humanitarian based organizations, Islamic humanitarian organizations soon stood out on the basis of their high level of credibility and professionalism, which in turn minimized corruption and the abuse of public funds. Therefore, corruption was not a serious problem confronting these civil organizations, even those in control of substantial funds, regardless of their religious or secular nature. We cannot deny the world problem of international manipulation, But their good reputation soon resulted in these organizations becoming an attractive target for political movements and political systems that could not affect their policies (*Unclear*).

It is widely accepted that such phenomenon are also found in the West. The ministries of co-operation and foreign affairs in many countries of the North have been

known to "fabricate" or establish hollow organizations to serve particular needs or respond to the eruption of crises. However, since these countries enjoy the presence of solid and well established civil societies, NGOs are often successful in managing interferences and interactions from the government, and can successfully influence the process of cooperation between them. On the other hand, in many countries of the South, the fact that most civil society organizations are structurally weak, means they are often forced to cooperate with an authoritarian government, which only weakens them further.

In spite of the various weak points that can be found in many countries of the South, there is no doubt that humanitarian organizations are viewed by local governments as a threat to their interests and as a foreign interference. Moreover, they often carry the Western perspective and priorities of civil based work, as their agenda is influenced by Western public opinion. A simple example will illustrate the reason and extent of the difficulties that these humanitarian organizations can potentially cause:

Civil society based organizations regularly sought the assistance of Western organizations to expose Israeli practices in the Palestinian Occupied Territories. However many Western organizations continue to refuse to engage in work on Palestinian issues without the recognition by the NGOs approaching them of Israel's 'right to security'. Thus, any decision, which acknowledges the rights of the Palestinian people to self-determination, must also confirm the recognition of the Israeli state and its right to secure borders, regardless of whether any such comparison can be made between a nation without rights and a government that enjoys too much discretion. Furthermore, it has become

almost tradition that each time a Palestinian is honored for a distinguished humanitarian job, an Israeli must necessarily be honored too, even if there were no Israeli individuals deserving of honoring in that same year. Many Palestinian activists have accepted these conditions due to their fear of losing international assistance or of being deported outside the countries *of the North (?)*. Today, however due to the existence of stronger Arab and Islamic organizations, both relations and performance have taken on a different shape. In fact, the project and feasibility studies are being now also being formulated in the South. With activists from developing countries enjoying their own organizations and increasingly rejecting any relation that tries to impose an agenda on them, it has become increasingly necessary to think of an approach that is more universal in character, rather than Western dominated. This approach would need to reflect cooperation with organizations from the North based on an equal footing, respect and necessary compatibility (?/replaced complementarity).

Due to the increasing criticism mounted against humanitarian organizations based in the Islamic world by the South, there is an urgent need to review and assess the structure, function and performance of these organizations rather than simply feeling victimized. The fact that Western organizations have their own shortcomings does not justify ignoring the internal and external problems that Southern organizations are also facing, which need to be neutralized, not indulged by direct conflict.(?) *since they be neutralized nor indulged with direct conflicts and cheap performance (unclear-?)*.

Whether these organizations are considered legitimate actors or not, they have clearly expanded their direct mission

of feeding the hungry, educating the orphans, or easing the misery inherent in war torn societies. There is no doubt that they have become one of the central guardians of social cohesion in many developing countries. At the same time, they are no longer the property of a single political party but a public possession of their respective societies.

As external pressure is mounting and internal social needs are increasing, there is no doubt that the central role that many of these organizations have come to play is of paramount importance. This makes the establishment of a more efficient communication network between the intellectual elite, the social initiatives and legal organizations an all the more essential goal to work towards. There is also a need to improve the performance of the Southern organizations through work based on well formulated studies and sociological surveys that can provide an accurate assessment of their experience, and would help provide a clearer analysis of the structural and functional problems that they face. This would also serve to undermine the various deficiencies that these organizations are presently suffering from.

Notices:

- (*) *The holy Quran*, A summarized version of Al-Tabari, Al-Qurtubi and Ibn Kathir with comments from Sahih Al-Bukhari. Translated by Dr. Muhammad Taqi-ud-Din Al-Hilali, Ph.D. Dr. Muhammad Muhsin Khan. www.unn.ac.uk/societies/islamic/quran/neindex.htm.
- 1 - *Look at 'Sa'sa'* article prepared by Dr. Moncef Marzouki, the short universal encyclopedia, Al-Ahali, Beirut-Damascus, 2000.
 - 2 - Haytham Manna, "*Child Rights in the Arab-Islamic Culture*", Riwaq Arabi, No.1 of the English edition, January 1997.
 - 3 - *Look at 'Al-Fudhul of Alliance'* by Dr. Haytham Manna, the short universal encyclopedia, Al-Ahali, 2000.

- 4 - Dr. Mustafa Al-Siba'i, "*From the Wonders of our Civilization*", 5th edition, Islamic office, Beirut, 1987, p. 124.
- 5 - The same source, p. 124-125.
- 6 - Look at 'Hassan Al-Basri', the short universal encyclopedia.
- 7 - Dr. Mustafa Al-Siba'i, the same source, p. 125. Also, this paragraph has been referred to in Dr. Shatti book about the medicine in Arab culture.
- 8 - Look at the article about '*L'aumone des Prisonniers*', the short universal encyclopedia.
- 9 - The same source, the article of 'Abdullah Al-Nadim'.
- 10 - Published in his magazine 'Al-Jami'a' in 1901; republished in *Riwaq Arabi* No. 4, October 1996, p. 148-151. Also, in Dr. Haytham Manna "*The Early Childhood, the First Labor of Human Rights in the Arab World*", Al-Jamal publication, Germany, 1999.
- 11 - Since the introduction of 'Superman', Salama Mousa opened the discussion about the individual role and rights. He continued that during the Thirties and Forties through 'The New Magazine' and his writings about renaissance. Through 'Al-Hadith' magazine, which was published in Aleppo, Edmon Rabat and Sami Kaylani had a great role to consolidate the democratic thoughts. Edmond Rabat dedicated himself to the idea of constitutional state and its necessity in the Arab world. In Morocco, Al-Taher Haddad had a great role in the advanced reformation trend and in originating the culture of mature society without the need for the state or governor's custody.
- 12 - Look at Raif Khouri article: '*The Declaration of Human Rights issued by the United Nations: its deficiencies, positive ness and a proposal for the Lebanese intellectuals*'. "*The Early Childhood*", p. 75-84.
- 13 - Look at the introduction of Dr. Haytham Manna: '*A historical review of human rights in the Arab world*', "*The Self and Body Safety, the Torture in the Arab World during the 20th Century*", 10.12.1998, The Arab Commission For Human Rights (in French and Arabic).

Human Rights and Culture in the Contemporary Arab World

I would like to express my profound gratitude to the organizers for giving me the opportunity to meet you and to be your guest in this wonderful city. It gives me great pleasure to speak to you today about a difficult enigma: The future of the Arab world.

Last Tuesday aboard my flight from Amman, a colleague asked what I intended to speak about in Sweden. Would I discuss the future of the Arab world? And if so, would I touch on Iraq? Only two days earlier, three distinguished reformers and members of the ACHR were sentenced to six, seven, and nine years of prison respectively. The cases of Abdallah al-Hamed, Matrouk al-Faleh, and Ali Domini send the message that the promotion of human rights can be considered a crime against national security. No protest is heard from the American administration because business is business, petrol is petrol, terror is terror; American democracy is not necessarily in contradiction with arbitrary detention.

With the globalization of the state of emergency since September 11, we have witnessed an incredible transformation. Before this tragic event, we had to contend with state of emergency at the local level and martial law. Now, to that we must add the war against terror, a host of terrorism-related laws, and American-fueled pressure on the international ad hoc anti-terror alliance.

A neo-conservative reading of democracy is clearly evident in all of this. Democracy-building via direct occupation has meant the generalization of violence, a civil society increasingly identified with sectarian ideals, and corruption as a way of life. From the first day of the Anglo-American occupation, the greatest casualty after human lives has been that of Culture: the damage is incalculable. In the Baghdad National Library, some one million books were burnt, including early editions of Arabian Nights, mathematical treatises by Omar Khayyam, and tracts by the philosophers Avicenna and Averroes. The Venezuelan writer Fernando Baez has drawn attention to initial reports indicating the disappearance of over 170,000 important cultural items, including 14,000 archeological artifacts of which some 25 were classified as extremely significant. An amnesty for the looters led to the recovery of around 3,500 items according to U.S. colonel Matthew Bogdanos who headed an investigation into the looting.

In addition to the National Museum and the National Library, the al-Awqaf library, with its more than 5,000 Islamic manuscripts and university library collections - notably that of Bayt al-Hikma - was hard hit. In total, not less than 10 million documents have been lost in Iraq in what Baez has called "the biggest cultural disaster since the descendants of Genghis Khan destroyed Baghdad in 1258."

The destruction of Iraqi memory is carried out in parallel to the destruction of three principal freedoms in the Arab countries: freedom of expression, association, and organization. The "Press Law" in many Arab countries represents a modern-day Inquisition, helping the State to maintain a "black hole" when it comes to communication of informa-

tion. The "Press Law" and the "Exceptional Law" combined form a veritable armada of repression. The old school can no longer provide answers to the challenges of our time; the formula of the law of counterterrorism has filled the void. With a common but expansive definition of terrorism, the sky is legally the limit. The most recent draft of Bahrain's anti-terror law (modeled on Qatar's which itself mirrors Egyptian terror legislation) reads as follows:

Article one: As regards the implementation of the provisions of this law, terrorism shall refer to any act, regardless of motive or purpose, for which the perpetrator, whether acting individually or collectively, resorts to the use of force, violence, threats, or fear to disable the provisions of the constitution, laws, and/or rules; to disrupt the public order; to expose to danger the safety and security of the kingdom; or to undermine national unity or the security of the international community. Terrorism shall also refer to any act that causes people fear or harm, endangers life, liberty, or security; damages the environment, the public health, and/or the national economy; or that endangers institutions, businesses, and public and private assets through occupying or causing damage to them or in otherwise preventing or obstructing the authorities from carrying out their duties.

The culture of the state of emergency is a culture of emergency; this horrible environment spares no one. Do not be surprised to find many neo-liberals calling for the prohibition of political parties or the limitation of press freedoms such as was seen when one of Saddam's former henchmen, now an Iraqi delegate to UNESCO, called for the closure of the Al-jazeera, Al-alam, and Al-manar news bureaus in Iraq. Transatlantic Society (sic) is trying to

convert the European Commission to its ideals. How can we speak of freedom of expression if violence is the only vehicle of expression in these countries?

In Syria, you can be arrested for writing an article, giving a lecture, or receiving a message in a web forum. Repression does not discriminate: Kurdish Party supporters, members of civil society groups, political exiles, and even the vice-president of a legal study center - all get the same treatment from the misguided security forces. In Tunisia, Mohamed Abbou has been sentenced to three and half years in prison for having compared Bin Ali to a famous man of peace (Ariel Sharon). All of this inspires pessimism and a sense of woe. Today it seems that societies, States, and international decisionmakers have carte blanche to carry out their respective agendas. To counter this trend, those who reject government and foreign intervention are endeavoring to forge democratic solutions based on their own experiences.

* Stockholm. A l'invitation de l'institut de la Culture Arabe de Stockholm avec la cooperation de l'ABF 21/05/2005

If the world trembled on November 13, 2001, it is the Arab countries that have paid the price for the globalization of the state of emergency declared by George W. Bush following the tragic events of September 11. With Ariel Sharon's assumption of power in Israel, our misfortune has reached an all-time high. It is not an exaggeration to say that the Arab world has not seen this degree of decline for decades.

In 1992, only one Arab country possessed a law against terrorism. Today, a score of them have laws of exception, temporary decrees, or laws against terrorism. More than 300 laws and statutory orders have been imposed in the name of

the so-called pre-emptive war. The number of torture victims has increased significantly in the majority of Arab countries. Previously, interrogation was exercised locally against the political opposition. Today it is directed against both citizenship and sovereignty. Participation of American agents in interrogations is confirmed by the testimony of torture victims in Yemen, Morocco, Saudi Arabia, Kuwait, and Jordan. The United Arab Emirates, which historically has had a virtually clean record in terms of arbitrary detention, has been shown to be responsible for some 100 cases of arrest. Since 20 December 2004, Oman has led a campaign of arrest in which dozens of people have been arbitrarily detained. 29 of those detainees - among them workers, university students, and intellectuals - have only recently been released from prison (June 2005). Today, torture in the majority of Arab countries has become an issue of tremendous concern for the Arab Commission for Human Rights (ACHR).

In addition, in Saudi Arabia we are facing a serious attack on the liberty of association: the authorities are denying society the right to create associations that can freely determine their objectives and appoint executive committees which assume responsibility for their activities before the law and their own members. The establishment of the Saudi National Agency for Overseas Relief and Charitable Works under the authority of the Presidency of the Council of Ministers, as well as the closure of a host of agencies, institutions, charitable associations, and commissions lacking royal authorization, signifies the death - in the full view and knowledge of all - of society-based initiatives and individual participation in public affairs. This agency is, in part, characteristic of a policy to create a contemporary

authoritarian State with a single purpose: to garner good grades from the current US administration. And this even though the agency's operating methods contradict the spirit of our age and the imperatives of political, social, and economic reform. In May 2004, the ACHR published a damning report on arbitrary detention in Saudi Arabia where more than 600 detainees are being held in the al-Haer prison. Among those targeted were four distinguished symbols of peaceful constitutional reform and members of the ACHR, Dr. Abdallah Al-hamed, Dr. Matrouk Al-faleh, the poet Ali Dimini, and their lawyer Abderrahmane Al-Lahem; Al-hamed, Al-faleh, and Dimini were given prison sentences of six, seven and nine years respectively while Al-Lahem remains in detention without charge or apparent cause. The case is the same for Dr. Saïd Ibn Mobarak Al-Zair and his two sons, Mobarak and Saad. Five minutes on Aljazeera was all it took for Dr. Al-Zair, a former detainee who had spent more than seven years in prison without judgment or trial, to find himself back in prison for five more years.

We have already published information on 54 cases of torture in Kuwait where the elections reflected an American-Kuwaiti translation of democracy: neither Bidouns nor naturalized Kuwaitis had the right to vote - a right that is reserved for only 30 percent of society. The founder of the Association Against Torture in Kuwait, Khaled al-Dosary, is being prosecuted for having revealed information about torture in his country to human rights NGOs. Following close on the heels of the arrest of his brother Turki, his other brother, Bandar, has been imprisoned. And the torture continues: the mutilated body of Amer Khalif Al Anzi, who died as a result of torture, was returned to his family on 12

February 2005 for burial. In addition, we have come to learn of two cases, Mohamed Ben Aoun and Ahmed Moussameh, both of whom were arrested on the same date and under the same circumstances as Amer Al Anzi, and who at the time of writing were in critical condition in a military hospital in Kuwait, the result of being tortured following their arrest on 31 January 2005.

In the wake of the Abu Ghraib scandal, many Arab countries (Kuwait, Morocco, Syria, etc.) have not kept their promise to punish crimes of torture. A year after it was revealed that these barbaric acts were taking place in broad daylight, our Iraqi colleagues have, with supporting evidence, confirmed that torture continues in American-controlled detention centers.

Although the State of Qatar has not been touched by terrorist acts (with the exception of a single incident carried out by non-Qataris and non-residents), it has promulgated arbitrary laws under the pretext of protection against terrorism. Thus Law No. 3, issued in 2004 and relating to the war against terrorism, is one of the worst laws to be published in the Arab world. A reading of the text reveals the expansion of the law's scope of application to cover all acts of opposition, not only those of violence. The first article reads: "An act is deemed to be terrorist if the goal of that act is, through the use of force, violence, threats, or fear, to paralyze the clauses of the provisional and revised Basic Law, to endanger the law, to threaten the public order, to expose to danger the peace and security of society, or to undermine national unity. An act is deemed to be terrorist if the intentions or the effective consequences of the act are: to cause people fear or harm, to endanger their life, liberty, or security; to pollute the environment, the public health, and

the national economy; to endanger institutions, businesses, and public and private assets through occupying or causing damage to them or in otherwise preventing or obstructing the authorities from carrying out their duties."

Article 2 calls for greater severity in the criminal law concerning these acts. It envisions, for example, the death sentence in place of life in prison and notes, "in every instance the death sentence (shall be applicable) when the act perpetrated by the condemned has caused the death of a person or required the use of a weapon in the commission of the crime." Article 3 envisions "a penalty of death, or life in prison, for every person who creates, organizes, or directs an unauthorized group or organization, regardless of its purpose, with the goal of committing a terrorist act." Article 6 stipulates "the penalty of death, or life in prison, for every person who directs an organization or a private establishment that, having been created in conformity with the law, has profited from supporting the commission of a terrorist act." In the event of an emergency, the law authorizes the use of house arrest and other restrictions on movement (article 13) in addition to seizure of mail, publications, packages, and faxes, surveillance of communications by all means, and recording of movements in public and private places (article 19). Of even greater cause for concern is that in the event of launching an inquiry or trial on the basis of terrorist charges, the general prosecutor is not subject to the condition of lodging a complaint or request, as is normally required in criminal proceedings (article 17). Moreover, judicial procedure does not weaken with the passage of time (article 16): pre-emptive detention can continue for up to six months, renewable by a competent court of law (article 18).

Additionally, in Syria, despite calm in the Aljazeera region as well as in areas with largely Kurdish populations, security forces conducted a massive campaign of arrests during the month of April 2004 that affected more than 300 Kurds, among them a number of minors. Following arrest, the detainees were incarcerated in centers throughout Qamechli and Al-Hassaka where, during interrogation, they were subjected to cruel and inhuman treatment. This treatment resulted in two deaths: Hussein Hanif Nehso succumbed on 6 April 2004, two days after his arrest and as a direct result of having been tortured; Ferhad Mohamed Ali died on Thursday 8 April 2004 - his death was also torture-induced. Both men were around the age of 20 and in good health prior to their arrest. More than 180 Kurds remain in arbitrary detention. In general, over 800 detainees are languishing in Syrian prisons. A score of them are in an extremely bad health, others are suffering psychologically, and the most severe cases have been transferred to the hospital.

In Morocco, the so-called anti-terrorism law, which had been under preparation prior to the events of Casablanca, is a virtual copy of the American Patriot Act of October 2001. Today, all human rights NGOs denounce the intrusion of law into all matter of affairs under the guise of the war on terrorism. In reopening old files, the authorities are attempting to quietly ignore the consequences of "the war on terror" on the public.

Following the 8 October 2004 attack on Israeli tourists at the Hilton Taba resort in Sharm el-Sheikh, the Egyptian authorities arrested more than 5000 people. According to the Minister of the Interior, nearly 800 remain in detention; human rights NGOs put the figure over 3000. In the spirit of

security, Mubarak is preparing himself and his son to maintain a hold on power in Egypt.

Abu Slim prison has not changed, it is Qaddafi who has found his place in the war against terrorism: not a single prisoner freed and collective capital and life sentences pronounced at the end of 2004 by the so-called court of the people. One prisoner sentenced to death succumbed in his cell during the month of December. Libyan society remains hostage to the Libyan security apparatus.

To all Arab democrats, men and women: Do not forget the tragedy of Darfur in Sudan. How many have been displaced? How many have died? It is time to launch a mission of independent inquiry to unveil the massacre perpetrated by the Sudanese authorities and amplified by the militias on all sides.

If we are currently witnessing a movement that I call the globalization of the extrajudicial, then the Arab world is the microcosm of that movement.

This policy of all-encompassing security is a road that leads to extremism, not a path to democracy. Arab democrats thus find themselves confronted with a concept of their own making as well as by the troubling changes that have come to pass in the name of that concept. After a decade of fighting for change from the ground up and the inside out, the American administration now states that we must change from the top down and from the outside in. To this end, the administration closes its eyes to the violations committed by its friends - symbols of corruption and authoritarianism. The American discourse on democracy and its contradictions is largely used against Arab democrats by defenders of obscurantist projects. That is why the establishment of a line of demarcation between the US

Administration and the Arab democrats is essential to reviving the democratic project in this part of the world.

A mixture of ignorance and arrogance has gone into the application of the American model in Iraq. It is a model that allows for good conscience to be maintained while confidence in Arab dictators is restored. Torture, destruction of homes, corruption, sectarianism, arbitrary rule, summary execution, the extraordinary distinction between good soldiers and evil ones, the creation of a race that is above the law (all those who L. Paul Bremer mentions in his decree 17) - all of these elements are determined on the basis of a single criteria: the extent to which they serve the immediate interests of the US administration.

In November 2003, the US Army declared with pride that they had received 10,402 complaints from parents of individuals who were either killed or wounded in non-combat situations and to whom they had disbursed *1.5 million for loss of Iraqi life and goods - in other words, one eighth the amount that Libya paid out for a single victim of Lockerbie. Following the scandal of Abu Ghraib, the Americans increased the amount of compensation. Now, one Iraqi life is worth 2500.*

During my mission to Iraq in June 2003, I asked Bremer's spokesman several questions about the arrest of PLO executive committee member Abul-Abbas (Mohammed Abbas). I remarked that he been given amnesty under the Taba and Oslo accords as well as by a decision issued by the US Attorney General in 1996. I also pointed to Abul-Abbas' regular visits to Gaza and Cairo. How, I wanted to know, could his detention by the Americans be explained, particularly in light of these circumstances? He had no answer. On 9 March 2004, the Coalition Provisional

Authority (CPA) announced that Abul-Abbas had died in prison as a result of so-called natural causes. It is only one example among many: hundreds of prisoners have died under inhuman conditions, or as a result of unspecified causes, in jails administered by the occupying forces in Iraq. The "elections" in Iraq demonstrate the limits of the American project. Their friend Ben Ali paved the way two months earlier with his extra-constitutional election.

The year 2004 marks the first time since 1967 that the number of persons held in prisons run by the Israeli, American, and British occupying forces surpassed the number of those held in the prisons of 20 Arab countries combined.

(*) This text was originally presented as a speech for a conference organized by the Arab Cultural Center in collaboration with the League for Human Rights (la Ligue des droits de l'Homme) of Liège-Verviers-Huy.
Liège, 25 February 2005 (updated for English translation)

Human Rights and Secularism

Rediscovery of the World:

If tolerance is the legitimate father of Western democracy, then secularism can be considered the contested mother of human rights. The concept of *Aufklärung* is elaborated through the discourse between acquired and religious knowledge, between human and divine law. Man achieves the age of adulthood through a continual act of recreation whereby the world recovers the transparency of its origins. The relationship between human power and divine nature did not end with Jesus Christ. Man has reclaimed his position as supreme legislator of the natural world. The rupture between Man and his own history was the catalyst: "(Man was) the sole actor in the modern age who had the audacity to leave his past, his tradition - one thousand years of Christianity - in the shadows of the Middle Ages, and to define himself as the resurrection, the rebirth of an Antiquity forever lost"⁽¹⁾.

Reconstruction:

Life has never been an exact mirror of the history of thought. The conflict between the Church and the modern State has taken place in such a wide variety of contexts that it is impossible for us to offer a simple explanation of the relationship between human authority and that of religious institutions. The desecration of public life in France has been the result of an open and sometimes deadly conflict, thus

helping to explain the militant and aggressive nature of French secularism today. This conflict has provided for a French concept of secularism that is at once legal, moral, and philosophical. Secularism, according to this perspective, is inseparable from human rights, liberty, and equality. In her report on human rights and secularism, Jacqueline Costa-Lascoux describes the situation in the following terms:

Human rights are the foundation of secularism. Secularism is not only an anticlerical reaction; it is also a philosophy, a positive philosophy that rests on the pedestal of fundamental Rights. Human rights refer principally to human dignity, to individual autonomy. They presuppose a rational being with the capacity of choice and involvement, an individual who exercises free will, a critical mind, and who weighs the pros and the cons before taking a decision and who is willing to compare his convictions and ideas to those of others⁽²⁾.

The concept of French secularism is often defined in direct contrast to the notion of religiousness. This is due largely to the fact that secularism in French society has come to occupy territory that for centuries had been the sole domain of religion. The writings of Jean Jaures illustrate the voluntary spirit that allowed for the transformation of secularism into a profound philosophical doctrine:

What must be safeguarded above all else, that which is the inestimable good that can be achieved by man despite prejudice, adversity, and conflict, is the notion that there is no sacred truth; that is to say, nothing is beyond the reach of human investigation. There is nothing greater in this world than the sovereign freedom of thought... that all truth that does not come from us is a lie; that regardless of our attachments, our critical sense must

remain acute and all our assertions and thoughts must be impregnated by a rebellious spirit; it is to say that if God's ideal were rendered visible, if God himself stood before the masses in physical form, the first obligation of man would be to refuse obedience to him who he considers his equal, not as a master to whom he must submit himself. Thus are the meaning and the greatness and the beauty of secular teachings in their essence⁽³⁾.

This global dimension of secularism, however, has not ensured unanimous agreement on its meaning. For example, the German approach to secularism is characterized by a dispassionate pragmatism. In England, the Anglican Church maintains an official position within State institutions. For one young nation with a Protestant culture comprised of multiple denominations, human rights arise from "the Creator" and are not considered to be in contention with religious beliefs:

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness⁽⁴⁾.

The famous "In God we trust" stamped on the greenback is understood by Americans as the link between the "absolute" State and the religious spirit.

Thus in Western culture, one can see reflected in the rights of Man a gradual separation between that which was considered sacred and the elaboration of the first national, and later universal, human rights.

Universality Enshrined:

Universality signifies the sharing among human beings, regardless of their ethical or philosophical values, of a

practice or a set of principles. Torture is universal, as is respect for human dignity. If we can find defenders of secularism among the great civilizations, then it could be said that the separation of Church and State has never constituted a universal phenomenon. There is no one concept, definition, or representation of secularism that is common to all secularists. And rarely does secularism go so far as to constitute a desecration of political life. Reduced to the separation of Church and State, the link between secularism and democracy, and secularism and human rights remains to be defined. During the French Revolution, the conflict between the Church and the key figures of the Declaration of the Rights of Man and of Citizen of 1789 created an enormous tension between human and divine rights. But human rights are not exclusively the outcome of the French example. In American literature, the question of conflict between religion and absolute rule is rarely cited. The Muslim world, for the most part, has not opposed the Universal Declaration of Human Rights (UDHR). The only Muslim state to not vote in favor of the UDHR was Saudi Arabia which, like the (secular, read: anti-religious) former Soviet Union, abstained.

Human rights are not considered a religion, even less an ideology. Human rights consist of texts and instruments put forward by men and women from different countries, of different colors and religions, at a given moment in the history of humanity. Fortunately, this ensemble does not represent divine law. As a result, it is shaped by evolution and remains, by definition, a work in progress.

Religion, however, is another matter entirely. Its declared universality does not erase the borders established between those who are part of the religious community and those who

remain outside it, even if this universality is, at its core, in the service of human dignity. In this context, the universally recognized human rights are situated beyond religious or philosophical adherence, beyond secularism and religion. Their elaboration by human beings constitutes the essence of their secularity, but it is the "evocation of the universal" that allows them to remain untainted by dogmatism.

This sense of caution was built into article 1 of the Universal Declaration of Human Rights:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

This philosophical "neutrality" endows human rights with universality. Mention is made neither of Creator nor nature; the accent is placed, rather, on liberty and equality. Neither secularists nor the religious wield a monopoly on human rights. History teaches us that the fundamental basis of the rights of the individual as well as the obstacles to the exercise of those rights is not systematically the work of one camp against another. The mystical unity of humanity in Jesus Christ renders possible the conception of a history that fully encompasses all of humanity. And it is written in the Koran that Allah honored Bani Adam (human beings), Muslims and non-Muslims alike.

Secular Power and Human Rights:

Reducing secularism to a simple separation of Church and State removes the moral and humanistic protection inherent in the concept. Such a separation does not signify, in and of itself, the respect for human rights or democratic values. Ataturk constructed an authoritarian secular state

and Hitler showed us that racism and a secular state could coexist in Nazism. Stalin eliminated all those who refused to obey the totalitarian system installed under the single-party rule of the USSR. Ben Ali, Assad, and Saddam Hussein induced a sense of rejection and disgust toward the principles that were lost in this reductionist and institutionalized conception.

To accept a negative image of secularism is just as dangerous an approach as to reduce Catholicism to the Inquisition. Secularism is an historical process rooted in Western civilization. Peoples of many non-Western countries and cultures find secularism to be a useful tool in making sense of the structures in which they live. It may also be the only means of coping with the diversity thrust upon us by the post-colonial reconstruction of the nation-state. India provides an interesting example, far removed from Europe, of the cohabitation of a Muslim president, a Sikh prime minister, and a predominantly Hindu populace. But it remains important, in our opinion, to take a closer look at the example of France, the avant-garde of secularism in Europe.

The law of 1905 that governs the separation of Church and State is the result of 116 years of conflict between the State and the Catholic Church. This law establishes the basic structure of French secularism:

... freedom of conscience and religion; free organization of Churches; non-recognition and legal equality of aforementioned; free and public expression of religious beliefs. To this is added secularism of institutions, notably that of schools and of educational instruction.

Nevertheless, the religious neutrality of the public domain remains formal in nature. If there no longer exists official

religion, traces of the public role historically played by religion in France remain. This is particularly evident in the calendar to which the Third Republic even added Easter Monday and the Monday of the Pentecost to the four "mandatory" Catholic holidays: Christmas, Ascension Day, Assumption Day, and All Saints' Day, all declared holidays in 1802. Thus France has not cut itself off from its religious roots, but from other religions - Judaism, Islam, and Buddhism. These believers do not see their holy days taken into consideration except in rare cases, such as that of public employees and students who can request special authorization to observe "un-official" religious holidays. We are currently facing an unspoken agreement that is being articulated in different terms depending on whether it is addressed to a minority religion (such as Judaism in its early days) or to a religious community in the process of construction (see Islam and the Muslim community of today). Some may be surprised, for example, to see so many Saints in the Paris metro - this in the same country that does not allow a grown woman in working in the public service to choose her own outfit. Secularism is also a political affair. To that end, the secular spirit must remain everywhere relative if it is to minimize the tendency of exclusion and maintain a focus on the respect for human rights.

It can be said that we have entered a period of crisis concerning human rights. Despite progress in the areas of jurisprudence, theory and reflection, and denunciation, major work remains to be done to address the problem of impunity: to bring human rights violators to justice and to prevent certain States from opting out of international human rights norms. In order to truly speak of human rights for all, we must move away from a Western conceptualiza-

tion of those rights and toward one with greater global reach and relevancy. For its part, secularism is experiencing a crisis of identity. Now more than ever there is a need emphasize the inseparable link between secularism and human rights and to openly oppose authoritarian secularism. The European Secularist movement recalls this inseparable complementarity:

Secularism is at once an ethic and an ensemble of legal rules relating to the functioning of the State and public utilities, including National Education. The values of ethical secularism include freedom of thought, independence of spirit, respect for difference, and tolerance to the extent that it is reciprocal and unrestrained⁽⁵⁾.

Notices:

- 1 - Kostas Papaioannou, *The Consecration of History (La consecration de l'histoire)* ed. Champ Libre (1983), 161.
- 2 - For a variety of subjects viewed from a secular perspective, see *Secularism from A to Z (La laïcité de A à Z)*, <http://www.ulb.ac.be/cal/Qld.html>.
- 3 - Jean Jaurès, "Speech before the Chamber of Deputies" (Discours à la chambre des Députés), 18 February 1895.
- 4 - *The Declaration of Independence, Action of Second Continental Congress, July 4, 1776.*
- 5 - See www.europe-et-laicite.org.

(*) Translated from French by Morgan Wolfe

(*) This text was originally presented at a symposium entitled Culture and Secularism in the Arab World held at the Arab Cultural Center in Brussels on 16 October 2004.

The Palestinians in Iraq

Introduction:

Few Iraqis know the situation of the Palestinians in Iraq, and even fewer from the other Arab societies and the international community know the reality of the situation. Those Palestinians who were labeled by a Western journalist "Palestinians of Saddam" are the ones forgotten by the United Nations, international organizations, the Arab League and successive Iraqi regimes. More troubling is that there are those who envy the situation of these Palestinians on the basis of Saddam Hussein's speeches, which would continuously proclaim that Palestinians are the closest of people to the regime, thereby giving the impression that Palestinians must have lived plentiful and privileged lives that have no limits.

In truth, when I discussed with an Iraqi Opposition political leader my intention to examine the situation of the Palestinians in Iraq during my visit to Baghdad, he responded by saying: "Beware that this milieu is full of Saddam supporters and spies." When I returned and told the same person what I witnessed, his eyes welled up with tears, and he said: "Is it not curious that the ordinary citizen would fall victim to propaganda. And I myself did not know the reality of the situation." Moreover, the Jordanian newspaper El Majd reported that: "Baghdad provided all the rights except ownership of land and houses," and no other Arab newspaper refrained from comparing the post-April 11

change for Palestinians in Iraq to a shift from blessing to indignation.

It is for this reason that this summary report aims to clarify the reality of the situation since 1948 for Palestinians in Iraq. Perhaps these victims can finally regain the minimal rights of dignity that are granted to other refugees under International law so that the new political situation does not make them victims again.

Historical points:

The Iraqi Army, which was in Palestine at the time of al-Nakba, formed the Kermal Palestinian Brigade from the residents of several villages south of Haifa and what is referred to as *The Triangle*. The families of the Brigade were transported to Iraq during the summer of 1948. They were from the areas of: Ijzim, Ain Ghazal, Jaba', Sarafund, al-Mazar, 'Arat, 'Arara, Tuntura, Teira, Kafarland, 'Atlit, Um al-Zienat, Um al-Faham and Ain al-Howd. It is estimated that in 1948, between 3000 and 4000 people went to Iraq.

From the arrival of the Palestinians in Iraq and until 1950, the Iraqi Ministry of Defense protected and administered their affairs in the country, where their settlement in military bases in Sha'bia, al-Basra, in several organizations in Al-Mosul and in the Iraqi provinces of Abu 'Arib and al-

Howeishi and in some schools and government buildings was completed. The situation remained like this until 1958. There was an agreement between the Iraqi government and UNWRA on the appointment of the Iraqi government as guardian of Palestinians in Iraq in exchange for forgiving Iraq's UN dues.

After 1950, the Iraqi Ministry of Employment and Social Work became responsible for administering the affairs of the

refugees; a special department was established within the Ministry to care for Palestinian. But this was not accompanied by any law specifying the type of residency of the Palestinians.

The population growth:

After 1950, and the transfer of responsibility to the Ministry of Social Work, the Palestinians were redistributed, and the system of collective living in the shelters and the areas owned by the Iraqi government were consolidated. The Palestinian refugee population increased at the same average rate as the Iraqi population. So in 10/04/1969, it was estimated that 13,243 refugees were registered in the Bureau of Refugees Affairs: 13,208 persons in Baghdad, 355 persons in Mosul, and 200 persons in Basra. After 10 years, the PLO estimated the total number of refugees to be 19,184. In 1986, the Census Bureau of the Iraqi Ministry of Planning gave a figure of 27,000 refugees. And in 2000, most estimates placed the number Palestinian refugees at 35,000.

Also, if one counts those Palestinians who entered Iraq after 1967, 1970 and the second Gulf War (1991), it is possible to say that, in addition to the registered Palestinian refugees mentioned above, there are approximately 35,000 Palestinians who carry various Arab passports and documents. In order for a Palestinian in this group to be included in the definition of "refugee", he/she must satisfy the following conditions:

He/she must be from territory occupied since 1948; and

He/she must have entered and resided in Iraq prior to 25/09/1958. For the purpose of family reunification, it is permitted for a woman to go to Iraq to join her Palestinian husband who was registered before 1961, but it is not

permitted for a man to go to Iraq to join his Palestinian wife.

The budget of the Bureau of Palestinian Affairs within the Ministry of Employment and Social Work allocated 200 thousand Iraqi Dinar; this budget remained stable from 1950 to after 1970 despite multiple increases in the number of refugees.

The population distribution:

Abu Anas, a Palestinian Iraqi, said in his testimony to us that:

The policy that was pursued in dealing with the settlement of Palestinians in Iraq was the wrong policy. It was missing the compensation and the search for a lasting and just solution. The administrative and political approach would continuously search for a partial and short-sighted solution. Despite the limited number of refugees in comparison to other countries, the shelter system, with all its moral, health, psychological and social dangers, was maintained.

Successive Iraqi governments pursued the shelters as a temporary solution for the refugees. The extent of the tragedies experienced by the refugees is indicated by Issam Sa'nim in "The Palestinians in Iraq", his study of the policy and shelters 32 years ago. He states that:

It is a unique type of collective dwelling; I would not have thought that a society in the final third of the twentieth century would contain this lowest type.

The shelter, which is a big house that sometimes consists of eighty rooms or more, was originally a school or perhaps an old building that used to be a hotel that has been abandoned because it is old. The Palestinian Bureau would rent it and poor families would crowd in it in an inhumane way.

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- a) The shelter would include at least 24 families or a maximum of 61 families.
 - b) The garbage is piled at the entrances of the shelters, which, in the extreme heat of Baghdad, would turn into an environment for diseases rarely seen. And the dirty water has no outlet except the public street and the entrance of the shelters because there are no storm sewers or sewers, making walking difficult.
 - c) Inside, where the walls are crumbling and the ceiling is collapsing, the refugee families crowd within one room. For every family of six, there is one room, and for a larger family, the rules require that two rooms be provided. But in reality, most of the time the rules are not applied. The family is forced (which I witnessed) into dividing the room that is no more than 12 meters squared into two using a blanket or sheet.
 - d) The majority of these shelters are dilapidated; they are very old buildings that were not demolished only because the refugees are residing in them.
 - e) There are few or no washroom facilities. In a shelter that accommodates sometimes more than thirty families, you can find no more than two washroom facilities or three, if its residents are lucky.
 - f) The common hallways, which are dark, humid, and narrow, and serve as the playground for the children, become crowded and filled with the children's screams.
 - g) Because of the extreme heat in Baghdad, the residents are forced to sleep on the roofs of their homes. All the families in the shelter go up to the shelter's only roof in summer nights. The miseries become evident when the sheet that divides the roof gets blown in the wind; the

women sleep on one side and the men on the other side. It is possible for the reader to imagine the scene, with the shelter surrounded by rooms made of corrugated tin in an attempt to accommodate the population increase in the area over the past three decades.

In 1977, Unise Taha submitted a Masters thesis in Baghdad University that included a list of the shelters in which an estimated 11.97% of Palestinian refugees reside. As a result, the Palestinian Bureau "decided to empty the shelters completely and to move the refugees to new buildings".

It is possible to verify the Bureau's execution of its decision. We visited two al-Zafarani shelters (shown in the pictures accompanying this report), where we conducted a visit to the area and the homes.

In addition to the shelters, there is another type of housing, known as 'frozen property', which is the property of Iraqi Jews who have immigrated to Palestine. These houses were distributed to Iraqis and Palestinians. The buildings are also old and have not been renovated. The people refer to them ironically "the six palaces" because they are considered to be much better than other places. They have the same organizational structure as the shelters.

We visited them; it became obvious to us that they do not meet the minimal international standards of human habitation. Corrugated tin rooms, which were built to accommodate the increasing population pressure, surrounded the houses. When they were given to refugees in 1960, five families used to live in each house. Today, in every house there are twenty families. We counted in the "five palaces" (and not six as they are called) more than 110 families. Therefore, there are 20 families in every

house (please refer to the accompanying picture).

There is also the rented property; it is ordinary property that is rented by the Bureau of Palestinians in Iraq for the purpose of housing refugees in it. In the eighties, the Bureau used to pay approximately 24000 Dinar in annual rent. These properties are the ones that brought back the memories of the tents to the Palestinian people. Following the fall of the Saddam Hussein regime, the owners of these properties demanded their return because the government used to pay low rent and did not increase the rent over the years. So in the absence of authority, there was an opportunity to get rid of the Palestinians residing in them.

Finally, there is the individual housing. It consists of a collection of subsidized housing units that have social services. It is considered the best form of housing available to the Palestinians. There were 16 residential buildings in al-Baladiat neighbourhood and one building in Mosul in al-Karamat neighbourhood. These residential buildings consisted of three stories and four entrances, with each entrance leading to 12 apartments, and every apartment housing two or three families from one extended family. There are two types of apartments: a big type that includes two rooms, a hall, a kitchen, washroom facilities and shower, and a small type that includes one bedroom, a hall, a kitchen, washroom facilities and shower. No additional residential buildings have been built since 1980.

It is possible to describe, as follows, the areas that we saw where the Palestinians reside in Baghdad in 2003:

Al-Baladiat: It is the biggest bloc; there are approximately 1600 families distributed among 768 apartments in 16 residential buildings.

Six medium shelters in Baghdad al-Jadida that used to be veterinarian clinics.

24 small government subsidized houses in Tel-Muhammad.

3 shelters, one of them almost collapsing, in the Amin neighbourhood; they have 45 apartments.

3 shelters in al-Zafarania and 8 government subsidized houses that are in inhumane condition.

3 shelters in the Horia neighbourhood, one of them big and the others medium sized, containing a total of 129 small government subsidized houses.

The houses in the Saddam neighbourhood, whose construction has been frozen, as referred to earlier, and 68 small government subsidized houses.

There are a total of 68 scattered houses of different types in al-Batawin, al-Jihad neighbourhood, Abu Tsheer and other areas.

Since the fall of the Saddam Hussein government, there were 706 families forced out of their homes, some of whom, along with their belongings, have been able to move in with their relatives into quarters crowded with people and belongings. As a result, the camp al-Awada was set up in the Palestinian facilities in Baladiat to accommodate the majority of them in harsh conditions. This is a picture of 295 families who were unable to find anyone or help.

Finally, it is necessary to note that 1018 Palestinians have left Iraq towards Jordan, which, even until now, refuses entry to some of them at the border (approximately 900 persons). Now they reside in a camp in the open air near al-Rouweishid.

Place	Number of Families	Number of people
Camp al-Awada	240	1117
School in al-Baladiat	18	85
Factory in al-Baladiat	18	73
Jerusalem Military base in Salam Neighbourhood	17	82
City Hall in al-Baladiat	1	3
Charitable Organization - al-Baladiat	1	7
Total as of evening of Wednesday 11/06/2003		1376

Review of the legal situation:

The blundered legal status for the Palestinians may give some indication of the degree to which there was an absence of state of law within the Iraqi authority. In public political speeches over forty years, its claims of limitless support for the Palestinian cause and the Palestinian people have made it possible to imagine Iraq as the paradise for the Palestinians. We can see that the reality for the Palestinian is that of restrictions in work, housing, and traveling, and discrimination. The Palestinian worker's situation can be compared to that of the foreigner in its negative aspects, but the Palestinian is treated as an Iraqi by every oppressive mechanism of the state. There is a policy for which we cannot find a rationale: the Palestinian is permitted to travel only once a year (this policy was in place before the wars and sanctions and remains), and has no right to a savings deposit account.

Several decisions had resulted in the Palestinians' right to ownership, but the reality was the worst possible. We acquired a document signed by the Minister of Employment

and Social Services, Ahmed al-Haboubi, eighty days after the June War of 1967 that documents the situation of the Palestinian in Iraq at that time. He says in it:

I visited the shelters where our Palestinian brothers live; what I saw pained me and I am not exaggerating if I compare it to graves inhabited by the living. The shelters are identical to graves in that there is no sunlight or clean air. The building is old and dilapidated, threatening the lives of its inhabitants, who live in constant fear. In one room, whose dimensions are 3 by 3.25 meters, resides a family of between 7 to 12 individuals. It is the place for cooking, doing laundry and dishes, washing, sleeping and eating. It is also the playground for the children. There is no barrier between families, which gives rise to danger, concern and problems resulting from the mixing of girls and boys. Also, health is threatened by the spread of disease, especially since cleanliness in these places is poor. The problem is bigger than can be described, and as the saying goes, (the one who hears is not like the one who sees). The person in these places loses his humanity and his life is like that of an animal. I say this with every pain, and I am certain that your honourable Council (meaning the Iraqi Council) will give this problem the necessary care to rescue these poor individuals from the miserable situation in which they live. The despair in their spirit has begun and they question even the hope of their rescue from their situation; so they have given in to despair. And I cannot hide from you the depth of bitterness that accompanied me as I looked into the eyes of the children, women and elderly, and their pale faces, which have lost their vitality, penetrate me in total blame and say 'Is this the way those who are returning live?'

After this revelation, the Council met and decided to give

to the returning brothers land with a loan for building materials. The Council developed specific rules for Palestinians, including decision number 1 in 1968 that guaranteed monetary help.

After these generous promises, there was a coup by the Ba'ath party in July 1968. The Revolutionary Council passed decision number 366 that decided to solve the housing crisis by building a group of subsidized housing units, complete with services, instead of giving land to Palestinians. It also gave equal opportunity to the Palestinians in Iraq in relation to hiring, promotions, retirement, vacations, bank loans and inclusion in official delegations as an Iraqi. In return, this decision forbade Palestinians from buying land, building houses and acquiring loans.

In 1981, the Council passed decision number 1 permitting the Palestinians the rights of ownership, and granting them the right to own one house for residence upon approval by the Ministry of the Interior.

In 1983, the Council passed directives number 5 requiring the agreement of the General Institution for employment and the teaching of vocations for the purpose of attaining and changing jobs.

In 1984, it was decided to grant the Palestinians permission to own one residence at the current cost.

In 1987, Saddam Hussein passed a decision suspending implementation of the decisions mentioned above for a period of five years.

In 1997, Saddam Hussein passed a decision granting any Palestinian who is a card carrying member of the Ba'ath party a piece of residential land.

In the period of the second Intifada, several decisions

were passed, granting to Iraq's Palestinian community certain presents, about which only those who talked about it in the press knew anything.

The primary problem in dealing with the Palestinian case in Iraq is that the Palestinian cause was a commodity in the official media that the regime used for its own purposes. Consequently, except for the attempts made at the beginning of the seventies that improved the situation for some of the refugees, all of the laws were merely ink on paper. In the eighties and nineties, any improvements in the personal situation of the Palestinian depended on loyalty to the party and regime. The vast majority of Palestinians were marginalized and only a very small segment benefited from the regime.

Conclusions and recommendations:

We are facing multi-faceted tragedies, the primary aspect of which is the special situation of Iraq's Palestinian refugees, who are outside the administration of United Nations Organizations, and specifically, UNRWA. This reality has left the refugees' social fate, and not just their political one, directly in the hands of the regime in the country. At this point, perhaps the head of the UN administration in Iraq can discuss the inclusion of the Palestinians in Iraq within the services of UNRWA, and consider agreements with the Iraqi government null and void. Such an approach would enable the establishment of a new basis for the legal situation of the Palestinian refugees that would be clearer with any future Iraqi government.

This is the proper approach for the future of the Palestinian refugees, as it places them within any future framework proceedings related to the right of return, but

there are immediate measures that cannot be postponed:

The suffering of those residing in the camps must be ended; they should be moved to acceptable places of residence. There are several possibilities that would only require administrative decisions to put an end to this unacceptable situation. We received a promise of a quick response to our request, which we hope will be respected.

Emergency aid should be allocated to those living in shelters, while we find a final solution to this inhumane situation through cooperation between various humanitarian and charitable organizations and governmental departments.

Job opportunities should be offered in a normal way without differentiation, and all decisions that hinder and make the daily life of the refugees difficult should be reversed.

The newly formed Iraqi human rights organization should report on the miseries of the Palestinians, and bring together Palestinian and Iraqi neighbours, in order to stop the rumors and internal strife incited by a foreign party suggesting that the Palestinian community was in the service of Saddam Hussein. As a result of this incitement, the Iraqi public imagined Palestinians to be enjoying privileges, hiding money and aid given to them, and living fantasies publicized by dishonourable political factions and those foreign to the deep-rooted traditions of Iraqi politics. We can borrow the saying of a poet to say to the residents of the poor Iraqi and Palestinian neighborhoods: "Oh my neighbor we are both poor here/ and every poor person is related to a poor person".

I would like to thank those living in the shelters and temporary camps for their invaluable help, and to brothers

Abu Ali, Abu Annas, and Abu Hazm, who provided me with access and were most helpful in my obtaining all that is related to this file, from formal documents to witness accounts and transportation.

(*) The English version is prepared by: Palestinian Diaspora and Refugee Centre, SHAML www.shaml.org

A Scream Before the Kill

The non governmental Space:

Since the beginning of civilizations, the defence concept of individuals by a social entity has persisted independently inside and outside the dominant political power. The aim of the social entities -in all their forms - is not to conflict the political power but to allow individuals to participate in the political sphere, and to reinforce humanitarian aids and solidarity's relations.

In Islam, this concept of defence is not considered as a simple right; it is above all a duty since the concepts of good, charity, as well as the cultural action are intrinsic to each individual. These concepts are not related to the only prerogatives of the political power, in any school or schisms of Islam.

Thus, Dr Mohammed Ben Abd Allah Elssaloumi explains it in his entitled study "The sector of charity and the accusations of terrorism":

"The Muslim act of charity is essential in Islam. That is why it is neither a secondary nor a distinct element, and far from being a wrongdoing. It cannot be considered as an accusation from which one can be defended. As a Muslim must bow down, prostrate, and pray, he also must do good in a collective and organised manner. In one of the Koran's texts, the act of charity precedes the invocation of Jihad [the struggle for God]:

"ye who believe! bow down, prostrate yourselves, and adore your Lord;

and do good; that ye may prosper.

And strive in His cause as ye ought to strive, (with sincerity and under discipline)"⁽¹⁾. said the almighty.

In addition to doing good, he ordered to invite others to reproduce the same act:

"Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity"⁽²⁾.

The Lord has also related the obligation that is due to him by the application of the prayer to the obligation that is due to the poor by feeding them. On this subject, He says:

"What led you into Hell Fire?

They will say: "We were not of those who prayed;

Nor were we of those who fed the indigent"⁽³⁾,

"Seest thou one who denies the Judgment (to come)?

Then such is the (man) who repulses the orphan (with harshness),

And encourages not the feeding of the indigent"⁽⁴⁾.

1 - Chapter XXII, Al-Hajj [The pilgrimage], verses 77-78.

2 - Chapter III, Aal-E-Imran [The Family of Imran], verse 104.

3 - Chapter LXXIV, Al-Muddaththir [The Cloaked one, The Man Wearing a Cloak], verses 42-44.

4 - Chapter CVII, Al-Maun [Small Kindnesses, Almsgiving, Have you Seen], verses 1-3.

5 - Doctor Mohammed Elssaloumi, The sector of charity and the accusations of terrorism, EL Bayane, Saudi Arabian Kingdom, pages 73-74.

Therefore, the importance results from the own value of this act of charity, which is brought to the one who applies it as well as to the one whom it is applied to, and to all what follows from it. This shows to which extent this action is a segment of faith and rite of the Oumma [nation, community of believers]. This action is also subdivided into an individual or collective obligation, as well as into essential or a complementary duty. It is unacceptable to marginalise or to give up this noble action by the individuals, the nation, the institutions or the states since the charity forms part of their religion, their faith, and their rites"⁽⁵⁾.

The prophet's tradition [Al-Sunna] requires of each Muslim, belonging or not to the political authority, to respect this word in all life circumstances: "do the good to the people of the good or people of the no good, if you reach through the good those people, they deserve it, if you do not, you deserve it [the good]". The Wakf - religious donations of good to the community- appeared during the first years of Islam. It became one of the components of the right to solidarity, written in Muslim culture. The private Wakf(s) were built in parallel of the public Wakf(s). This has allowed the private Wakf to evolve on the margin of the authoritative laws, in all their aspects, and to escape through history from all forms of despotism. Moreover, in regards of Wakf, no possibility is accepted concerning the sale or the seizure of a good under its sequestration.

Regardless of the government's state of power or weakness, there were always constants concerning the right to education and health, the preservation of worship places, and the aids brought to the most necessitous. Constants, which remain the field of predilection of the national non-governmental institutions. According to this aspect, schools

were able to develop; hospital centres of studies and medical care were established. Varied forms were able to see the light under the protection and the aids of travellers, in the assistance of the disabled and the handicapped, supporting the students, even in the field of animals' protection.

Hence, the act of charity was an essential mean of knowledge's propagation, of struggle against the precariousness and the diseases, in the promotion of the individual, in the consolidation of solidarity, and in strengthening its cohesion and its national preservation. Those principles that became an essential part of the Arab and or Islamic culture, in a sense to represent evidences, had only suffered during some particular circumstances and limited experiences, which by then limited their central role in the social life.

Thus, it seemed essential to remind through this fast retrospective, that the concept of non-governmental space existed well before the concept of the European bourgeoisie's civil society. Moreover, it has also constituted a universal common denominator of all great civilizations well before capitalism. In this sense, this concept was, through time, an element of the society's protection, abuse of authority, and of its deliquescence and its absence. The occidental concept of "rights" could not be established without the confirmation of this essential space. This space was considered as the basic infrastructure necessary in the design of the governance's methods, in the guarantee of powers separation's control, and in the assertion of society and nation's role, in order to ensure the minimum right to expression for the individuals and their freedom to participate in the public life. Quite obviously, apart from the imposed preconceptions since the peak of what is called "humanisation" of the human society, in opposition to any

relation that can relegate the simple "herd of subjects" role.

Since the 17th century, the concept of civil society knew the cohesion's intern bases and interrogated the concept of the State capable to reduce individuals' secular or religious problems. Thus, the contributions of Emmanuel Kant (1724-1804) which, remains secondary in comparison to Jean Jacques Rousseau and Thomas Hobbes' speeches, affected to the new era stated in the human and civil rights, the consideration that the principle of all sovereignty is fundamentally related to the nation.

Then, we can consider Kant as the founder of a new orientation in the relation between the State and the society. A relation that rests on three bases that initially impregnated the occidental culture and society in order to be propagated, thereafter, on a worldwide level:

First base: The consideration of the State role as being principal but not unique. The individuals and the groups, outside the State's circle, constitute an inescapable part in the confection of the men's present and future.

Second base: There are universal values - human rights, peace, the right to auto determination -, which are incumbent upon the international community with all its components.

Third base: As the states can have their own interests, common interests that the whole humanity share can also exist.

In France, the regression that the revolutionary State knew, after having assassinated its revolutionists, as well as the hesitations inside the undertaken reforms by the European countries, had non negligible consequences in anchoring the concept of spaces freed from the State direct authority. They also had consequences in the necessity to

bind the values and the universal ideas to a worldwide or international republic, which base remains in equality, justice, equity, arbitration, and sanction. Since the State does not represent the individual in all affairs, in any time and any place, every authority needs an opposite authority, and the base of absolutism's reject is not only the fact of refusing to considerate them as minors; it is above all the consequence of the faith in the exercise based on delegation and representation.

This association between the independent individual, the creator, and the contractor, within a supra state-control of men's relations, has permitted the concept of "lights" to move beyond the State-nation's frontiers, in a way to put into perspective the concept of sovereignty and to attach it to a higher end which is the Man. On this basis, it is obvious to read with Abdullah Annadim, Jamal Eldine Al-Afghani, Ayatollah El-Mohik Enna'ini and Abdurrahman El-Kawakibi the first signs of this universal work, in particularly in their speeches concerning themes of the State control, the nation's role, the conditions of power practicing, and the society's capability to act outside the Khalifa's institution, etc. The first changes interfered during the last decades of Ottoman Empire consecutively to Europe's pressures, and they were pursuit under the influence of the liberation's movements in their wars against the European colonialism: however, in both cases, the society was not entirely engaged in what was happening. When the post-colonialist Arab State took over power, it checked in most cases the margin that the citizen could conserve during all of this historic transitory phase. Thus, the takeover began, on the ancestral private Wakf as well as on the recent national associations, in the objective to expend the circle of the masses'

organizations and others. This situation was propagated up to countries that were not yet affected by the syndrome of the new restricted ideologies, where the political authority showed a progressive appetite for the monopole of all public activities. The Afghani "miracle" has probably played in the Saudi Arabian Kingdom, the basic transitory role in the phenomenon of humanitarian and charitable associations, since their simple local expression under the political authority's control and examination until it becomes a national practice in all what it means, strongly supported in its right to existence by the State, the religious apparatus, and by the United States of America as well. Thus it was evident - for theological or political reasons -, that the American administration conceives that the confrontation with the Soviet danger and the resistance to the Afghanistan invasion requires the expansion of John Foster Dallas' vision supported in his book "War or Peace" which, proposes to face communism with the missions of Christianization in order to stretch out on Islam, concerning in more particularly the Afghan experience and the Islamic republic of the soviet union. This conversion of interests allowed the common facilitations and the great collaboration between the United States and the Saudi Arabia. As for the national society, it took advantage during this period of the opportunity to express itself and to force a great margin of action, as long as the shared goal was eventually the support brought to this common strategy. Finally, the society during this period practiced on the free actions and on the voluntary based organization, the mutual aid and the solidarity outside the frontiers. Moreover, the concept of solidarity and charitable actions was strongly consolidated in the collective consciousness. All of that made the phenomenon of

humanitarian and charitable organizations to propagate and understand many countries in all the continents, through actions that start acquiring help through war and finish by the construction of schools, hospitals, and mosques.

The secret of this success might also be the fact that the charitable and humanitarian associations are deep-rooted in the collective conscience since many decades. This made of the modification of laws that govern the associations, a question of form, in comparison with the customs of the charity's mutual aid, of known solidarity and assistance in the Arab Muslim history. Customs that took place in the popular culture as not only being a necessity to fight violence, reduce misery and to ease someone's pain, but also as a religious obligation in the spiritual sense, which is shared by the whole Muslim societies regardless their differences .

The different humanitarian and charitable associations had been affected by the rise of the authoritarian power model. They suffered from a strong regression of the "new" states' forms that abandoned the good customs of the Arab society and lost interest in virtues even in those of occidental societies. Thus, the number of national organizations has strongly regressed, in a time record, in the entire Arab world. In parallel, the non-governmental organizations steadily made their peaceful revolution on the worldwide level. The prohibition struck the associations of books' conservation and of handicaps employment, in the pretext of being linked to the current opposing politics or of being used by prohibited parties. In the same register, cultural and sportive clubs were nationalized. Moreover, on the same rhythm, each creation of any national gathering fell under the assault of laws of exception. By necessity, the associative

fact is summed up, in most Arab countries, to what we call "the semi-official and governmental associations".

The collapse of the unique party and the absolute power's thoughts, the wars of liberation, and the apparition of civil wars in many muslim and Arab countries re-gave consideration and recognition of utility for humanitarian and charitable organizations. The experience of the Palestinian Diaspora provided a considerable support for the public Palestinian resistance in the camps against the occupation. Thus, the national Palestinian associations have succeeded to keep the social tissue and the national civil conscious in the occupation's inhuman conditions. In the same way of the Afghan drama -as we explained it before-, it could have played a considerable role in development of this phenomenon in the Gulf countries and the Arab peninsula. This phenomenon has also profited from the fact that the Soviet occupation of Afghanistan coincided with the improvement of life style, after the raise of oil prices in the mentioned countries.

However, if the majority of humanitarian associations, which had appeared in the Gulf, had an Islamic aspect, they remain different in the relations that they can maintain with the official institutions such as the instance of "al'amrou bil'maarouf wa enehyou ani el'mounkar" [the requirement of good and the probation of bad] in Saudi Arabia or with the Islamic political movement or the Salafist movement. Finally, during the two recent decades, with what is commonly called the "Jihadist" movement.

The charitable and humanitarian organizations constitute the only organizational structures capable of auto financing in the Arab Muslim world. This definition allows them to constitute the hard core of the citizen rights, of the internal

peace, of the social solidarity, and to fill up the deficiency of States and governments.

The Islamic humanitarian organizations were strongly impregnated in work methods of worldwide organisations and especially occidental ones. They could have covered the regions where these latter were absent and were not impregnated of the occidental model. Despite the presence of active elements of radical political sensibility in the lines of some of these organizations, they could have benefited from a conformable professionalism with the international norms and from a strictness that limited the incidents of abuse or the bad management of the public properties. This phenomenon was not so widespread in the national associations' circles, sufficiently equipped in general, whether they are religious or secular.

However, in the same time, it is suitable to mention it; they could not escape the universal trap that is qualified as "repossession". Because of the fact of having good reputation and of the excellent confidence relation, which they were able to establish with the society, they couldn't escape from the lust of many forbidden political movements just as many political systems that are incapable to promote their ideologies, for which they could represent a way out.

It is certainly known that this phenomenon is widespread in the west, and that the ministers of cooperation or of foreign affairs in the north are able to produce, according to demand or in case of conflict, as much as needed organizations. But the difference resides in the fact that, in the European countries for example, where exist influential civil societies, this phenomenon cohabits with the existence of true non governmental associations. Whereas in northern countries, the deficiency of the civil society is immediately

foreshadowed at these charitable and humanitarian associations whenever the partisan or governmental designs try to use or subdue them.

Despite the noticed numerous weaknesses in the southern countries, the fact remains that the charitable associations became a menace for the local governments, in the same time, for the exterior interventionism, and for the occidental vision as well for what should become the national engagement in this matter (this latter is dependant of the occidental public opinion for its choices). We can mention a simple example that expresses the reason and to which limit these associations became a source of troubles: The [Palestinian] national associations were, in their activities, constantly forced to seek the support of occidental organizations to accuse the Israeli practices. For this matter, many occidental organizations refused to evoke the Palestinian case without defending the recognition of the Israeli State and its security. There isn't any relation who calls upon the right to auto-determination of the Palestinian people without requiring, in the same time, the recognition of the Israeli State and its right to dispose reliable frontiers. Whereas it is impossible to compare between a State that enjoys all of its attributions and a nation whose rights are confiscated. This trend was generalized to an extent that each gratification for a Palestinian who had realised a remarkable humanitarian work, must be followed by a gratification for an Israeli, even if it doesn't exist, for the same year, a notable work realised in the same matter by an Israeli. In fear of becoming deprived from foreign financial aids or to be detached from the northern countries, most of Palestinians accepted this principle without arguing. Moreover, all non-governmental organizations that receive aid from an

American institution were recently forced by the American administration to sign an engagement of non-approach from any terrorist organization calcified by this administration. In other terms, according to the American administration, it is unacceptable that a non-governmental Palestinian organization contacts the Islamic resistance movement (Hamas) to investigate on its prisoners and detainees. Whereas, at the same time, none restriction is prescribed in the contacts with the Israeli extremist or racist movements!

We should constantly remind the edified positive role of the presence of non-governmental organisms and spaces as well in the southern countries as in the Muslim countries. Indeed, since the arrival of Arab and Islamic associations by force, the nature of internal and external relations has evolved, and the level of practices has considerably progressed as well. We can observe, without any harm, that for religious restriction's needs, the administrative expanses are minimal in the Islamic associations, and strict inspections are equally exercised by the society as much as by the militants concerning all abuse. On the other hand, competitive programs are used in the fields of research in education and health. The more and more widespread existence of organizations descendant from southern countries and the diversification of financial aid sources, for more independence, has contributed in reinforcing the idea of universal civil society and drifted the equation until it builds with the elements of thought according to the universal imperatives and not only according to the occidental denominators. This evolution in relations also results from the southern militants who appropriated their institutions, who refuse any relation of obligation or of domination, and who aspire to equitable collaborations

based on mutual respect and the necessary complementarity.

The aggression that the Islamic or southern humanitarian organizations actually undergo imposes a re-examination and a re-evaluation of the structure, role, and action of these organizations. However, this requirement of neutrality of these organizations in their own vision of the world, cannot have any meaning since each organization in the world, has already its own program and objectives, thus their denomination -"World doctors", "Catholic rescue", "Islamic rescue"- which links the members, regroup an ensemble of shared concepts in what concerns the world's vision, the definition of non-governmental organization, and of what should be the solidarity of the international action. Then it seems impossible to interfere in their direct quarrel and in their initial destination, no matter the country's origin and the reason behind their creation. In spite of their will, the humanitarian and charitable organizations exceeded their immediate mission that consists on helping a family, educating children, diminishing war tragedies, and thus became the protection's central guaranties of economic and socio-cultural rights in the world. In this sense, far from belonging to a partisan political program or to a government, they become the society's collective patrimony.

This central exponential position as well as the internal needs and external pressures lead to the construction of bonds between the cultural elites, the social initiatives, and the organizations of rights' defence, in the hope to improve the practices on the bases of scientific studies and sociological prospects, which would provide a critical evaluation of these experiences. This would allow, at first, to scrutinize the structural and operational problems in order by then, to

overcome the weak points and to fulfil the improvements.

Trying to reduce the crisis from its head, through the "grey cells" or the non elected government officials, leads to the permanent destruction of the original reasons of the non governmental space in the Muslim world. This would mean, through this type of methods, the alienation of the non-governmental space under the bureaucratic model which led the "east block" to the State destruction and to the disintegration of societies, and whose application in Iraq brought to losing the set of standards of individuals independence, the groups, and the State.

We hurl this scream to all the Muslim countries of the world, in particularly to the Saudi Arabian Kingdom, and to all gulf countries: there is no use of your belonging to modernity without basis initiatives, social expressions, and non-governmental charitable organizations. Any council appointed by the political authorities is the obvious annihilation of the renaissance, of the civil society, and of the fundamental liberties.

The constriction:

What follows is not a generalization of the Soviet KGB fact, nor of the secret services of eastern Germany (Stasi). What we are facing is a phenomenon, which reminds us Costa Gavras' film about Latin America (The Confession) and his interpretation of the Arab Muslim world: the American administration sends a group of experts to investigate into the Kuwaiti charities' situation. This group refrains from giving any lesson on the transparency or on the possibility of preparing a sociological study about these associations; however it starts a mission of security in the framework of "war against the terrorism ". This mission

aspires to denude the non-governmental organisations, on one hand, by cutting them from their financial sources, and on the other hand, by suspecting all their actions with or without proofs.

Below here are presented the American enquiries entitled the "Document of demand for the charitable and commercial institutions ", such as it was published by the Arab-speaking London daily paper "Al Hayat" in its edition of the 12-01-2004:

"To help the group of experts to better understand the activities of charitable organizations and commercial authorities in Kuwait, we shall be grateful to you for providing the group, when it arrives to [Kuwait], with as many documents of the specified below concerning any organization, in order to examine them. The requested registers have to cover the last three years:

Commercial and charitable associations and organizations:

A - All the ledgers of the organization and its financier registers which contain - not to be limited to these titles- : the public books, the public registers, the auxiliary books and registers, invoices and receipts of payment, the counterfoils of funds and receipts of expenses, books and registers of sales and purchases, accounting books of debits and credits, receipts checks of debts, receipts of sold goods amounts, books of the received and granted loans, declarations of revenues, the declarations of treasury and all the receipts of expenses, including the receipts of the sums paid in cash. These receipts must contain the finance and budget documents, which determine the sources of the organization financing, their origins and their outlays.

It is also requested to present the receipts of the expenses that include intermediaries' use; these are of a specific importance.

- B - Documents containing the organization objectives and the nature of the offered services, its statutes and its organization chart. The organization chart must include the structural and pyramidal specification, including the offices situated inside and outside of the country, if it includes antennas, it must also include the addresses and the telephone numbers and the employees' board with their positions and all other information concerning the identity.
- C - All the financial declarations, the books of receipts and boiling of accounting used in the preparation of the organization's receipts or the paid taxes, the kept copies of all paid foreign or American taxes, including all the information and the directories of the paid taxes.
- D - The detailed identities, the identity documents coming with the applications, the receipts of payment and all other document concerning the beneficiaries from donations, loans, expenses, or scholarships, wages and all other expenses. These registers have to include files concerning all the aids granted to individuals or organizations in Kuwait as well as in foreign countries such as Afghanistan, Kenya, Somalia, Philippine and Pakistan.
- E - The detailed identities, and the identity documents, the checks of refund and all other documents concerning the people in charge, the directors, the secretaries, the employees and the advises and all the services of the organization.

- F - The detailed identities, and the identity documents, and all other documents concerning the individuals and the organisms that made the donations, participations, bequeathed their possessions or all other material donations to the organization. These receipts have to include information on the activities of any group of donation managed by the organization.
- G - Documents relative to the accounts with financial institutions, including the banks, the financier agents, and the stock exchange's offices. These documents have to include the stock-exchange statements, the receipts of deposit, the counterfoils of checks, cancelled checks, orders of deposit of withdrawal, the registers of dates and amounts of the deposited sums, the counterfoils of deposited checks, the receipts of withdrawal, and the document of deposit. The purchase of stock-exchange checks, the phone transfers, the orders of transfer and the demands of phone transfers.

Meeting the individuals:

In addition to the examination of the different receipts requested above, the group will highly appreciate the opportunity of meeting individuals who can provide the group with information concerning the following points:

- A - The procedures approved by the organization for the projects' acceptance or upon the people who receive the charitable sums as well as on the procedures used to pay the sums to the beneficiaries.
- B - The sources and the nature of donations received by the organizations during the last three years.

C - The organizations that benefited from aids during the last three years.

D - The governmental people in charge of controlling the organizations and their activities.

Registers asked the financial institutions::

If need is, documents can be demanded to Kuwaiti's banks or other financial institutions concerning an individual or an organism, it will be realized according to the following method:

A - Bills of the accounts' savings: including the cards of signatures, books of receipts or the registers showing the dates and the amounts of the deposited and withdrawn sums, the interests, the orders of withdrawal and deposit, as well as the stocks of deposit and the deposited checks, the stocks of withdrawal, as well as the withdrawn checks.

B - Bills of check accounts: including the cards of signatures, the financial statements, the stocks of deposit, the deposited checks, the withdrawn checks, of an account and the order forms of deposit and withdrawal.

C - Bills of loans: including the inquiries and the financial statements, the guarantees of loan, the inquiry banker on the resources, the agreements of loans, the mortgages, the statements of payment, contracts, emitted checks of loans and the checks of refund, including the receipts of dates and sums with the nature of payment (in cash or by checks) and the checks used for paying back the loan, The set that must indicate the total value of the annual payment and interests, the receipts of any mortgage and the

books of correspondence concerning the loan and the internal reports of the bank.

D - Bills of safes of the private deposits: including contracts, registers of use and registers of the amount of rental which indicate dates, amounts, and payment modalities (in cash or by checks).

E - Deposit bonds and certificate of stock exchange: including the demands and the means of purchase, purchase vouchers, receipts of the amount's recovery, the emitted checks for its payment, settled checks for the certificate's purchase or any other correspondence, bills demonstrating the annual interests paid or accumulated with the dates of payment or dates of withdrawal of the interests and the emitted checks for the payment of the interests.

F - Bills of insurance cards: including the demand of the client and his card of signature, the inquiry on his revenues and his debts, the correspondences and the statements of the monthly invoices and the invoices of the individual interest, the bills of payment including dates, amounts and means of payment (in cash or by checks) and copies, recto verso, of checks used for the payment.

G - Purchase of stock market's checks: purchase vouchers of the stock-exchange checks under all their forms and traveller's check or bills of financial orders including the register of the check or the copies of checks or the financial orders, and the bills showing the date and the source of the check's amount payment, or the financial order.

H - Other bills: the registers of certified checks, the phone

transfers, the perception and the letters of accreditation, checks and the financial values bought by means of the bank, the transfers of checks of saving, accounts of interests, and the capital showing the dates with transferred sums, means of payment, its source, modalities and proofs of the transfer.

This method of espionage that transforms the non-governmental organization into a criminal organization is not applied, until we find proof to the contrary, to the American or Israeli charitable organizations by the United States of America. Beside that, The United States exercise all sorts of pressures on their allies in order to force its application. Whereas this application fully exceeds -in regards with offences against liberties, obstacles to the activity and unjustified inspections- the Arab countries' internal laws that we consider firm and non democratic and which we call up to their reform.

The American State Secretary of the justice, John Ashcroft, declared in November 2001 the registration of 46 charitable organizations on the list of organizations and terrorist groups of, whose members will be forbidden in United States. Thus, he created a special force in the FBI to track down the terrorists, under the orders of the intelligence officer Steven Makrad, and he declared:

"The mission of this new security system and of its president is to scrutinize and to supervise those who try to travel to the United States, who are suspected of terrorist activities, and to forbid them from accessing the American territory." The pursuit, the accusation, the prison or the eviction thus threaten all those who would have returned to the United States, and against whom it may be established any link with a "terrorist" organization -according to

determined standards- or in the case of supporting a terrorist activity, even if they hold the "green card " which attributes to them the permanent resident status and finally if they have any contact with one of the numerous associations or organizations of the Muslim world.

Directives were notified to the Gulf States and, particularly to Saudi Arabia through an American group composed of ten people in charge belonging to the finance and foreign affairs' ministries and to the national security's council, and through other canals as well. The objective is to put an end to the activities of the national charitable and humanitarian associations outside the Saudi Arabian borders and to limit the charities and aids' movements by subduing them to the control and the direct management of the intelligence services and the interior ministry, and to gather them in an institution under the direct influence of the government. On this base, and after numerous secret or unofficial negotiations during more than a year, two official representatives of both countries had declared in a press conference that the collaboration between both countries reached the highest degrees and that several new offices of "the Institution of both holy places" were closed for having suspect activities.

Indeed, we can read the emitted directives by the Arab organism of the Saudi bank, at the beginning of December 2003, which establish 34 indicators of the terrorism financing, calling to the supervision and to the vigilance facing to individuals, institutions, and owners of deposits and banking operations designated by one of these indicators. The list hereafter, strengthened the control of the associations and non-profit charitable institutions' activities. Thus are the indicators such as published by

the Saudi daily paper "El Watan" in its edition of 7-12-2003:

The accounts:

- 1 - The accounts which receive regular deposits and remain inactive in the others time. These are accounts used as legal showcase for a non-admitted financial use which could allow auxiliary hostile activities.
- 2 - A non-active account, containing a derisory sum but which receives suddenly a sum or a series of sums followed by daily operations of withdrawal which continue until the transferred sum is completely removed.
- 3 - While opening the account, the customer refuses to supply the information requested by the financial institution and tries to decrease as much as possible the information that he presents, or submits fallacious or hardly believed information.
- 4 - An account for which the signatures of several persons are accredited and of which it would seem that there is no relation between them (family or commercial relation).
- 5 - A current account opened by an establishment or an institution, which possesses the same address of another establishment, or an official institution having the same person(s) accredited to sign while there would be no visible economic or legal reason for such an arrangement.
- 6 - A current account held by a recently established constitution that knew a movement of deposits superior to the estimated level in comparison with the incomes of the establishment's founders.

- 7 - The opening of several accounts by only one person, in which will be stored small sums with their total amount, added together, is superior to the estimated incomes of the client.
- 8 - A current account held by a legal establishment connected to the activities of an association or a charitable institution, which the objective is associated to claims, or demands of a terrorist organization.
- 9 - A current account held by an establishment or a non-profit charitable association could be bounded to a terrorist organization, or in which the financial movements seem to be bigger than the estimated level of incomes.

Deposits and withdrawals:

- 10 - The deposits resulting from a commercial establishment and containing a set of financial instruments considered as being usual in the activity of the establishment (example: deposits containing a mixture of checks corresponding to commercial payments, wages, and social insurance).
- 11 - Considerable financial withdrawals of a commercial account not usually followed by financial actions.
- 12 - Considerable financial deposits in the account of a person or of a legal establishment when the commercial activity of the person or of the establishment is usually made by means of checks or other forms of payment.
- 13 - A mixture of money with other financial instruments in an account where it would not appear that its operations are connected to the usual use of the account.

- 14 - Several operations realized in the same day and in the same agency of the financial institution with a visible attempt to use different agents.
- 15 - The formation of deposits through several agencies of the same financial institution or through a group of people who return to the agency at the same time.
- 16 - The deposit and the withdrawal of a sum of money which approaches the defined limits of the suspect operations or which require a description.
- 17 - The presentation of a sum of money not counted for an operation. And during the calculation, the operation is noticed in decline towards an amount slightly lower than the defined limit of the suspect operations or which require a description.
- 18 - The deposit or the withdrawal of several financial instruments with sums which get closer to the defined limits of the suspect operations or which require a description and more particularly if these instruments possess numbers of the same series.

The electronic transfers:

- 19 - The electronic transfers of small sums in an attempt to avoid reaching the defined sums of the suspect operations or which require a description.
- 20 - The electronic transfers through and towards a person not including information about the source of the transfer or about the person having made the transfer whenever the supply of information is required.
- 21 - The use of several individual and commercial accounts or the accounts of non-profit or charitable

institutions in order to collect money, and transferring it quickly or after a short period towards beneficiaries abroad.

- 22 - Transactions of foreign stock exchange made by a person delegated by a client, followed by electronic financial transfers towards destinations without commercial relation with the client, or towards suspect countries.

Peculiarities of the customer and his commercial activities:

- 23 - Sums realized by a sales department belonging to individuals of the same establishment or the association of several persons of the same establishment originated to suspect countries that work in subcontracting for similar signboards of commercial establishments.
- 24 - Sharing the same address by several persons that make financial operations, in more precisely, when the address is the same of a financial institution's signatory or when it does not appear that it corresponds to the declared function office.
- 25 - The declared function regarding the operation does not correspond to the level or the nature of the activity (example: a student or an unemployed worker who would receive or would send a large number of financial transfers or would withdraw daily an equal sum on the verge of daily withdrawal from several places in a big region.
- 26 - Regarding the charitable or non-profit institutions, the financial operations that would not fit with a logical economic purpose and in which the connection between the indicated activity by the institution and

the other parties of the operation would not appear.

- 27 - The opening of a deposits' safe in the name of a commercial establishment when the commercial activity of the customer is not known or when the justifications to use the deposits' safe do not appear.
- 28 - The opaque conflicts following an operation identifying an identity or to make sure of its identity (such as the country of the previous or current residence, the country where the passport is delivered, the countries where he went according to the passport and the documents supplied to clarify name and date of birth).
- 29 - The operations including the modification of foreign operations followed up in a short period by financial transfers towards suspect regions/countries (like countries designated by the national authorities, the countries and the regions that do not cooperate as designated by the financial workgroup, etc.).
- 30 - The follow-up of deposit operations during a short period by electronic transfers and particularly from or towards suspect regions/countries.
- 31 - A bank account in which a great number of transfers coming in and out is realized without appearing a commercial or economic logical reason and particularly when this transfer are made from or towards suspect regions/countries.
- 32 - The use of several accounts for the fund collection, and their transfer afterward towards a small number of payees by individuals or companies and particularly when these transfers are made from or towards suspect regions/countries.

33 - The client's possession of an affiliation's instrument or his use of commercial financial operations containing funds resulting from suspect regions without the evidence of logical reasons to operate with such regions.

34 - The opening of accounts for financial institutions that operate in suspect regions.

What is the definition of suspect operations? Can the Ford Company or the J. Carter Company follow the movements of each organism operating in the southern countries? Is it possible to deprive a European charitable institution of taking care of the wounded, or to ask them to fill set forms in private hospitals that they finance? How to make the distinction between the various victims: between a man with beard, a woman with scarf, an orphan who lost his father in a suicidal operation, without falling in the misdemeanour of racism or selectivity? Is it the duty of the non-governmental organisations to shift into right political organizations, which adopt the strategies of the American administration's action in order to avoid becoming suspect?

In a terrain study realized by an Arabic human rights activist for a foreign institution, he found that only twelve non-governmental organizations of human rights in the Arabic world could survive by their own means if the European or American financing ended. According to this study, the tendency to the financial dependence is reigning in the centres of human rights, which increased the number of their employees and their expenses without preliminary studies. These organizations would have become hostages of several foreign considerations to the original reason of their creations.

Thanks to studies realized by several researchers of various Arab countries under the aegis of the "Arab Commission for human rights", we were able to notice that the humanitarian and charitable organizations represent, today, the only profile capable of self-management and administrative and financial independence. The reason of this independence resides in the fact that these organizations benefit from financial support as well of the people behalf, and as of the important number of rich and benefactors. Thus, they established the only structure capable of exceeding the relations of associations towards elevated relations between human beings, which allow the involvement of the civil society, and allow without restrictions the better existence of non-governmental organisation. Is the American project of the "Big Middle East" asking, of that sort, to manufacture a civil society that corresponds to the needs of the American administration, under its only authority and with the only financing of its institutions? What is hence, this model that the American administration is proposing, through the local Arabic governments, to organize the work of the humanitarian and charitable organizations? Does it resemble to the American and European models?

It is clear that the next Saudi model is a laboratory with a wider operation of assaults against non-governmental organisations in the Muslim world. No matter how much it seems curious, the project of the statutes of "the Saudi national Organism of aids and charities for the foreigner" is a true copy of the Sports Union's project in the Syrian and Iraqi States, under the reign of the Baath political party... that was thirty years back. Indeed, in 1968, the Baath party had decided to nationalize all the sporting

clubs. In order to do this, it emitted a decision of dissolution of all the national sporting clubs and created a union under the governmental authority to conduct the creation of new clubs, which had to ratify names, objectives, managements, and decided budgets. Then the logic of the unique party penetrated with its political police and its ramifications into the sports life. The example of what made the son of Saddam Hussein of the sports institution in Iraq, characterizes the dangers of the authority's monopoly in a constituent domain of expression's spaces, in societies where the expression is a domain where it is necessary to give somebody an account.

It is obviously useless to go into big analyses in order to notice that the proposed text as well as the experts' observations, involve a concrete operation of killing the spirit of initiative, the quality of independence, and the aspects, which constitute the strength of the charitable organization's concept. Because, the majority of benefactors who carry out in this domain charitable works and participate in the non-governmental action, are only doing them because they have lost confidence in all governments. How can they continue to participate in charities, in these new conditions, while the governmental institutions lost the confidence of the citizen?

Our current misfortune is that the press of Beirut (including the daily paper El Hayat) had unanimously condemned the factories and sporting clubs' nationalization, and the closing of cultural clubs at the end of the seventies in Syria, while there is practically nobody to denounce these current impoundments and nationalizations in the Saudi Arabian Kingdom, and whereas this new task is carried under the cover of a worldwide campaign

against terrorism which steers the first superpower followed by the frightened politicians, the conformist media, and all of those, among researchers and activists, who have fear of it.

Let us be more sincere and more precise and let us say it clearly: the problem cannot be summed up to an extremist American administration facing governments with no slightest legitimacy. The phenomenon of non-governmental organizations is the peaceful revolution involving, in term of secularization, the most threats for the centres of power. Because it establishes the biggest gathering of the organized society that considers the decentralization as one of its progress factors, it becomes difficult to control it by any dictatorship of money, weapons, oil or ideology. It also establishes the only field where the abduction of the private initiatives is useless; whatever are the repressive politics and the offences against the liberties. Moreover its motives are the only capable to exclude the violence, to humanize the relations between humankind, and to create a climate of tolerance and acceptance of the other, without the presentation of this situation in its program. Therefore, even if the purpose of the non-governmental organization consists in improving the conditions of the needy people, in taking charge of prisoners, in rehabilitating victims, or in distributing medicines or flour, its first legitimacy results from its capacity to produce the scientific and intellectual dynamics and to protect the essential transparency for its credibility, in both of the local society and the international community. It also establishes an excellent performer and an essential part in the conception of the future projects, in the operations of fast transfers of

sovereignty, domination, and the local, regional, or worldwide centres of power. Then, any dramatization or aggression against the reasons of this experience means that we decided to stay outside the History's arena and the essence of our epoch.

Before the kill:

In an article on humanitarian and charitable associations published in the daily paper *Echark El-Awsat* in its edition of the 26-10-2002, entitled "a whole combination of truths about humanitarian and charity's work", it is explained in the first place, that the fact to do good is [a right] among human rights. It thus constitutes a right to the one who activates and gives all, as well as to the one who receives the donation (more particularly in an epoch when the States' rights are flouted as much as the human rights). In the second place, great parts of contemporary humanity are destroyed by famine and poverty, and the human duty requires of those who have the possibility to save as much people as they can from the claws of famine and misery. In the third place, charity is an essential source of good and humanism, and one of the important religious sources of the Islam. Among the essential theological proofs of this role is that one of the loss's reasons in the beyond realm, is the renunciation to the prayer and to feed the necessitous. In the fourth place, the author considers that this task constitutes the symbol of our civilization's renaissance which links our present and our past, and allows the past heritage to become the base of a human civilization which would shine in the present and in the future. So the author gives several arguments until he quotes, the seventh point, where he shows the humanitarian and charitable action as being opposite to

the anarchy or the arbitrary power, and that this truth imposes - because of the working logic - [an architecture of the charitable action]. Thus an architecture, accuracy and maturity are demanded, excluding any cancellation and any rejection. Because rejection of the charitable action aims [to reject the reasons which urge the people to do good], it would be far from representing a mature task and would be anyhow unrealizable.

This conclusion is probably the first and the most important lesson that the defenders of the security solution in FBI and inside the kingdom of Saudi Arabia ignore, because there is no charitable action without pollutants or errors. The whole world still remembers how the League against the cancer in France, almost disappeared a decade ago because of its president's embezzlement and bad management, while it was one of the most powerful charitable associations. One's bad management or the infiltration of many ill-intentioned persons cannot lead to the stopping of an action which aims huge domains in the society. In France, the director was judged, new elections took place for a new executive board with a new director, and the association was able to live again, and pursue its mission of public utility. The prompt dissolution of all the associations and the implementation of an official authority to defend itself and to obtain the good graces, and the title of good student on behalf of United States is nonsense. Isn't it dramatic that an American person in charge congratulates himself for detaining more than six hundred prisoners are in the Saudi prisons (without justification)? That the American politicians remain silent about the fact that the symbols of the peaceful constitutional reform, Dr

Abdullah Al-hamed and the Dr Matrouk Al-faleh and the poet Ali Eddimini remain held without judgment and without apparent reason? It is also the case of Dr Saïd Ibn Mobarak AL-ZAIR. Is this the "Big middle east" where we should enjoy the democracy?

We are facing a serious infringement of the society's right to create its own associations of voluntary work with the free designation of their objectives, their executive boards which presume their exercises' results, in front of the law and their members. The decision of the implementation of "the national Saudi organism of foreign rescue and charities" as well as the cancellation of organisms, institutions, charities and committees forbidden by a royal order, under the authority of the presidency of the cabinet mean the killing, in broad daylight, of the society initiatives and the participation of the individuals in the public affairs. It partially constitutes a politic of edification of a contemporary absolutist State, having the satisfaction of the current American administration as the only reason of its existence. Besides, its internal methods are in complete contradiction with the spirit of our epoch and the imperatives of political, social and economic reforms.

We should finally specify that the choice of the direct confrontation, with the peaceful and organized expressions in the society, will inevitably lead to the increase of the pressure on its members. This will let in, understandably, the non peaceful means of expression.

If the objective was to fight the violence and the terrorism, the adopted method, inevitably strengthens the accumulation of violence in a society in rupture with the political power which lost its confidence a long time ago.

Appendices:

Memorandum of the Saudi Cabinet experts' group

In the name of God the Clement and the Merciful

SAUDI ARABIAN KINGDOM N: 410

Group of Experts of the Cabinet Date :27 /12/ 1424H

Appendices:

MEMORANDUM

- object:

File relating to the Project of statutes, of The national Saudi Organism of foreign rescue and charities passed on the 27/12/1424 H. under the n3519 by the Cabinet council general commission to this Commission's experts' group in application of its Recommendation N 533 emitted the 25/12/1424 H.

Study and Discussion:

The debate of the 25/12/1424 H. within the Cabinet general commission essentially concerned the following points:

- 1) The exclusion of all governmental authorities mentioned in the articles of Statutes;
- 2) The discussion of the paragraph 11 of the article 8 of the Project of Statutes after the suppression of the governmental authorities mentioned in this paragraph;
- 3) The following addendum in the paragraph 1 of article 13: "that the donations' distribution is in accordance with the concerned countries' legislation and the suppression of the word "small" in the same paragraph";
- 4) The necessity of a regular authorization for all the

charitable associations;

- 5) The lack of precision of the Statutes' project about (regarding) the modalities of designation of the Organization's authorities leaders: president, vice-president, secretary general, council;
- 6) The publication of The national Saudi Organism of foreign rescue and charities statutes' project that must be the subject of a Royal order. What is the necessity of passing on this Project for opinion to the Consultative council (Majlis ash-Shura)?
- 7) The legal nature of the NGO called (Organization of Islamic Aid) affiliated to the "World Islamic League" which collects donations inside the Kingdom and inside the "World Assembly of Muslim Youth (WAMY)", and the conditions in which the "Organization of Islamic Help" and the "World Assembly of Muslim Youth (WAMY)" collect donations inside the Kingdom.

The group of experts, after re-examination of "The national Saudi Organism of foreign rescue and charities" statutes' project - within the Cabinet general commission - came up to the following conclusions:

1) the exclusion of all the governmental authorities mentioned in the Project of Statutes and the revision of the articles which mention it, in accordance with the determined objectives of this Organization.

The Experts' group proposes that the Royal order that must create "The national Saudi Organism of foreign rescue and charities" contains the following arrangement: the specialized Commission mentioned in the Statutes of "The national Saudi Organism of foreign rescue and charities"

consists of representatives of the Direction (Management) of the general Information, the Home Office, the Foreign Office, the Exchequer and the Ministry of the Islamic Cases, the Wakf(s), the Preaching and the Guidance;

2) the revision of the paragraph 1 of the article 13 of the Statutes' project as follows: the donations and the aids handed over by the Organization to charitable associations and centers are submitted to the concerned States' legislation [10]. They cannot be directly handed over to individuals, private institutions or to non authorized associations. And the suppression of the term "small" in this paragraph;

3) the revision of articles 4 and 5 of the Statutes' project as follows:

- a) The organism is endowed with a council of 53 members which names appear in the Statutes secondary Report, the organism's president and vice-president being also the council one's;
- b) It is provided to any seat become vacant for any reason by the council itself, on his president's proposal.

The organism's President, Vice-president and Secretary General are appointed according to the article 4 become after his revision the article 5 of the Statutes' project;

4) Concerning the legal situation of the Organization of the Islamic Aid affiliated to the World Islamic League as well as the World Assembly of Muslim Youth (WAMY)'s legal situation and in particular concerning the donations' collection inside the Kingdom, the experts' Group notices that these two Organizations are registered international organizations in the list of the organizations recognized by the UN. As such, they are not concerned by the paragraph 2 of the experts' group's report n 384 of the 3/12/1424 H.

which foresees the suspension of the activities of all organizations, foundations, charities and all charitable committees and informal Groups -governmental or national or private Saudis-, in spite of the possibility recognized to the kingdom's authorities to regulate their activities when it is about the collection of the donations with the aim of their distribution abroad, this privilege arising from the national Sovereignty.

That is why the paragraph 6 of the Experts' group's meeting report n 384 of the 3-12-1424 H. proposes that the future Royal decree would contain a paragraph forbidding the collection of the donations for abroad to every individual or corporate body without the official authorization of "The national Saudi Organism of foreign rescue and charities" and the agreement of the specialized Commission. This banning also concerns the Organization of the Islamic Aid and the World Assembly of the Muslim Youth;

5) Certain institutions, foundations, charitable association and certain charitable committees and informal Groups as the "Al Haramain Islamic foundation" (Charitable Institution of both saint places) not having been created according to the law, the Experts' group proposes that the future Royal decree creating "the Saudi National Body of Help and Charitable Action to the Foreigner" would include a paragraph providing for the dissolution of all the institutions, foundations, charities and all the charitable committees and informal Groups created without official authorization, the experts' Commission charging of define all the capacities necessary for the actual application of this decision;

6) Concerning the statutory device conditioning the creation of "The national Saudi Organism of foreign rescue

and charities" and its Statutes and the preliminary discussion of the Statutes' project by the Consultative council (Majlis Ash-Sh«ra), the Experts' group thinks that the Project already approved by the consultative council at the end of its Opinion n 24 / 39 of the 20-5-1424 H. basically foresees that the future organism would be the High regulatory Authority on all organizations, foundations, associations, charitable committees and informal groups and the other bodies devoting to charitable and aids 'activities abroad because the Royal decree n 7B / 52300 of the 5-11-1424 H. foresees that the organism practices itself and directly the charitable and aids' activities abroad. This organism's statutes' project was conceived as the national charitable organization' one, but without being the same regarding to its authorization's modalities, it can rather be assimilated to the private charities authorized by royal decree in reference to the paragraph 2 of the art 25 of the associations and charitable foundations' status adopted by the cabinet decision n102 of the 25-6-1410H. It stipulates: "Contrary to the clauses of paragraph 1, the present Order's terms do not apply to the private charitable Foundations authorized by royal decree". Consequently, the Experts' group thinks that the Statutes' project must not be inevitably submitted to the discussion of the Consultative council (Majlis ash-Shura), this one not being subjected to the dispositions which apply to the organization of the state administrations. Moreover, the publication of the Organism's Statutes according to the procedure applied the state administrations would confer on it an official status, what enters in contradiction with the objectives assigned to this Body. The creation of the Organism by Royal decree does not disrupt its nature of non-governmental organization, the royal decree being

considered in that case as a simple official authorization of creation. There is no necessary relation between the statutory device authorizing the creation of a legal entity and the legal character of this one. Therefore, the Experts' group thinks that the Project would be transmitted to the sovereign Authority for the possible publication of a Royal decree which would stipulate:

1) the authorization of creation of a charitable Body called: "The national Saudi Organism of foreign rescue and charities" governed by the enclosed Statutes;

2) the suspension of the activities of all the organizations, foundations, charities, national or private Saudis charitable committees and informal groups acting abroad, and the integration of their activities within "The national Saudi Organism of foreign rescue and charities", this one exercising the privileges from the creation of its council according to a program elaborated for this purpose. It is up to the council to create a commission made up of members stemming from organizations, foundations, charities, charitable committees and informal groups, to manage the current charitable activities abroad and this after the specialized commission's approval;

3) the establishment by the specialized commission of the list of the Saudi leaders of organizations, foundations, associations, charitable committees and informal groups which exercise at the moment their activities abroad as well as Saudi personalities known for their action in the field of the charitable activities abroad and considered reliable to propose to the sovereign Authority their candidatures to the organism's council;

4) the ban on estimating the donations and the foreign aids for any governmental authority without referring at first

to the sovereign authority to receive the necessary directives from it;

5) the transfer in the organism of all the fundamental documents, the possessions in cash or in kind, the furniture and buildings, relative to the charitable action of the organisms, foundations, associations, charitable committees and informal groups abroad, the transfer of their accounts and their meeting in a unique organism's account as well as the repatriation of the Saudi people in charge of these organizations according to identified needs of "The national Saudi Organism of foreign rescue and charities".

6) the definitive banning inside the kingdom on the accounts receiving the donations for abroad as well as the ban on collecting of such donations by physical or moral persons without an authorization in due form delivered by the Organization and without an approval of the specialized commission; As well as the ban made for every person or national or private entity on exercising a charitable activity abroad or to bring aid in cash or in kind to any person or foreign entity without passing by the Organism. The competent authorities will punish severely any violation of this ban;

7) The experts' Commission commits of applying these dispositions by the implementation of an ad hoc device which will be in charge of the regulation of the disputes of organizations, foundations, associations, charitable committees and informal groups exercising at present charitable activities abroad, and of the integration of these activities in the organism according to rules and already clarified principles, by requiring the collaboration of the people in charge of each of these organizations for the regulation of the problems concerning it and by resorting to the services of

one or several attorney accountants;

8) the dissolution of all the bodies, foundations, associations, charitable committees and informal groups created without official authorization, according to the specialized commission's decision;

9) The specialized commission foreseen in the Organization's statutes' project and in the present Note consists of representatives of the Direction of the Intelligence service, the Home Office, the Foreign Office, the Ministry of finances and the Ministry of the Islamic Cases, of Wakf(s), of the Preaching and the Guidance.

The National Saudi Organism of foreign rescue and charities' Project of statutes

In the name of God the Clement and the Merciful

SAUDI ARABIAN KINGDOM

The experts' commission of the cabinet

Chapter I:

Corporate name, form, seat, and objects of the organism

Article 1:

The national Saudi Organism of foreign rescue and charities is a national organism which has the status of legal entity. It is the unique concerned part, and in an exclusive way, by all charities and aids abroad.

Organism seat

Article 2:

The national Saudi Organism of foreign rescue and charities has its registered office in Riad. It can also open

sections and offices in the kingdom of Saudi Arabia and abroad.

Organism's objects

Article 3:

The objects of the national Saudi Organism of foreign rescue and charities, in the limits which foresee the present statutes and in agreement with the rules and the prescriptions promulgated for their execution.

Chapter II:

The administrative and financial organization of the organism

Direction of the organism

Article 4:

A - The Organization will be endowed with a council, composed of fifty three members whose names are prescribed in the declaration joined to the present statutes. The president of the organism will take the function of chairman and his vice-president the function of vice-chairman.

B - If the post of one of the members of council is vacant whatever reason it is, a new member is appointed by the council on his chairman's proposal.

Article 5:

The organism is endowed with a president, a vice-president and a Secretary General chosen by the council for a renewable period of four years.

Article 6:

The chairman is in charge for the application of the organism's council's decisions, to assure the organism's

management and to exercise the prerogatives indicated in his regulations.

The vice-president assists the president in making his functions and exercises the activities with which he loads him and replaces him in case of absence.

The employees in the organism are appointed among the Saudis, after agreement of the specialized commission.

Article 7:

The Secretary General of the commission is in charge of supervising the organism's daily activities, of representing it with the judicial authorities, the official and other institutions and of exercising the privileges indicated by the organism's settlement .

Competences and modalities of meeting of the organism's council

Article 8:

The council takes care to establish the organism's general policy, to work for in the realization of its purposes, to supervise its actions, to follow their application and to adopt rules and processes that allow the organism to suitably assure its action.

In this context, it is up to it - for instance- to do what follows:

1 - To establish the administrative and financial policies and procedures necessary for the organism's activity.

2 - To Adopt the aid and charitable foreign activities policies and strategy.

3 - The amendment of the inspectors' report about the public budget's annual accounting and the Organism's final

accounting and to express an opinion in anticipation of their transmission in four months following every fiscal year at the specialized commission for its consent.

4 - Permanent or temporary commissions' implementation, according to needs, to study what the council considers as recovering from its privileges.

5 - The annual report's approval of the organism's works in anticipation of its consent by the specialized commission.

6 - The approval of the organism's budget.

7 - The creation of the organism's sections or offices in the Kingdom or abroad, and the commitment of the necessary procedures to obtain, for that purpose, declaration of the concerned States.

8 - The appointment of a registered chartered accountant to follow through and the review the organism's accounting, and its fees' estimation.

9 - The proposition of the organism Statutes' modification and its transfer at the specialized commission for approval in accordance with the statutory procedures.

10 - The organism accounts opening's approval inside the country and abroad.

11 - Processes' implementation for the donations and the aids' transmission to external parties in anticipation of their consent by the specialized commission.

12 - The planning on the presentation of the organism's actions in the local and foreign media.

13 - The approval of the organism's participation in other international organizations and organisms in accordance with the applied statutory procedures.

14 - The implementation of clarified financial and

countable processes, in accordance with the recognized standards, allowing the organism the pursuit of the decided missions while protecting it of any overtaking and maladministration, in anticipation of their approval by the specialized commission.

15 - The authorization to collect donations, after agreement of the specialized commission.

16 - Donations, Wakf, and offerings' acceptance.

Article 9:

A - The organism council's session takes place - during six months following every financial year - under the chairmanship of the president, the vice-president, or the president's substitute in case of absence of the vice-president. The council can be called to hold the other sessions at the president, vice-president or at least ten members of organism's council's request.

B - The council's session takes place, in accordance with the settlement, in the presence of the absolute majority of the members. If however this quota is not reached the council is convened to another session that can take place with at least fifteen members. The meeting of the council with at least fifteen members is allowed, in emergencies appreciated by the president of the session.

C - The council's decisions are taken with the absolute majority of the present members' votes.

D - No member of the council can take part in the vote, if he has any interest in the decision.

E - The organism's council cannot broach any question other than those registered on the agenda without the majority of the present members' authorization.

F - The council's session takes place in the organism's registered office or in quite other place if this place is mentioned in the summons sent to the members.

G - A member cannot replace an absent member in the Organism council's sessions.

H - The Organism council's decisions are in a register intended for the council's sessions, in which are mentioned the present members' names and the number of vote obtained for the decision, signed by the president of the session.

Article 10:

An executive committee is established. It is made up of the chairman, its vice chairman, the organism's Secretary General and eight members chosen among its members by the organism's council. Its mission is the organism's business management of the Body according to the competences that confers it the organism's council.

Article 11:

The organism's financial resources consist of:

- The donations collected by the organism
- Zakat and charities that offer individuals or others
- The donations that offer individuals, organism, companies or others to the organism
- Wakf, donations, offerings, and other charities specific in the Organism
- The organism's profits of investments
- Any other resource approved by the organism's council.

Chapter III:

General capacities

Article 12:

Every three months the organism makes a list of the sums spent for charities and aid actions abroad and passes it on for revision to the specialized commission.

Article 13:

1 - Aids and donations offered by the organism are limited to associations and centres officially authorized by the States where they are, and according to the rule of these States. The aids and the donations cannot be intended for the individuals, the private foundations or the non-authorized associations.

2 - For emergencies the organism can work in coordination with the Saudi Red Crescent association when it works on aid actions abroad, to benefit from opportunities granted to the association.

3 - The association must work in coordination with the official parts concerned in countries in question, through the kingdom's embassy in the profitable State of the aid, to allow the aids' arrival to the parts officially recognized by the State in question.

Article 14:

The organism concentrates, in the aids and the donations that it offers, on the execution of defined and known projects and programs and works to spend these aids and donations on terms to facilitate the follow-up. It also works to limit the support brought to the budgets and the administrative expenses of any part in it.

Article 15:

The Organism manages all the operations of financial

expenses and incomes the returned in accordance with the rules and the directives used on the kingdom, respectfully of the fact that all its operations, expenses, and transfers, made by means of checks in the name of the concerned parts, are limited to the first beneficiary and are deposited in his account. Moreover, the organism does not operate in cash, except what is spent in the form of receipts of collection connected with checks, during the financial year.

Tables and communiques of certain charitable institutions' realization

According to the book "The charitable sector and the complaints of terrorism ",

Of the Dr. Mohamed Benabdellah Es' Salloumi

Appendix (A):

Table representing the institutions from which some communiques and statistics emanated:

Institutions	Principal registered office	Period relative to the communiques and the statistics
World Assembly of the Muslim Youth	Saudi Arabia	1418- 1422 H
Sheihk EID bin Mohammad Al-Thani Charity Organization	Qatar	2000 - 2001
Qatar charitable society	Qatar	1999-2000
Institution of the Islamic Meeting	Great Britain	1408- 1423 H
Institution Islamic Wakf	Holland Saudi Arabia	1412- 1421 H
Al Haramain Islamic foundation	Saudi Arabia	1421- 1421 H
The International Islamic charitable Organism	Kuwait	1401- 1422 H
Commission of Africa's Muslims	Kuwait	1401- 1422 H
Organization of Islamic rescue	Saudi Arabia	1421- 1422 H

Remarks:

Most of these charitable institutions originating from countries of the Gulf's Economic council do not possess capitals in Wakf or investments based on Wakf(s). They count in the first place on the annual donations and Zakat. This is in contrary to the similar western institutions that are bound one way or another to institutions of Wakf (Endowments and Trusts) and which role is to endow and to support the active charitable and humanitarian institutions.

Appendix (B):

Table representing some programs and projects of some Islamic charitable institutions quoted in the appendix (A)

P	Projects and programs	Number	Amount in Dollars
1	Mosques	127 423	126 000 000
2	Education	336 3	133 000 000
3	Grants	122 489	45 266 788
4	Students' loans	562 430	26 000 600
5	Individuals' rescue	504 5 430	285 000 000
6	Medical encampments	506	26 000 400
7	Eid's meats	705 342	21 000 900
8	Sick' s care	789 1 342	107 4 520
9	Wells and drinking water	869 7	36 000 000
10	Meals of the Iftar	45 000 000	46 000 600
11	Orphans' aid	102 686	49 000 000
12	Non educative social centers	817 1	63 088 381
	Total		863 874 776

Remarks:

These statistics are only a simple summarized example, extracted from some reports published by charitable Islamic institutions. In a way, they reflect an image of what these institutions offer to the Humanity, in matters of support. This support is, obviously, at such levels that the distinction of the global positive role that occupy these institutions during the catastrophes, and on the scene of disasters and crises in the world becomes difficult. However, these statistics express well enough the humanitarian and charitable role that these institutions suitably assure.

These statistics include nine institutions and Islamic charities, with reports that were available despite of their capacity and volume of activity. Among their main characteristics, is the fact of having a real presence at the level of the international community. Therefore, these statistics are far from supplying precise measures but, it remains that they get serious indicators which demonstrate the volume of the participations that were internationally the product of certain Islamic charitable institutions, during various reports of these institutions, for various years.

Committee on International Relations

U.S. House of Representatives

Washington, D.C.20515 -0128

Statement of the Honorable Ileana Ros-Lehtinen

Hearing on Saudi Arabia and the Fight Against
Terrorism Financing

Wednesday, March24 , 2004

Rayburn 2172

Since the horrific events of September11 th, we have been confronted by the undeniable fact that fifteen of the nineteen terrorists who caused this act of mass murder, were from Saudi Arabia. Because of this, it is our duty to examine what the Saudis have done, are doing now and what they will do in the future to prevent this kind of tragedy from ever repeating.

We want to gain an understanding of how Saudi Arabia is working to repair a system that many say was broken or at the very least had grown out of control. Moreover, we want to understand what our own government is doing to help the Saudis close down the network that facilitated the implementation of the September11 th terrorist plot.

I must say, however, that there are great concerns on this Subcommittee, and I would say in Congress in general, over the extent of Saudi cooperation in this fight and, specifically, the Saudi role in the financing and abetting of terrorist groups in general.

Having said this, I am pleased that the United States and the Saudi Government have set up two task forces, one to counter terrorism and the other to counter terrorism financing. I am also pleased that the Saudi Government is closing down charities and controlling the collection of the Zakat, or charitable donation, that is so important in Islam. Yet, I am concerned that there are some red lines beyond which it might be impractical or even impossible for Saudi officials to cross.

Moreover, I fear that the sheer size of the financing effort and the extent of the financial enterprises have created a self-sustaining enterprise for many of these groups. It is quite possible that this aid from the connections in Saudi Arabia

have set them upon the path to financial independence, irrespective of any future Saudi help.

Terrorist connections through businesses, social service institutions, schools, mosques, and charities, in some cases opened in the West, allow them to continue their terrorist operations against us on multiple fronts.

The mixing of charitable work with terrorism is a cowardly and cynical misuse of trust dedicated to destruction. This combination only complicates the search for the assets that fund terrorism, blurring the target for U.S. and allied investigators.

I realize that this fight is ongoing and difficult. I also realize the sensitivity involved. Americans, however, are worried that while their government is telling them that Saudi Arabia is a great friend, they see Saudi-originated charities still operating around the world supplying the seed money for attacks against the U.S. and our allies. There are also charities like the Al-Haramain foundation, that act as umbrella groups for other charities and have overseas offices. Only recently, the United States closed down one branch of this group in Oregon.

These charities must be shut down and their infrastructure purged to prevent re-emergence in a different form.

Americans also are rightly concerned about the proliferation of anti-American statements coming from Saudi and other imams encouraging terrorism.

It will be important for us to learn of Saudi actions regarding the reforms being undertaken in the Mosques, both in the education of the Imams, as well as the ban on the collection of the Zakat.

It is important too, that Saudi Arabia stop the flow of

funds to Hamas. This violent terrorist group has killed almost three hundred Israelis in more than 50 homicide bombings over the past several years. If the money is not provided officially, as is claimed, I believe it is necessary to stop it on the private level as well. It is in our common interest to prevent this violent group from getting the funds to commit murder.

I want to believe that the Saudi government is sincere when it says it is intent on stopping Al-Qaeda. I also want to believe that they are sincere in stopping the money flow to them. I do, however, want to see the results of their actions. Simply put, Saudi Arabia must be a part of the solution to this vast problem, not a participant.

I hope the witnesses today will fully speak to the concerns of this Subcommittee. I believe that we will have a great number of questions to bring to your attention.

Committee on International Relations
U.S. House of Representatives
Washington, D.C.20515 -0128

Testimony before the house committee on international relations/ subcommittee on the middle east and central asia
"Saudi arabia and the fight against terrorism financing"

Deputy assistant director Thomas J. Harrington
Counterterrorism division
Federal bureau of investigation

March 24 ,2004

Thank you Mr. Chairman and Members of the Subcommittee for the opportunity to testify about terrorist

financing issues, and in particular, as they relate to our joint efforts with the government of the Kingdom of Saudi Arabia

The number one priority of the FBI is to identify terrorists' activity in sufficient time to disrupt their operations. To do this, all intelligence and law enforcement investigative and analytical components must be strategically utilized in a cohesive manner. This belief lies at the heart of the FBI's reliance on, and commitment to, the interagency partnerships we have forged through our Joint Terrorism Task Forces (JTTFs). With intelligence collection and exploitation as our principal focus, and criminal investigative authorities as a vital tool, the JTTFs represent the fusion of skills and authorities our nation needs to combat terrorism in the United States. Information sharing and interagency cooperation are critical parts of this effort; however, partnerships within the United States will only succeed if they enjoy the support of our many friends and partners throughout the world. The FBI is committed to these international partnerships and recognizes the critical role they play in our ability to develop actionable intelligence.

Beginning shortly after 9/11/2001, the FBI created its Terrorism Financing Operations Section (TFOS). Its mission is to identify and disrupt world-wide terrorism financing activities. Through joint initiatives and partnerships with other U.S. and foreign intelligence services, we have realized significant results which include the prevention of specific acts of international terrorism. Denying terrorists the financial means to carry out acts of violence is an integral part of the FBI's commitment to countering terrorism and is an area where we have realized significant success.

The FBI's long history of success in combating complex

financial schemes in the areas of corporate fraud; financial institution fraud; and illicit funds transfers/money laundering schemes of drug traffickers are being successfully applied to the international terrorism arena.

U.S. - Saudi Cooperation:

The Kingdom of Saudi Arabia is an important partner in this international effort and has taken significant steps to deter global terrorism. There is more that can be done to further this relationship; however, the steps that have been taken thus far are very encouraging and promising. For example, since 9/11, Saudi Arabia has questioned thousands and arrested more than 600 with suspected ties to terrorism. Cooperative counterterrorism efforts increased notably after the Riyadh bombings on May 12th, 2003 when the Kingdom asked the FBI to send an investigative team to Saudi Arabia to assist its intelligence and law enforcement services in conducting evidence collection and post-incident services in conducting evidence collection and post-incident investigation. In this effort, Saudi officials allowed the FBI to directly participate in crime scene analysis and witness interviews, including those of Saudi citizens.

The current state of cooperation between our two countries is significant, and information sharing continues to increase in matters pertaining to al-Qaiida. Together, we have agreed to focus increased investigative attention on identifying and eliminating sources of terrorist funding within the Kingdom and around the world. In furtherance of this agreement, the Saudis now host the Joint Task Force on Terrorist Financing (JTFTF), which is comprised of members of the intelligence and law enforcement services of the U.S. and Saudi Arabia. The JTFTF was established in

August 2003, with the mission to identify and investigate persons and entities suspected of providing financial support to terrorist groups; and recommending appropriate criminal and/or regulatory sanctions to be undertaken to stem the flow of funds to terrorists or terrorist organizations. Its purpose is to more effectively utilize the intelligence capabilities and investigative authorities of its component members. Working together, we are identifying sources of terrorist funding and have initiated significant operations to address them. I cannot over-emphasize the importance of this initiative and the efforts on the part of both of our countries to make it work. The FBI is a significant participant in this project and together with our partnership agencies, including the Internal Revenue Service-Criminal Investigative Division, is committed to its success.

As you will hear from my Department of State and Treasury colleagues, Saudi Arabia has greatly contributed to combating terrorist financing by joining the U.S. in blocking the assets of several designated terrorist organizations. In March 2002, Saudi Arabia and the U.S. jointly blocked the accounts of Wa'el Hamza Julaidan, an associate of Usama bin Laden who provided financial and logistical support to Al-Qa'ida. In addition, accounts of the Bosnia and Somalia branches of the Al-Haramain Islamic Foundation were blocked in March 2002, and in January 2004, the Saudis and the U.S. jointly blocked four more Al-Haramain branches in Kenya, Tanzania, Pakistan and Indonesia.

Saudi financing legislation:

Mr. Chairman, as this Subcommittee knows, the ability to prevent terrorist acts largely depends on the implementation

of laws that permit investigative intervention. Saudi Arabia has taken several steps that greatly enhance the activities of our joint efforts to prevent terrorism financing.

Non-Governmental Organizations (NGOs) and charitable organizations serve legitimate purposes however, they can be vulnerable to abuse for use as a source of funding for terrorist organizations. The Kingdom of Saudi Arabia has put new laws in place that are designed to ensure donations to charities aren't diverted to entities other than humanitarian organizations. It also issued instructions to all institutions prohibiting the transfer of funds by charitable organizations to recipients outside the Kingdom. New rules have been codified that impact on the Opening of Bank Accounts and place new restrictions on the bank accounts of Saudi charities:

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- * All accounts must be maintained in one single account for each charity; sub-accounts are permitted, but such an account is restricted to receiving deposits only;
 - * No ATM or credit cards can be issued for these accounts. All payments may be made only by checks payable to the first beneficiary for deposit in a Saudi bank;
 - * The Saudi Arabian Monetary Agency's (SAMA's) approval is necessary to open a bank account, the account must be opened in Riyals only, and valid customer identification is required in addition to providing the organization's license;
 - * No overseas transfers are allowed from these accounts, and only two individuals who are authorized by the board of a charitable organization are allowed to operate the account.
-

Saudi Arabia has taken other actions that benefit joint terrorism financing efforts. The Ministry of Labor has developed a database containing financial information relating to all of its charities, and updates the database on a quarterly basis with information derived from submitted financial reports. An effort is underway to integrate the charities licensed by the Ministry of Islamic Affairs into this database. In addition, the Ministry of Labor is conducting an audit of all their licensed charities, and this requirement will reportedly be extended to their licensed charities, as well.

The Saudis have begun to establish official government-operated money remitters intended to compete directly with unlicensed money remitters such as Hawalas and other informal financial systems. These licensed remitters are called "Speed Cash", and are attached to a commercial bank and therefore, subject to all requirements of the parent bank. Saudi private sector representatives report that the service has been a profitable business, and officials believe that it has reduced the extent to which there is reliance on informal systems. Saudi officials report that they have begun to crack down on unlicensed money remitters.

Finally, Saudi Arabia has also strengthened its regulations on money laundering by requiring financial institutions to verify customers' identities and placing restrictions on non-residents' ability to open accounts in the country.

Training:

In September 2003, the FBI and the Internal Revenue Service-Criminal Investigative Division provided the first phase of counterterrorist financing and anti-money launder-

ing training to the Saudi Arabian Government in Riyadh. The second phase of this training was held in Washington, DC in December 2003 . A third such training program is currently scheduled to take place in May of this year, in Riyadh. This training emphasizes the role of a field investigator in financial crimes investigations as it relates to investigations of terrorism financing. The topics include Methods of Terrorism Financing, Initiating Investigations, Evidence Acquisition, Computer Forensics, Money Laundering, and Expenditure Methods of Proof, among others. The training also includes case scenarios, in which students participate in practical exercises to increase their understanding of terrorist-financing investigations. This training has been completely funded and supported by the State Department and the interagency Terrorist Finance, Training and Technical Assistance Working Group, chaired by the State Department, and it will directly benefit the JTFTF by focusing on methods of identifying sources of terrorist financing.

In addition to U.S. training, in February 2003 , the SAMA implemented a technical program to train judges and investigators on terrorism financing and money laundering. The program is focused on training law enforcement on legal matters including financing and money laundering methods, international requirements for financial secrecy, and the methods criminals use to exchange information. SAMA provides substantial training to both the private sector and to other Saudi agencies.

Conclusion:

While the Government of the Kingdom of Saudi Arabia has taken significant steps to combat terrorism,

there are still hurdles they must overcome. In addition, terrorist-minded extremists are likely to change tactics and become more sophisticated in their intelligence collection, communication and financing. The ability to identify and track terrorism-related financial transactions will continue to be vital to our mutual success. Saudi Arabia has contributed to the successful dismantling of Al-Qa'ida cells, the arrests of key Al-Qa'ida leaders, and the capture of Al-Qa'ida members in the Kingdom. I look forward to our continued partnership with the Kingdom and hope our past progress is an indication of the future steps we will jointly take.

I appreciate the opportunity to appear today and thank you Mr. Chairman and members of the Subcommittee, for dedicating your time and effort to this important issue. I will be happy to address your questions.

Why the International Bureau for humanitarian NGOs?

There is a considerable number of non-governmental institutions filling important roles in people's life, in wide regions of the world. These institutions and associations manage development, health, education and social projects highly impregnated with humanism. Moreover, because these institutions were born in countries, for the greater part in process of development, they supervise the projects of development from their countries and abroad. Besides, they encounter obstacles such as the lack of anchoring of the humanitarian action and the voluntary help in their countries of origin, and in the beneficiary countries as well, and the lack of awareness of the important role that they can play. A lack of awareness that we rather find in its native world and in the big international institutions as well.

These associations spend huge sums on the poor, the sick, the illiterates in the world, and supply drinking water, education, care, and the protection of humankind and many other social services. The volunteers and the employees who compose them thus ensure the continuation of great works in the life of the humanity. Because of their location in the southern countries, they were deprived from world-famous that would imply because of such noble actions, legal and international media protection. They also became victims in all sorts of aggression without any valid reason other than the lack of political, media, and legal supports from which they suffer. Some reasons related to this deficit in support derive from these institutions, notably, from the fact of their exclusive preoccupation for the terrain's actions, thinking that the nobility of its important activities, and the constant need formulated by the most deprived, will insure them the legal immunity and thus guarantee a universal awareness. However, the attacks of September 11 inversed several realities and the non-governmental humanitarian actions became by then an object of suspicion, inside and towards developing countries.

That is why we launched the step, towards the creation of an international office, gathering non-governmental organizations willing to associate together in work of solidarity and mutual aid, in order to become universally known. Organizations that are willing to defend the humanitarian role that they have, to do the necessary to protect them, thus to insure the everlastingness of humanitarian aids to the necessitous, and finally to help them in the transparency of their resources and their employment.

These activities and positions get their support from institutions originated in the societies as well in the North as

the South, and in all the positions that aim at protecting their institutions, activities and members of the arbitrary capacities. These naturally participated in the creation of this "International Bureau for Humanitarian NGOs " to defend their interests, to make them know and sensitize the opinion when it comes to their role in the protection of the human interests, as in what follows:

- 1 - The creation of a recognized international gathering, according to the universal standards, whether it is in its composition or in the ways that it adopts, and the realization of this project by all legal and media ways.
- 2 - To set up a wide field of relations with the media on the universal plan.
- 3 - To Establish good relations with the United Nations and countries of the European Union and the European Commission.
- 4 - Toil to obtain the support of inter-governmental organizations for the Bureau.
- 5 - To gather a certain number of lawyers around the Bureau, in order to serve its objectives.
- 6 - To establish good relations with states and their representatives in the institutions, and to ask for their legal, moral, and material support.
- 7 - The publication of a periodic mail - as the information are supplied by these institutions - to assert the charitable activities of these institutions in the world.
- 8 - The publication of a periodic guide that will be distributed in the UN's offices and in great states, in order to assert the humanitarian role of these

institutions and their will to prove more transparency.

- 9 - Considering, as calls upon the proverb, as the man distrusts what he does not know, to invite in order to remedy, the representatives of states, which disgrace these institutions to discover their world. And to establish relations between representatives of the governments and the charities in order to create a constructive dialogue between them, susceptible to participate in the resolution of probable difficulties through civilized means, thanks to the spirit of collaboration
- 10 - The publication of a periodical that presents the experiences and the difficulties that knew these institutions.
- 11 - The formulation of protests to the states, to their representatives, and to the international authorities in the case of exercising pressures on the activities of the non-governmental institutions.
- 12 - The establishment, in agreement with these institutions, of methods to make known the regions in need for humanitarian action. The transmission of information, as it arrives, to the humanitarian institutions concerning the regions in need for help.
- 13 - The formulation of requests to the great states and to their institutions in order to provide help to the societies and to the institutions operating in the stricken regions. It is in this frame that a link between the international coordination and the construction of a non-governmental field is created.
- 14 - The Bureau looks after sensitizing the governments

and the peoples to the importance of the non-governmental institutions, in order to repel the tragedies of poverty, the diseases, and the ignorance in their countries.

The Prisoner's Right to the Spirit of Tirelessness

The International Campaign for Defending freedom of the detained Journalist Taysir Alony "Free Taysir" comprises of about 30 NGOs and more than 1500 persons in solidarity with Alony rises many controversial questions that always face the human rights defenders when opening the arbitrary detention file. The attempt to answer such questions is an opportunity to put measures for success or fail of any action meant to bring justice and defend victims.

Are the traditional usual advocacy techniques enough for defending the detainees?

More than 40 years ago, Amnesty International originated the technique of gathering all the members, friends, public personas and human rights defenders to advocate and unite in solidarity to call for the release of the detainee. Some of the AI's advocacy campaigns included millions of letters in advocacy. Several campaigns have already achieved victory in releasing detainees who were sentenced, by an unfair exceptional trials, to death or a lifetime imprisonment, while other campaigns waited for the release of the detainee(s) for more than 20 years. For instance, the advocacy campaign to free Dr. Ahmed Fawaz have felt that their efforts are going in vain by the 15th year of Fawaz's imprison term. As for the advocacy campaign to free the officer Khalil Briz, the author of (The Fall of Al-Golan), its members have been changed several times and he had been released after more than 25 years in detention.

Numerous campaigns and actions have achieved success. Human Rights Organizations have played a vital role in notably reducing the number of political prisoners in the Arab world. But it is not possible to continue using the traditional means to resist repression and injustice, and to put all the responsibility on one group's shoulders. To make everyone believes in her/ his ability to act and make change is the most important means to defend rights and liberties in general and the political detainees in particular. To send a postal card, to write few words or to distribute an e-mail or even to mention the prisoner in public talks.

As long as we can mention, whenever it is possible, that Matrouk Al-Faleh is not with his family tonight, Abo Belal Abdallah Al-Hamed is not able to go to the bookshop to buy a new book, Galal Al-Zoghlamy is not able to go out with his friends, Abdel Aziz Al-Khair is not able to examine patients except his co-prisoners, Al-Khewany writes only on the cell walls, Mohammad Al-Hassan gives his speeches only to the prisoners, Aref Daliala lectures only to Al-Adra prison walls and Al-Lahem defends from behind Al-Gaber prison bars.

As long as we can remember that nobody will be able to attend the National Dialogue Forum in Riyadh Saif's Salon, and that nobody is no longer discussing the idea of establishing a human rights committee in the Syrian Parliament since the detention of Mamoun Al-Homsi. Since Sheikh Saied Ben Zo'ier was sentenced to 5-year in prison for an interview he made in A-Jazeera channel, many intellectual think twice before expressing their opinion in the Arab media means and every Arab journalist lives in the west will be at stake. Taysir Alony is still behind the bars in a dark prison in the Spanish capital

For every unjustly treated person, to be forgotten is the worst feeling could be felt, while the sense of tireless efforts for his/her advantage is the best consolidation.

The second question is:

Can an intellectual be silent and protected from the humiliation of silence in an era of humiliation?

The muddy stability of the repressive regimes has created a sense of fear to those intellectuals who become to prefer conferences tourism and the palaces prizes rather than actual fighting for the defense of dignity and fundamental freedoms.

It could be understood that a poet refuses to sign a petition concerning the destiny of the disappeared person in the Arab world. But when who works for liberty and democracy, and calls for them in every gathering, refuses to sign such a petition, this would be a tragic disaster for the human rights defenders.

There are also those semi- intellectuals who failed to play an intellectual, social or political role, and they have no role to play but the security role. They issue press releases arguing to close the offices of the satellite channels that call for terrorism and promoting the fighting terrorism means, as if the American administration has not done enough in this regard.

The third question is:

What is the importance of the "Habeas Corpus" principal for the democratic reform?

Democratic reform can not be achieved by neither discussing those who are in power nor by being silent about injustice and waiting for the proper time to make a change. Europe's experiment in change shows that the starting point is to link the individual freedom with the

judicial authority, not with the arbitration of the regime.

The principal of "Habeas Corpus" planted safety for those who like to express their opinions as well as it discriminated between those who use weapons and those who use words to resist injustice. Such principal has not been applied in Arab states yet. It was not applied on the poet Aly Al-Domainy when his lawyer Abdel Rahaman Al-Lahem submitted him before the judge, who listened to none of al-Dominy's poems, but only prevented those who wanted to attend the hearing session.

Abdel Kerem Aslan was referred to the Syrian State Security Court after more than 13 years in detention in Egypt. No Islamic political prisoner has the right to natural trial. The number of those who were in prison for belonging to the different trends of the political Islamic movement is estimated to be more than 25,000 since Al-Sadat's assassination.

So that, we would like to remind with the fact that Europe's intellectuals in the age of renaissance were those who defended the independence of judiciary, the freedom of detainees and the safety of body and soul. The writings about torture in Europe preceded all the legal regional and international documents in this regard.

Can we succeed in the fight with the globalized trend?

The climate after September 11 affected all the fields of human rights defense. The human rights movement was divided into those who agreed on standing in the Pentagon's side in order not to be against it, those who deliberately disregard the consequences of the "war against terrorism" and those who chose to focus on the governments' violations.

Generally, the human right movement was divided into false allegations distributors and serious resisters, in between, there are those who chose to just watch.

The time has proved that the thought of obtaining living and standing in the side of the strong party is an action-limited thought and isolated from the public's problems and concerns. It is used only for garnishing an American initiative or a conference organized by the power holders. Such thought is not reliable to generate a human rights culture and teach democratic practices with a deep effect in Arab Muslim communities. It is very well known that the public sense is the filter that has distinguished between those who work for human rights and those who use human rights . The public sense filtered the files, the groups and the individuals. That filtering process will affect greatly on the geography of the future, not only in the human rights field, but also on the social tools and techniques of defending human rights.

The international civil societies have succeeded in proving the illegitimacy of the Occupation of Iraq, in shedding lights on the human rights violations committed under the name of the war against terrorism, in abolishing the exceptional laws in several countries, and even put Blair's exceptional government and its judicial authority under the doubts of the British majority. Which means that Bush and Ramsfeiled- trend can not do or impose what does it want. It is an urgent matter of accountability and holding responsibility. The file of crimes and punishment will not be closed because the US is the strongest polar. The battle goes on, it needs wide frontlines as well as tireless efforts.

In the end of the 19th century, when the Drivos case was in France, a number of human rights defenders were afraid

of the involvement in a case of an unknown Jewish officer, but a number of intellectuals opposed this rout trend. Those are the "adventurers" who found the French League for Human Rights, however it died when its program faced France and the whole world.

When the tragedy of Qala-i-Jhangi in Afghanistan took place, we moved with few number of human rights defenders, though many had advised us not to swim against the stream, considering the matter "in vain". Months later, several European and American NGOs joined us, people realized that this case will not be forgotten. Today, many activists are talking about the necessity of documenting for this tragedy in order to maintain legal or immaterial accountability.

To hide behind generalities of slogans, to ignore the wounds, to avoid the just cases because they are critical and to avoid bearing the responsibility of claiming basic rights and freedoms, none of these behaviors can be part of the accumulation that is necessary for maintaining the fundamental freedoms and rights and for building a better future.

Let those who prefer silence live in the decorated caves, and remember that disregarding a case does not affect its justice and that human rights is a struggling practice. Desperation is the first enemy of an activist, and inattention makes the enemy change. Freedom is valuable and the other's freedom is an indivisible part of the self-freedom.

(*) Translated by: ANHRI

Haytham Manna

- Born in Om-almayaden (South Syria) in 1951. Family name: AL-OU DAT
- Studied Medicine at the University of Damascus in Syria, and Mary & Pierre Currie in France.
- Received a Diploma in psychosomatic treatment from the University of Paris 13, and a Diploma in sleeping and waking disorders from the University of Montpellier, 1989. Taught courses on sleeping disorders at the University of North Paris in 1990.
- Co-founder and member of the direction of redaction of the French theoretic revue *SOU'AL* (1980-1990).
- Co-founder and Director of the Revue "Moukarabat" (1998-2002)
- Studied social sciences and received a Ph.D. in Anthropology from the Higher Institute of Social Sciences, Paris, 1983.
- Coordinator of Dr. Kuzbari (President and founder of the Syrian League for Human Rights) Committee (1982-1985).
- Co-founder and international relations supervisor of the outside branch of the Committees for The Defense of Democratic Freedoms and Human Rights in Syria (1990-1998).
- Vice President of the International Federation for Human Rights (1994-1997).
- Member of the Commission of Religions in Amnesty International-Paris (1995-1998)

- Member of Reform Penal International (1996-1999)
- Member of the Board of Trustees of the Cairo Institute for Human Rights Studies.
- Member of the Board of Trustees of the Arab Program for Human Rights Activists (1996-2001).
- President of the Arab Center for the Independence of Judiciary 2002
- Spokesperson of the Arab Commission for Human Rights (1998-2002)

Honoring:

- Honored by Human Rights Watch in 1992.
- Medal of Human Rights- National Academy of Sciences- Washington (1996).
- Member of the direction of Justicia Universalis
- Member of the Direction of AVRE (France)
- President of the International Bureau of Humanitarian NGOs (Geneva) - 2004

Works:

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- Woman in Islam, Beirut, 1980. In Arabic.
- L'Islam et la maladie, EHESS, Paris, 1983, (in French)
- The Arab-Islamic Society From Muhammad to My, Paris, 1986. In Arabic
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- The Woman!!, Coln, 1988. In Arabic
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- The Futur of Human Rights, Impunity and International Law, 2005

- Protection of journalists, 2005
- Critical Studies on Human Rights, 2005
- Rights of Child, 2006
- Human Rights and Humanitarian action in the Arab World
- He participated in several collective works on women in the Arab World and on human rights, and published about 200 articles and lectures in Arabic, French and English.

Translations:

- Scientific Bases of Clinical Practice, University of Damascus, 1973. (From English to Arabic)
- Pre-Capitalist Relationship (Texts), From English to Arabic, Beirut, 1976.
- Psychology and History, Texts of Freud and others, dar al-Haqiqa, Beirut, 1978.
- Translation with Violette Daguerre of the Arabic edition of the letter of the International Federation for Human Rights (1993-1997).
- Translation of the Arabic edition of the journal of Working Together for Human Rights(1997-1998) from French.

Coordinator of seminars:

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- Seminar about Islam and Human Rights. with the LTDD in (N'djamena 1995).
- Seminar about Human Rights Advocates under the state of emergency, CDF, FIDH and C.A. Droits Humains, Paris 1996.

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- Seminar about Human Rights in the Mediterranean, EOHR & FIDH, Cairo, 1997.
 - Seminar about Human rights defenders in a new century. ACHR & APHRA Rabat, 1999.
 - Seminar for Arab NGO in exile, ACHR & APHRA, 2001.
 - Seminar for Human Rights Women defenders 2001.
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 - Training for Rehabilitation of Victims of Torture, Manama Dec. 2002.
 - Paris Conference for Humanitarian NGOs January 2003.
 - Syria: 40 years of state of emergency, ACHR and HRAS-Malakoff.
 - Training for Libyan HR Defenders in exile, Manchester, 2003.
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 - Impunity and International Law, Manama 2004.
 - Syrian Democratic Rencontre , Paris, 2004.
 - 2nd International Conference for Humanitarian NGOs, Geneva 2004.
 - 9 seminars on the Protection of journalists 2005-2006.

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- Pakistan, 1993.
- Azad Kashmir, 1993.
- Egypt, 1994.
- Algeria, 1995.
- Algeria, 1997.

- Tunisia, 1999.
- Egypt, 2000.
- Morocco, 2001.
- Bahrain, 2002.
- Qatar, 2003.
- Amman, 2003.
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- Participation in the Commission and sub-Commission of Human Rights (UN) in Geneva and Human Rights Committee

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- a durable solution based on International Law*", Arabic 2000 (English edition 2001)
- Haytham Manna, "*Freedom in Exile Literature*", Buds: ACHR, Eurabe & Al-Ahali, (Book in Arabic), 2001
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- "*Our Common Responsibility*", ONGs about the consequences of a New War in Iraq, 2003
- "*Freedom of Expression and Terrorism, Case of Taysir Alony*", (Arabic), 2003
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