

## **The League of Arab States: Regional Human Rights Initiative**

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### **Abstract**

The United Nations (UN) was the first one to take up the cause of promotion and protection of human rights at global level, however, it faced several challenges, owing much to the sovereign status of the members States. By the year 1950, a binding mechanism to implement human rights at regional level was established in Europe under the aegis of the Council of Europe (CoE). This was followed by establishment of the Inter-American system in 1969 for American region under the Organization of American States (OAS). Considering these regional developments as positive ones, the UN, through an *ad hoc* study group, considered creating and promoting regional human rights regimes on its own. However, it ultimately the UN study group concluded that the member States themselves bore the responsibility for forming regional human rights systems and in 1977, via the Resolution 32/127, the UN General Assembly asked the States those were not belonging to regional human rights regimes “to consider agreements with a view to the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights.” As a positive response to the UN’s determination and faith in regionalization of human rights monitoring, in 1981, the African human rights system was established under the African Union (AU). Southeast Asian initiatives also took shape on similar lines, though uniquely. Later in 2004, the Arab human rights regime came up under the aegis of the League of Arab States (LAS). This paper is an attempt to present the genesis of the Arab human right system and to present its uniqueness. The author is hopeful that by promoting more and academic writings on these regional human rights understandings we can build a truly universal spirit of human rights.

## **Introduction**

Like almost all regional human rights systems the Arab System of human rights works under the aegis of a regional organization; the League of Arab States (LAS). The LAS was formed as a follow-up of the Alexandria Protocol adopted in 1944 by the Arab States<sup>ii</sup> and was established in March 1945, four months before the United Nations to serve the interests of the region.<sup>iii</sup> The seven founder member States<sup>iv</sup> have risen to twenty two members<sup>v</sup> by 2010. The LAS has its Headquarters in Cairo Egypt which was shifted to Tunis in 1979.<sup>vi</sup> Egypt was readmitted to the league in 1989 and the league's headquarters was moved back to Cairo.<sup>vii</sup> India has been given the observer status in LAS since 2005. The Arab human rights system is based on the LAS Charter, the Pact of the League of Arab States, having a Preamble, 20 Articles and 3 Appendices.<sup>viii</sup> The main objective of LAS was to coordinate regional unity and to strengthen political policies.<sup>ix</sup>

So that the post World War political and cultural subjugation of the region at the hands of colonial powers and the Jews respectively could be fought against.<sup>x</sup> The Council is the highest organ of the LAS and all the member States are represented in this body.<sup>xi</sup> The Council is assisted by a number of special committees working for particular human interests like labour rights, environment etc. The LAS has a General Secretariat to upkeep the daily work of the organization.<sup>xii</sup>

In addition to these organs the LAS also has a number of specialized Agencies for example, the Arab league Educational, Cultural and Scientific Organization, 1964, the Arab Health Organization, 1970, the Arab Bank for Economic Development in Africa, 1973 etc. The last agency hints upon the closeness of the regional interests of the Arab and the African region. Like the CoE and AU the LAS also has a Court of Justice. The Arab Court of Justice was adopted by way of a Statute.<sup>xiii</sup> According to the Article 1 of the Statute it was principal judicial organ of the LAS. Composed of a body of independent judges as per the Article 2 it had ten judges according to Article 3. The court follows procedures of Written as well as oral as

mentioned in Article 17 (1) of the Statute. The focus was more on the advisory opinions of the court rather than the Contentious jurisdiction which is mentioned only in Article 23 (4).<sup>xiv</sup> The court requires at least seven ratifications to become operational. Saudi Arabia was the first country to do so in June 2016.<sup>xv</sup>

### ***The Evolution of Arab Human Rights System***

The LAS had created specialized agencies to cater to specific human rights concerns in 1950s. In 1964 the LAS created an Arab educational, Scientific and Cultural Organisation.<sup>xvi</sup> The Arab region also had preference for the collective rights<sup>xvii</sup> like all other non western regions. The international debate over these rights also captured the attention of Arab region.

In 1966 when the International Covenants on human rights were adopted by the UN the interest of the LAS in human rights was converted into efforts. In the same year the LAS established a Committee to explore the prospects of the Arab world in the UN's 'Year of Human Rights'<sup>xviii</sup> since the UN urged the four regional organizations namely the Council of Europe, the OAS, the AU and the LAS to support the cause of human rights by way of celebrating the Human Rights Year, 1968.<sup>xix</sup>

In 1967 acting upon the UN's recommendations<sup>xx</sup> and also acting according to the Chapter VIII of the UN Charter the LAS formed another Committee by way of Resolution 2443, in 1968, established *al-Lajnah-al-Twajehiya* for the same purpose.<sup>xxi</sup> The UN Commission on Human Rights also launched a project to explore the potential of the regions for human rights which do not have any such system existing.<sup>xxii</sup>

The First international Conference on Human Rights was organised in Tehran from 22 April to 13 May 1968<sup>xxiii</sup> in which the Arab countries participated. In the same year the first Arab regional conference on human rights was conducted in Beirut, 2-10 December which was also attended by India and Pakistan other than the Arab Countries.<sup>xxiv</sup> It was followed by the establishment of Permanent Commission on

Human Rights in 1968<sup>xxv</sup> with all the LAS members represented therein.<sup>xxvi</sup> By this time the Arab region had taken note of the fact that all the other regional organization had established human rights mechanism except the LAS. The Commission presented a proposal to the Council of the LAS in September 1969 regarding its powers, mentioning therein that all human rights concerns would fall within the competence of the Commission. It also suggested that the region should promote the national human rights institutions a feature similar the South East Asian initiatives of human rights.

The Arab consciousness for human rights is also backed by the NGOs of the region<sup>xxvii</sup> as a similarity between the other regional human rights developments. An Arab NGO the Union of Arab Lawyers proposed the LAS in their meeting in Damascus to draft an Arab Human Rights Charter.<sup>xxviii</sup> To consult the Arab NGOs on the human rights issues the first conference was held in Amman, the second in Sana, the third in Cairo, the fourth in Geneva and the last in Beirut, organized by the Cairo Institute for Human Rights Studies and ended with the Beirut ‘declaration’ for regional protection of human rights.<sup>xxix</sup>

In 1974 the Arab Inter-parliamentary Union (AIPU) is an Arab parliamentary organization composed of parliamentary groups representing Arab Parliaments was established.<sup>xxx</sup> The AIPU has three main organs, namely, The Conference, The Council and the General Secretariat. The functions of these organs are explained as below:

The Conference is composed of delegations representing the member groups (5-10) deputies for each. The Conference meets once every two years and is presided by the speaker of the host parliament, The Conference deals with common pan-Arab issues, adopts and amends the Union’s statutes.

The Council is composed of two members representing each member group. The Council normally holds one session a year. It takes all measures entitled to realize the Union’s objectives i.e. adopts the budget, appoints the secretary General, fixes the agenda of the Conference, accept new

affiliations...etc.

The General Secretariat is the Union's Executive Organ, and is headed by the Secretary General. It facilitates contacts between the member groups and the Union, prepares the subjects to be discussed by the Union's Councils and Conferences, runs administrative and financial questions ...etc.<sup>xxxix</sup>

The AIPU takes note of every development in the region for example, it is drafting a regional Convention on AIDS, it has recently called for a session with the LAS to discuss the crises in Libya.<sup>xxxix</sup> The AIPU also works with the UN to promote regions interests.<sup>xxxix</sup>

Later in 1979 the Arab jurists met in Syracuse and approved the Draft Charter on Human and Peoples' Rights in the Arab World. The name given to the Charter reminds us of the uniqueness of the ACHPR which was shared by the proposed Arab Charter. This Charter had no recognition till 1994 when the LAS adopted its own Arab Charter on Human Rights.

#### ***The Arab Charter on Human Rights, 2004***

The work towards the drafting of the Arab Human Rights Charter was prepared in 1971 and was adopted in 1994<sup>xxxix</sup> which was not ratified by any member State. Between these periods the LAS kept working on particular human rights issues for example in 1990s it adopted a Convention on Terrorism, proposed a common market for the Arab region and a Court of Justice was also introduced.<sup>xxxix</sup> The Charter was based on Shari'a Law and Cairo Declaration on Human Rights, 1990. The Charter was revised in 2004 and presented in the Summit of LAS and was ratified by seven member States.<sup>xxxix</sup> The Charter entered into force on 14 March 2008.<sup>xxxix</sup>

Article 2 of the Arab Charter begins with the words that 'All the Peoples' is very similar to the second article in both the International Covenants of 1966 as it is concerning the rights of the People, a feature which is also found very strongly in the ACHPR.<sup>xxxix</sup> The Rights of the Arab Charter can be divided in the following

categories. The first category concerns individual rights from Articles 5-10, 14 and 18, 20. The second category concerns rules of justice Articles 12-13, 15-17 and 19, the third category concerns civil and political rights, articles 21, 24-33, the fourth category concerns economic, social and cultural rights Articles 34-37, 41-42. Like the ACHPR the Arab Charter also has incorporated all kinds of rights including the right to development in Article 37.<sup>xxxix</sup>

The organs mentioned in the 2004 Arab Charter was the Arab Committee on Human Rights as mentioned in Article 45 of the Arab Charter. The Committee was provided to receive State reports through the General Secretary of the LAS as per Article 48 of the Charter. State reports from the members provided under Article 48 (1) of the Charter. The Reports are to be submitted after one year of the enforcement of the Charter and thereafter after the gap of three years as per Article 48 (2). The Article 48 (6) provides that the committee shall give recommendations and concluding observation based on the State Reports.

It is interesting to note the contrast between the Inter-American Commission which was established before the American Convention but was attached a role under the Convention, however, in case of the Arab Commission there was no role given to it as the Charter organ and rather was replaced by a Committee.

I would also like to highlight a critical point here that the Arab Charter opted for a Committee instead of a Commission like in all other regional Charter/Conventions because the role of a Human Rights Commission is much more.<sup>xl</sup> The Arab Charter did not mention of the Arab Court like the ACHPR and not established one till August 2010. However, the debate on the establishment of an Arab Court of Human rights has been simmering in the Arab region for quite some time. The overview of these debates has been discussed ahead.

### ***The Arab Court of Human Rights***

The Draft Charter on Human and People's Rights in the Arab World 1978 had provided for the Arab Court of Human rights however, the final human rights

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Charter of 2004 did not. In the Section two of the of this draft is about the Arab Court of Human Rights. The Article 56 mentions that “the Court shall be composed of seven judges”. The State party “nominate two persons” and “the bar association therein shall nominate a third person”.

The Court was assigned with two functions: contentious jurisdiction and jurisdiction for “Interpretation of the Charter and determination of the obligations of parties” in Article 53 (3). Under the contentious jurisdiction the Court could receive the cases of State Communication, and could cater to the individual communications referred to it by the Arab Commission on Human Rights under Article 58(1) and (2).

One of the major lacunas in this draft was that the individual communications should have been directly presented to the Court.<sup>xli</sup> The Human Rights Information & Training Center, Yemen, the Arab Institute of Human Rights, Tunisia, and the Arab Center for International Humanitarian Law & Human Rights Education, France organized a meeting in October 2004 in Aden, Yemen to discuss about the creation of an Arab Court of Human Rights.<sup>xlii</sup> The same discussion was carried on during the second meeting in March 2004 in Sana'a, Yemen which produced the Sana'a Declaration.<sup>xliii</sup>

The Charter of 2004 was lacking a lot of essential features for example, it did not provide for the monitoring system of the Charter and it did not include the individual complaint mechanism.

The following excerpt from shows the dynamics for growth in the Arab system of human rights.

From 16 to 18 February 2013, the International Federation for Human Rights (FIDH) in cooperation with the Arab Organization for Human Rights (AOHR), the Cairo Institute for Human Rights Studies (CIHRS) and the Egyptian Initiative for Personal Rights (EIPR), held a regional conference in Cairo entitled “The League of Arab States (LAS), human rights and civil society: challenges ahead” to which top representatives of

the LAS participated, together with around 50 representatives of national, regional and international non-governmental organisations (NGOs) . The presence of human rights experts from the African Union, Organisation of American States, Council of Europe and United nations systems allowed for a comparative legal and practical analysis with the LAS.

During three days in this unprecedented format, participants discussed the challenges faced by the LAS to enhance the protection and promotion of human rights in the region. They urged the LAS to reform and strengthen the organs in charge of human rights issues and demanded effective interaction with independent civil society organizations at all levels of the LAS.<sup>xliv</sup>

The news extract mentioned above highlights a number of significant things. Firstly, it shows the interconnection between the international human rights regime under the United Nations and the regional human rights system under the Council of Europe and the young regional system of Arab region. It further strengthens the ideas that all the human rights regimes work in unison for one greater goal. This also emphasises the eminent role of the NGOs in the regional human rights mechanisms. The Arab region has recently seen revolutions and still is suffering from such upheavals, however, it must be considered as a chance for the Arab human right system to give lessons to the political leaders of the region to adopt more democratic and human rights friendly governance.<sup>xlv</sup> Also, the LAS is striving to establish an Arab Court of Human Rights to match up to the universal standards<sup>xlvi</sup> while it still awaits ratifications.

### **The Conclusion: Celebrating the Uniqueness of the Arab System**

The Arab Charter also includes all kinds of human rights like its African counterpart. Also, one of the unique features of the Arab Charter is that it mentions God as the source of all human rights, hence it adds to the ethical aspect to human rights system. The Arab Charter has perhaps the longest list of non-derogable human rights as mentioned in Article 4 (2) of the Charter. Article 7 of the Charter allows death penalty which is a debated as against the universal human rights principles and

also there is an argument that the region cannot allow such practices to prevail especially when the region is already in the clutches of extremist Islamic pseudo-governments like the *Talibans*, in addition to the terrorist outfits in the region which are misusing the name of Islam while killing the innocent people. If a provision like death penalty is introduced in a human rights document of the region, this situation will develop from bad to worse.

Like the ACHPR, the Arab Charter also mentions the Right to Development in Article 37 which is very crucial right for a developing region like South Asia. Considering the region's vulnerability in the era of globalization such human rights may rescue the region from exploitation. The Arab Charter, however, does not provide for a Human Rights Commission or even for a Human Rights Court in the Charter. Instead it provides for a Human Rights Committee with very limited powers.

In 2007, there was proposed an Arab Charter on Democracy for the Arab region.<sup>xlvii</sup> As per the recent 2011 revolts against the autocratic regimes in Arab countries by the youth, it is observed that the region has moved towards setting up of democratic regimes. It is seen as a positive step towards the strengthening of the Arab Charter also, as it may help in bringing up democracy-friendly amendments in the Charter. Surprisingly, these regional human rights systems are not very widely studied in South Asia, probably because of absence of such a mechanism in the region. I hope more and more writings on this aspect would ignite interest in the academia to study, explore and follow such initiatives.

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