

# Civil society Interaction with the League of Arab States



Key insights, principles, good practices and emerging lessons

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# مركز القاهرة لدراسات حقوق الإنسان

## Civil society interaction with the League of Arab States

Synthesis and analytical report: Key insights, principles, good practices and emerging lessons

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With the support of:



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## INTRODUCTION

### The quest for the promotion and protection of human rights in the Arab region

It is perhaps trite to emphasize that the struggle to promote human rights and fundamental freedoms in all countries of the Arab world has not been, nor is it still, an easy task. Rather a long struggle for various reasons. This could be described as a struggle between Arab political regimes in general, on the one hand, and Arab individual activists and civil society organizations working at the national, regional and international levels, at the same time. Although many Arab countries have attained political independence by the end of the Second World War, and the Charter of the League of Arab States (LAS) preceded the founding of the UN Organisation in 1945, as well as its human rights successor, the 1948 Universal Declaration of Human Rights, most Arab States have yet to claim any significant progress in the field of promotion and protection of human rights. The almost universal Arab stand against the Israeli occupation of Palestine and its tragic aftermath may be the only exception, albeit with little success here either. One may pose the question: what are the reasons behind this? This state of affairs contrasts somewhat negatively with regional developments in other parts of the world: A European Charter of Human Rights and Court of Human Rights, an inter-American Charter and Court of Human Rights and an African Charter and Court of Human Rights.

It is not the purpose of this brief note to go into an analysis of the reasons why Arab States have lagged so much behind, or what efforts have been made by human rights activists and organization, how and why individual States and the LAS have not responded in the way that has been expected of them? What have the results been so far? What current action is being taken or expected to be taken both by the Member States and the LAS both at the national, regional and international levels? More significantly, what impact and hope should the political developments of the Arab Spring be expected to have on the future of the promotion and protection of human rights in Arab nations? What have individuals and

civil society organization done to achieve these objectives? What are their future plans?

These are all very pertinent, albeit difficult, questions that the author of this note would not, perhaps cannot, venture to answer.

Fortunately, however, two Arab human rights activists, Ms. Mervat Rishmawi, from Palestine and **CIHRS** from Egypt, have taken upon themselves the difficult task of doing so in the two articles which the reader will find in the following pages. Each of them has done so with a high sense of professionalism and commitment, which so admirably addresses, not only the questions posed above, but also the history, the political framework, the efforts exerted and the outlook for the future as well as in the post Arab Spring era in an endeavor to realize the hopes and aspirations of their fellow citizens.

I conclude by saying that the two following papers are a must read for anyone, anywhere, desiring to learn the past, present and future of institutionalizing the principles of human rights and freedoms in the Arab world. I congratulate both authors for this arduous task.

**Dr. Amin M. Medani**  
**Sudan Human Rights Monitor**

Chapter One:  
Tracing civil society engagement with the League of  
Arab States

CIHRS Researcher

## What role for regional mechanisms in protecting human rights?<sup>2</sup>

In the 1960s, several human rights practitioners and activists began to view regional human rights systems as potential instruments to ensure more compliance by states.<sup>3</sup> The envisioned role for regional human rights systems was to “go further” in terms of steps taken to promote and protect human rights. Thus, based on such definition, a human rights system can be said to consist of permanent institutions with effective compliance and enforcement procedures and a legal framework that guarantees the promotion and protection of universal human rights.<sup>4</sup> It is in this context that a number of civil society actors demonstrated interest in engaging with the League of Arab States (LAS).

It is important to note early on in this paper that regionalism does not mean cultural relativism, at least in terms of views held by the academics and activists whose work is reviewed in this paper. On the contrary, as will be demonstrated, arguments adopted by LAS member states pertaining to the cultural relativity of the Arab region are continuously refuted and criticized as justifications used to derogate from the universality of human rights and thereby diminish states’ obligations under international law.

### What constitutes the “Arab” region?

To date, there are 22 Arab countries that constitute the LAS, 12 located in Asia and another 10 in Africa.<sup>5</sup> Article I of the Arab League Charter

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<sup>2</sup> This paper examines some of the past attempts made by civil society organizations towards strengthening the human rights component of the League of Arab States (LAS) as well as traces the introduction of human rights within the Arab regional system.

<sup>3</sup> Mohamed Saeed Mohamed Al Tayeb. *Damanat Huquq Al Insan Wa Aleyat Al Himaya Fi Al Mithq Al Arabi Le Huquq Al Insan* (Human Rights Guarantees and Protection Mechanisms in the Arab Charter for Human Rights) in Fegeiry (ed), *La Himayah Li ‘Ahad*, pp. 185-199, Cairo Institute for Human Rights Studies (2006).

(Arabic sources are cited thereafter by their Arabic titles written in Latin alphabet, with an unofficial English translation of the title between brackets.)

<sup>4</sup> Dinah Shelton, *The History and Place of Human Rights in Regional Organizations: the promise of Regional Human Rights Systems*; in Shelton (ed), *Regional Protection of Human Rights*, pp 15-16 (2008).

<sup>5</sup> The present member states of the Arab League are (in alphabetical order): Algeria, Bahrain, Comoros Islands, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman,



stipulates the criteria for membership in the League as being “independent Arab states” that have signed the Charter.<sup>6</sup> Interestingly enough, the Charter does not define what constitutes “Arab,” leaving it instead to the discretion of the existing member states at the Council of the League to determine the fate of the application of any new state expressing interest in joining the LAS.

Consequently, there are member states within the LAS that do not appear to share many commonalities with the others. The Arab region is characterized by sharp contrasts and historic, religious, cultural, economic, political and even linguistic diversities. For example, Arabic is not a dominant language in member states like Djibouti and Comoros Islands, while Sunni Islam is not endorsed by the majority of the population in countries like Bahrain and Iraq. Similarly, a number of predominantly Muslim neighboring states, like Afghanistan, Pakistan, and Iran, are not considered “Arab” states, despite endorsing Islam as the state’s official religion.

This is not to suggest that finding a common identifiable feature exclusive to the Arab region is a necessity, nor to imply that such diversity is unique to this region. On the contrary, state parties to several other existing regional alliances display similarly loose associations. Rather, this is merely an attempt to highlight the challenge of concretely defining what constitutes “Arab culture” in terms of characteristics unique to the region. This argument is indeed used by several scholars and human rights practitioners to challenge arguments based on “cultural relativity” invoked by states to undermine particular human rights.

Instead, NGOs push for an understanding of the region that encompasses “a clear application of the complexity of interests, as well as the diversity

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Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen. In November 2011, Syria was prevented from attending the meetings of the LAS and in March 2013, Syria’s seat was taken by the opposition Syrian National Council.

<sup>6</sup> League of Arab States, Arab Charter on Human Rights, reprinted in 12 International Human Rights Rep, 893 (2005). (There are several provisions and articles cited in this article from the Arab Charter on Human Rights. No further references will be made to the Charter).

of factors and contexts, that condition the policy and practice of each Arab state, especially regarding the protection of human rights.”<sup>7</sup>

There are, however, several human rights concerns that seem to characterize the region. Among the most obvious are the increasing violence in the context of ongoing wars and sectarian strife, the mounting numbers of refugees and internally displaced persons, and the existence of member states under occupation, namely Palestine. Additionally, severe antagonism to the universality of human rights is seen across the region, and this is coupled with hostility towards civil society organizations, which is fostered by an arsenal of repressive laws and practices against independent human rights NGOs in the region.<sup>8</sup>

### Restrictions and limitations imposed on NGOs

A brief outline of some of the restrictions and threats faced by nongovernmental organizations (NGOs) in the Arab region may assist in understanding the limitations that they face while dealing with their respective governments under the umbrella of the LAS.

The human rights movement in the region started as a regional - as opposed to national - initiative.<sup>9</sup> Perhaps this is indicative of the reasons behind Arab NGOs' current collective interest in working to improve the LAS system. With the increasing prominence of the human rights discourse and the appearance of a number of regional and national human rights organizations in the Arab region, states attempted to impose a monopoly over the emerging civil society space by imposing legal and practical challenges to the existence of such NGOs.

As one recognized thinker of the Arab human rights movement put it: Since its emergence in the 1970s, civil society has been “severely curbed [in the face of] the cancerous expansion of the state's bureaucratic and

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<sup>7</sup> Abd Allah Ahmed Naim, Human Rights in the Arab World: A Regional Perspective, Human Rights Quarterly, Volume 23, Number 3, August 2001, pp. 701-732, Published by the John Hopkins University Press (Page 708) <http://muse.jhu.edu/journals/hrq/summary/v023/23.3an-naim.html>

<sup>8</sup> Bahey el Din Hassan, La Himaya Li Ahad (no protection for anyone), in Fegeiry (ed), La Himaya Li 'Ahad, pp. 39-61, Cairo Institute for Human Rights Studies (2006).

<sup>9</sup> For more information on the history of the Arab human rights movement See Jill Crystal, The Human Rights Movement in the Arab World, Human Rights Quarterly 16 (1994).

security apparatuses.”<sup>10</sup> Indeed, one example demonstrating the severity of such restrictions occurred in 1993 after the Egyptian government finally allowed the Arab Organization for Human Rights to hold its third general meeting in Cairo. One of the participants at the meeting, Mansour Al-Kikhya, a Libyan activist and member of the organization’s Board of Trustees, disappeared and his whereabouts remained unknown until his remains were found in November 2012.<sup>11</sup>

In fact, among the 26 countries that signed a statement voicing strong reservations on the UN Declaration on Human Rights Defenders were 14 member states of the LAS. Additionally, on 5 December 1996, a meeting of the Ministers of Interior of LAS member states issued a statement voicing their concerns with regards to civil society organizations, which they described as “destructive and dangerous to national security.”<sup>12</sup>

Additionally, due to inherited historical contexts, collective identities within the Arab nation often express themselves in contrast with the west, the previous colonizer. Accordingly, a main obstacle faced by NGOs in disseminating universal ideas of human rights is that the surrounding environment tends to reject such ideas as foreign. Another problem stems from divisions within the movement itself, including the failure to agree upon a common approach to deal with the two dominant powers in the region, namely Islamists and authoritarian regimes.<sup>13</sup> Following the “Arab Spring”, such debates continue unabated.

## Origins of human rights within the Arab League

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<sup>10</sup> Mohamed El Sayed Saeed, *Huquq Al Insan Bayn Al Mashrou’ Al Imbratori Al Amreeke wa Al Nozom Al Istebdadeya Al Arabeya* (Human Rights between the American Imperialist Project and the Despotic Arab Regimes), in, Fegeiry (ed), *La Himaya Li ‘Ahad*, pp 9-13, Cairo Institute for Human Rights Studies (2006).

<sup>11</sup> Abd Allah Ahmed Naim, *Human Rights in the Arab World: A Regional Perspective*, in *Human Rights Quarterly*, (Vol. 23/3), pp. 708 , the John Hopkins University Press ( August 2001), available at: <http://muse.jhu.edu/journals/hrq/summary/v023/23.3an-naim.html>

<sup>12</sup> Bahey el Din Hassan, *La Himaya Li Ahad* (no protection for anyone), in Fegeiry (ed), *La Himaya Li ‘Ahad*, pp 39-61, Cairo Institute for Human Rights Studies (2006).

<sup>13</sup> Mohamed El Sayed Saeed, *Huquq Al Insan Bayn Al Mashrou’ Al Imbratori Al Amreeke wa Al Nozom Al Istebdadeya Al Arabeya* (Human Rights between the American Imperialist Project and the Despotic Arab Regimes), in, Fegeiry (ed), *La Himaya Li ‘Ahad*, pp 9-13, Cairo Institute for Human Rights Studies (2006).

The LAS, despite being established as the first-ever regional intergovernmental organization, three years prior to the adoption of the Universal Declaration of Human Rights, is a “nascent basic system” that is yet to be fully realized as a regional human rights protection mechanism.<sup>14</sup>

At no point does the Arab League Charter make reference to human rights, including – strikingly, given the time at which the Charter was drafted - the right to self-determination. The Arab League Charter is presented as a document tailored exclusively to governments and makes no references to the “people” or “peoples” of the region.<sup>15</sup>

Despite the introduction of some amendments to the League Charter in 2004 and 2005, all modifications were limited to a number of procedural aspects and the creation of the Arab Parliament, while any reference to human rights protection and promotion remained lacking.<sup>16</sup> In contrast, the UN Charter recognizes human rights protection as one of its main pillars in Article 1(3),<sup>17</sup> and the Constitutive Act establishing the African Union considers human rights to be part of its objectives and principles in Articles 3 and 4.

Perhaps it is precisely for this reason that only limited attempts have been made by the Arab League to incorporate effective measures for human rights protection into its mandate. Interestingly, almost all initiatives taken around the issue of human rights have arisen as reactions to international pressure, as opposed to originating with states themselves, which reveals the lack of political will on the part of the League to undergo reform.

Human rights terminology was first introduced to the Arab League system some 20 years after its establishment. In the mid 1960s, and as the UN's position towards the establishment of regional mechanisms shifted to be more accepting and even encouraging,<sup>18</sup> the UN, through General

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<sup>14</sup> Dinah Shelton, *The History and Place of Human Rights in Regional Organizations: the promise of Regional Human Rights Systems*; in Shelton (ed), *Regional Protection of Human Rights*, pp 15-16 (2008).

<sup>15</sup> The Charter of the Arab League is available through the following link: <http://www.lasportal.org/>

<sup>16</sup> Memorandum on the Development of Joint Arab Action presented by 37 Human Rights

Organizations, CIHRS, (20 March 2012), viable at: <http://www.cihrs.org/?p=1892&lang=en>

<sup>17</sup> The UN Charter is available through the following link: <http://www.un.org/en/documents/charter/>

<sup>18</sup> Ghassan Mukhaibar, *Hal Min Haja Li Mithaq 'Arabi Le hoquq Al insan (Is there a Need to an Arab Charter on Human Rights?)*, in, Fegeiry (ed), *La Himaya Li 'Ahad*, pp 61-71, Cairo Institute for Human Rights Studies (2006).

Assembly resolution 2081 adopted 20 December 1965, asked for the assistance of all existing regional intergovernmental systems and states to develop activities targeting the promotion and protection of human rights in their respective regions in the lead-up to the 20<sup>th</sup> anniversary of the Universal Declaration on Human Rights in 1968, which the UN declared to be “the year of human rights.”<sup>19</sup>

Consequently, in 1968 the Arab League inaugurated its first human rights conference in Beirut, which it dedicated to naming and shaming the Israeli occupying forces for violations committed in Palestine.<sup>20</sup> The conference additionally touched upon the importance of incorporating human rights protection and promotion mechanisms into the mandate of the League.<sup>21</sup> In the same year, the Arab Permanent Human Rights Committee (thereafter: Permanent Committee) was born as a result of the Council of the League resolution 2443 of 3 September 1968. On 11 September 1969, the Council of the Arab League charged the permanent Arab Human Rights Commission with the following mandate:

- To support joint Arab action in the field of human rights;
- To endeavor to protect individual rights, while emphasizing the human rights dimensions of the Arab concerns;<sup>22</sup> and
- To promote awareness among Arab people about human rights and the need for their protection.

The Committee is composed of member states and is not sanctioned to pass resolutions, instead issuing recommendations which are then referred

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<sup>19</sup> Abd Allah Ahmed Naim, Human Rights in the Arab World: A Regional Perspective, in Human Rights Quarterly, (Vol. 23/3), pp. 701-738, the John Hopkins University Press (August 2001), available at: <http://muse.jhu.edu/journals/hrq/summary/v023/23.3an-naim.html>

<sup>20</sup> Bahey el Din Hassan, Haseelat Wa Afaaq Al Watha'iq Al Arabiya Hawl Hoqooq Al Insan, Nahu Ittifageya Iqleemeya Le Huquq Al Insan Fe Al Sharq Al Awsat Intilakan min Lebanon wa Misr, , Human Rights Institute of the Lawyers Syndicate (1995).

<sup>21</sup> *Infra*, 19.

<sup>22</sup> While the phrasing of the second task in English appears somewhat strange, its format in its original language tends to be exceptionally politicized. A literal translation would be “to endeavor to protect human rights of the Arab person and work on the right projection of the humanitarian side of the Arab cause- Al Qadiya Al ‘Arabeya.” (a phrase commonly used to refer to Palestinian/Israeli conflict. Such use of words implies an emphasis, perhaps intentionally exclusive, to the human rights situation in the Occupied Palestinian Territories.

to the Council of the League for consideration. The political composition of this body mandated to protect and promote human rights is one of the major limitations of the Committee's effectiveness. This is unlike the African Charter on Human and Peoples' Rights, for example, which mandates a Commission of independent experts to monitor the application of the Charter in Africa.

Indeed, during the first two working years of the Permanent Committee, it produced 20 recommendations on the situation on Palestine alone, paying very little attention to the human rights situation in other Arab countries. The Arab League did not pass a single substantial resolution on human rights during the period from 1971 to 1981. The Committee envisioned its work as organizing human rights workshops and conferences, issuing recommendations regarding the field of human rights, and reviewing state reports, a task which the committee has not been successful in fulfilling since its creation.<sup>23</sup>

NGO interactions with the Committee were minimal. One reason for this is may be that NGOs viewed the Committee to be ineffective, beside the fact that there is no real opportunity for the direct interaction of independent NGOs with the Committee. Bahey Eddin Hassan, director of the Cairo Institute for Human Rights Studies, in assessing the work of the Permanent Committee, stated: "While the Committee is called 'permanent', no one even takes notice of its existence."<sup>24</sup>

## NGO initiatives

### Early initiatives:

Starting in the 1970s, but noticeably increasing as of the early 1990s, civil society organizations took several advocacy initiatives with the purpose of strengthening the emerging human rights component of the Arab League.

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<sup>23</sup> Bahey el Din Hassan, *La Himaya Li Ahad* (no protection for anyone), in Fegeiry (ed), *La Himaya Li 'Ahad*, pp. 39-61, Cairo Institute for Human Rights Studies (2006).

<sup>24</sup> Bahey el Din Hassan, *La Himaya Li Ahad* (no protection for anyone), in Fegeiry (ed), *La Himaya Li 'Ahad*, pp. 44, Cairo Institute for Human Rights Studies (2006).

In 1970, the Iraqi Human Rights Association submitted a draft human rights declaration for the Permanent Committee's consideration. Consequently, in 1971 the Committee drafted the "Declaration on the Rights of Citizens of Arab States and Countries" which only received comments from 9 member states, while some states completely rejected it.<sup>25</sup> Given the non-binding nature of the declaration, the antagonistic reactions to it might be viewed as excessive and unwarranted.

In 1986, another civil society initiative was proposed by the International Institute of Higher Studies in Criminal Sciences, headed by an Egyptian activist in conjunction with NGOs from 13 Arab countries. The proposed draft, entitled "Human and Peoples' Rights in the Arab World," was relatively better than the Declaration on the Rights of Citizens of Arab States and Countries and became known as the "Syracuse Declaration."<sup>26</sup> The declaration criminalized all violations to the right to life and included some positive references to rights and freedoms, such as political rights and the right to be free from torture and other degrading treatment. Additionally, it was arguably the first document to attribute considerable attention to collective rights within the Arab League system. However, the draft was not deliberated over by the Committee, and thus the initiative quickly came to an end.

Another civil society attempt made to rejuvenate the work of the Committee was in May 1979, when the Arab Union of Jurists in Baghdad organized a seminar around the LAS which produced a draft Arab human rights treaty. Such an attempt is said to have encouraged the Arab League to commission the Permanent Committee to prepare an Arab human rights charter. In 1983, the Council of the League referred a draft charter to the member states for their review, but it was not until 1993 that the issue was picked up again.

In 1993, the Arab League needed to prepare for the World Conference on Human Rights in Vienna which was scheduled to take place in June

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<sup>25</sup> Bahey el Din Hassan, *La Himaya Li Ahad* (no protection for anyone), in Fegeiry (ed), *La Himaya Li 'Ahad*, pp. 39-61, Cairo Institute for Human Rights Studies (2006).

<sup>26</sup> Bahey El Din Hassan, *Huquq Al Insan Al Arabi* (Rights of the Arab Human), *Al Seyassa Al Dawleya*, vol.92 *Al Ahram* (1989).

1993. It thus initiated a discussion on the Arab Charter which resulted, in its 102<sup>nd</sup> ordinary meeting in September 1994, in the Council of the League adopting resolution 5438 on the creation of the Arab Charter on Human Rights.

### The 1994 Arab Charter on Human Rights

Since its adoption, the Charter faced severe criticism from the Arab human rights movement for failing to comply with international human rights standards. In fact, the reaction of Arab civil society was indicative of various developments within the Arab civil society movement itself.

In 1994, Amnesty International released a statement commending the Arab League for adopting the Charter, describing it as a major step forward in terms of formulating a regional human rights treaty.<sup>27</sup> This statement was highly criticized by a number of Arab human rights defenders, who denounced Amnesty International as the only entity to praise what they considered to be a severely troubling human rights document.<sup>28</sup>

The Charter was composed of 4 sections and 43 articles, including 38 articles on civil, political, economic, social, and cultural rights. The Charter created an independent committee composed of 7 experts who were to be nominated and selected by member states. The Committee was to receive initial and periodic reports from signatory states regarding their compliance with the provisions of the Charter and then refer its concluding observations to the Council of the League for consideration and adoption.

Major criticism was directed at the Arab Charter for failing to provide protections for some basic human rights, including the right to life, and for failing to establish guarantees for human rights during states of emergency and other exceptional measures, which are frequently imposed in most

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<sup>27</sup> Amnesty International's commentary on the Arab Charter is available in Arabic in Fegeiry (ed), *La Himaya Li 'Ahad*, pp. 255-277, Cairo Institute for Human Rights Studies (2006).

<sup>28</sup> Bahey el Din Hassan, *La Himaya Li 'Ahad* (no protection for anyone), in Fegeiry (ed), *La Himaya Li 'Ahad*, pp. 39-61, Cairo Institute for Human Rights Studies (2006).



Arab states. Other criticisms had to do with limitations on political rights and inadequate assurances for the right to be free from torture.

Another major obstacle came under Article 4 of the Charter, which sanctioned states to draft national laws in contradiction with the principles set forth in the Charter at their discretion and to adopt emergency laws. This step was seen as lowering the status of the Charter to be “a lesser standard than national laws.”<sup>29</sup> Additionally, the Charter did not require member states to amend their existing national laws to comply with the provisions of the Charter. Moreover, the Charter did not designate an entity, whether the Permanent Committee or the Independent Committee of Experts, to undertake the task of interpreting the provisions of the Charter.<sup>30</sup>

Due to such major challenges in the substance and application of the Charter, it was appropriate that civil society organizations at the time described the Charter as “extremely primitive”<sup>31</sup> and as falling behind in comparison to other international and regional mechanisms. Arab civil society was rightly concerned that “the issue [of human rights] first and foremost will depend on the political will of the state. It alone can decide whether it should comply with the provisions of the Charter, whenever it wishes, and based on the Charter itself, derogate itself from its responsibilities under the Charter whenever it wishes.”<sup>32</sup>

The Arab human rights movement dealt radically with the Charter. It not only viewed it as an ineffective instrument but took the decision not to engage in reforming the document, instead calling for its abolishment and

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<sup>29</sup> Mostafa Abdel Ghaffar, *Damanat Huquq Al Insan ala Al Mustawa Al Iqleeme*, CIHRS, 2003.

<sup>30</sup> Mohamed Saeed Mohamed Al Tayeb, *Damanat Huquq Al Insan Wa Aleyat Al Himaya Fi Al Mithq Al Arabi Le Huquq Al Insan* (Human Rights Guarantees and Protection Mechanisms in the Arab Charter for Human Rights) in Fegeiry (ed), *La Himayah Li 'Ahad*, pp. 185-199, Cairo Institute for Human Rights Studies (2006).

<sup>31</sup> Mohamed Amin El Midany, *Al Lijan Al Dawliya Wal Iqlimiya le Hemayat Hoquq Al Insan*, (Regional and International Committees on Human Rights), Cairo Institute for Human Rights Studies (2000).

<sup>32</sup> Mohamed El Sayed Saeed, *Huquq Al Insan Bayn Al Mashrou' Al Imbratori Al Amreeke wa Al Nozom Al Istebdadeya Al Arabeya* (Human Rights between the American Imperialist Project and the Despot Arab Regimes), in, Fegeiry (ed), *La Himaya Li 'Ahad*, pp 13-39, Cairo Institute for Human Rights Studies (2006).

the redrafting of a new Charter compatible with international human rights standards and in consultation with civil society organizations.<sup>33</sup>

Given the restricted ability of Arab human rights NGOs to work directly with governments, it is interesting to trace particular examples in which a certain state or League representative, usually acting in a personal capacity, provided NGOs with information. An interesting testimony provided by the permanent representative of Egypt at the Arab League, Ambassador Noeman Galal, who was present during the deliberations over the Charter, indicated that the Charter was passed as a “regional defense” for those Arab countries which chose to ratify it as a method of evading pressure to ratify and/or comply with international human rights treaties.<sup>34</sup>

Throughout its lifetime, the 1994 Charter was not ratified by one single state and thus did not enter into force; it was later replaced by the 2004 Charter.

### The 2004 Arab Charter on Human Rights

Nonetheless, hopes for influencing the Arab League to enhance its human rights protection mechanisms reappeared, particularly as Arab states found themselves under more pressure to present concessions after September 11, 2001 – even if these concessions proved to be merely superficial.<sup>35</sup> This political context at the time cannot be disregarded. One year following the invasion of Iraq, several observers viewed the Arab states’ decisions to finally review the Charter as part of the “modernization” package they had to undertake to comply with the United States’ increasing rhetoric at the time on democratization.

It is important to note in this regard that the motive behind such steps was not necessarily to bring about genuine democratic reform and

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<sup>33</sup> Mohamed El Sayed Saeed, *Huquq Al Insan Bayn Al Mashrou’ Al Imbratori Al Amreeke wa Al Nozom Al Istebdadeya Al Arabeya* (Human Rights between the American Imperialist Project and the Despotism Arab Regimes), in, Fegeiry (ed), *La Himaya Li ‘Ahad*, pp 13-39, Cairo Institute for Human Rights Studies (2006).

<sup>34</sup> Bahey el Din Hassan, *La Himaya Li Ahad* (no protection for anyone), in Fegeiry (ed), *La Himaya Li ‘Ahad*, p 54, Cairo Institute for Human Rights Studies (2006).

<sup>35</sup> *ibid.*

respect for human rights in the Arab region. Indeed, a combination of counter-terrorism measures, acquiescence, at least *de facto*, to the war on Iraq, and increased rhetoric on human rights and reform, was enough to satisfy the U.S.<sup>36</sup>

In 2002, the Council of the Arab League adopted resolutions 6184 and 6243 calling for the “modernization” of the Charter. In 2003, The League’s Secretary General defined modernization to be “the process required to bring the Charter’s provisions into compliance with international standards for human rights.”<sup>37</sup> Consequently, the Council and the Secretary General proposed a modernization package, which included revision of the Charter and the establishment of a Regional Security Council, Arab Parliament, and Arab Court of Justice.

In mid-2003, the Permanent Committee was tasked by the Arab League to review the Arab Charter in order to “modernize” it. The Committee met in Beirut from 18-26 June 2003 to look into reforming the Charter.

Just prior to this meeting, NGOs organized a conference from 10-12 June under the title “*Towards an effective regional protection of human rights: Which Arab Charter on human rights?*” The conference brought together 80 participants, including 36 NGOs from the Arab region and 11 international NGOs, 15 independent experts and human rights defenders, and 7 government officials, among them Arab League staff. The conference presented the “Beirut Declaration on Regional Human Rights Protection in the Arab World” to the Permanent Committee meeting which convened a few days later.<sup>38</sup> The declaration contained 24 principles which Arab civil society viewed as crucial and called for their inclusion in the revised version of the Charter. The principles dealt with fundamental concerns relating to the drafting of the previous Charter, sought to establish respect for diversity and equality before the law, and rejected resorting to cultural relativism as justification for derogating the

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<sup>36</sup> Mohamed El Sayed Saeed, *Huquq Al Insan Bayn Al Mashrou’ Al Imbratori Al Amreeke wa Al Nozom Al Istebdadeya Al Arabeya* (Human Rights between the American Imperialist Project and the Despotic Arab Regimes), in, Fegeiry (ed), *La Himaya Li ‘Ahad*, pp 13-39, Cairo Institute for Human Rights Studies (2006).

<sup>37</sup> Mervat Rishmawi, *The Revised Arab Charter on Human Rights: A Step Forward?* 5:2 Human Rights Law Review (2005).

<sup>38</sup> The Declaration is available in Arabic on the following link: <http://www.cihrs.org/wp-content/uploads/2008/12/اعلانبيروت.pdf>

universal human rights principles set out in international human rights treaties and norms. The declaration further sought to ensure that emergency laws do not derogate basic human rights and focused on other contentious issues such as guarantees for the rights to political participation, freedom of assembly and association, freedom of religion, the right to be free from torture and degrading treatments and punishments, and the independence of the judiciary. While the declaration addressed economic, social and cultural rights as well, it focused primarily on civil and political rights.<sup>39</sup>

Additionally, the NGOs' declaration called for genuine enforcement mechanisms to be established within the Arab League's human rights instrument and for a review of the mandate of the Permanent Committee to allow it to be more effective and to permit NGO engagement. The declaration further called for guarantees to ensure the independence and professionalism of the committee of independent experts and the incorporation of a Special Mechanisms system (composed of thematic and country Special Rapporteurs and Working Groups) allowing for individual complaints to be submitted to the Permanent Committee.

The declaration called for the establishment of an independent commissioner on human rights in the Arab region and for the creation of an Arab court on human rights. The NGOs further recommended that the Permanent Committee ensure the inclusion of civil society in the process of reviewing the Charter and ask for technical assistance from the UN Office of the High Commissioner and other relevant UN bodies.

This document could be seen as the first comprehensive and concrete compilation of civil society views, collectively, regarding the reform of the Arab League human rights mechanism as a whole. It is additionally significant because it has served as a reference for most initiatives produced by civil society on the matter since then. Indeed, NGOs repeated many of the same demands in a more recent joint communication to the LAS in March 2012.<sup>40</sup>

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<sup>39</sup> One of the major persisting criticism to the human rights movement in the Arab world as a whole is its primary focus on civil and political rights, over economic, social and cultural rights.

<sup>40</sup> Memorandum on the Development of Joint Arab Action presented by 37 Human Rights Organizations, CIHRS, (20 March 2012), available at: <http://www.cihrs.org/?p=1892&lang=en>

Unfortunately, in December 2003, the Committee produced a draft that did not accommodate the aspirations of civil society or the international community. Due to mounting criticism, the League found itself under pressure to adopt the NGOs' recommendation to request technical assistance from the UN – a new precedent for the League.

Seven independent Arab human rights experts were drawn from the different UN treaty bodies and assembled as the group of experts mandated with producing a second draft. NGOs engaged with the experts on a number of occasions and sent them their vision for the Charter's revision. In January 2004, the Cairo Institute for Human Rights Studies released a statement endorsing the draft submitted by the experts to the Council of the League for its consideration.<sup>41</sup> However, the version that was finally adapted in May 2004 had fundamental changes to the initial draft proposed by the experts and was criticized by NGOs for failing to meet international standards.

Two months prior to the adoption of the Charter, NGOs organized the First Civil Society Parallel Forum to the Arab Summit in Beirut in March 2004, in which they announced their main criticisms of the draft that was to be adopted.<sup>42</sup> NGOs made the same recommendations two years later during the Second Civil Society Parallel Forum to the Arab summit in Rabat in February 2006.<sup>43</sup>

One of the constant criticisms raised relates to contradictions within the text of the Charter itself. On one hand, it made several references to international human rights treaties and declarations, including a stated commitment to the universality of human rights in Article I. On the other hand, however, the Charter continued to make reference to the Cairo Declaration, a highly contentious treaty that is widely regarded as

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<sup>41</sup> Makaz Al Qahira Yad'iu Al Jamiya Al 'Arabiya Li Itemad Mashrou' Al Umam Al Mutahida Lil Mithaq Al 'Arabi Le hoquq Al Insan Dun Taa'deel [dated 5 January 2004] in Fegeiry (ed), La Himaya Li 'Ahad, pp 9-13, Cairo Institute for Human Rights Studies (2006).

<sup>42</sup> Tawsiyat Al Muntada Al Madani Al Awal Al Muwazi lel Qimma Al 'Arabiya Bi Khusus Al Mithaq Al 'Arabi Li Hoquq Al Insan, in Fegeiry (ed), La Himaya Li 'Ahad, pp 356-369, Cairo Institute for Human Rights Studies (2006).

<sup>43</sup> Tawsiyat Al Muntada Al Madani Al Thani Al Muwazi lel Qimma Al 'Arabiya Bi Khusus Al Mithaq Al 'Arabi Li Hoquq Al Insan, La Hemaya Li Ahad, in Fegeiry (ed), La Himaya Li 'Ahad, pp 369-371, Cairo Institute for Human Rights Studies (2006).

restricting several rights and freedoms, including religious freedoms and women's rights.

It is precisely this contradiction that consistently arises in the debate on cultural relativism versus the universality of human rights. It stems from the simple fact that all Arab states are signatories to a number of international human rights treaties, while at the same time they are parties to the Arab Charter and other regional conventions that appear to directly contradict their international obligations. Arab states avoid confronting this apparent contradiction by using the pretext of "preserving Arab culture."

References made in Article 43 to domestic laws also received criticism from NGOs, specifically because of their incompatibility with the international obligations of member states.

Other criticisms included that the death sentence can be imposed on persons under 18 years of age based on Article 7(a) of the Charter. Additionally, the Charter is discriminatory in its provisions dealing with freedom of association and assembly, as it limits the exercise of these rights to citizens. Similar concerns pertaining to women's rights, the right to fair trial, and the right to political participation resurfaced in this draft as well.<sup>44</sup>

### The Arab Human Rights Committee

The Charter entered into force on 15 March 2008, two months after 7 states ratified it, in accordance with Article 45 of the Charter. In early 2009, the Arab Human Rights Committee was formed as per Article 45 of the Charter. The Committee is composed of seven experts who serve in their personal capacities and who are nominated by their countries for a four-year membership.

The criteria set forth for the selection of the members is that they "must be highly experienced and competent in the Committee's field of work." The Committee is mandated to supervise the implementation of the

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<sup>44</sup> Mervat Rishmawi, The Arab Charter on Human Rights, Arab Reform Bulletin, Carnegie Endowment for International Peace (October 2009), available on <http://www.carnegieendowment.org/arb/?fa=show&article=23951>

Charter by reviewing state reports, which are submitted one year after ratification and every three years thereafter, and offering concluding observations.

While this step was hailed as positive by a number of observers, others continued to view the committee as ineffective due to its limited mandate, dubious selection criteria of experts, and nearly nonexistent authorities.

In October 2009, members of the newly established Committee met with NGO representatives from the Cairo Institute for Human Rights Studies, the Arab Organization for Human Rights, Amnesty International, and the International Federation for Human Rights.<sup>45</sup> Additionally, they were invited by the Office of the UN High Commissioner on Human Rights to attend meetings of the treaty bodies in Geneva, where they also met with additional international NGOs.<sup>46</sup>

To date, 14 countries have ratified the Arab Charter.<sup>47</sup> However, only four countries have submitted their initial reports for consideration by the Arab Human Rights Committee, in contradiction of Article 48 of the Charter, which stipulates that all states should submit their initial reports one year following the date on which they ratified the Charter. Jordan and Algeria underwent their review in 2012, Bahrain's review was held in February 2013, and Qatar's review took place in June 2013.<sup>48</sup>

### Recent developments and the way forward

As the wave of pro-democracy mass protests swept the Arab region in 2011 and 2012, it was imperative that the LAS take concrete steps towards reforming its human rights mechanisms. Thus, the LAS witnessed a number of unprecedented developments in the last three years.

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<sup>45</sup> Mervat Rishmawi, *The Arab Charter on Human Rights and the League of Arab States: An Update*, *Human Rights Law Review*, Vol. 10, Oxford University Press (January 2010) available at <http://hrilr.oxfordjournals.org/content/10/1/169.citation>

<sup>46</sup> Ibid.

<sup>47</sup> The 14 countries are Jordan, Emirates, Bahrain, Algeria, Saudi Arabia, Syria, Palestine, Qatar, Lebanon, Libya, Yemen, Iraq, Kuwait, and Sudan.

<sup>48</sup> The reports are available on the Committee's page through the following link: <http://goo.gl/fYjhky>

In February 2011, Libya became the first state to be suspended from the LAS due to its human rights record, while the restoration of Libya's membership in August 2011 - under the National Transitional Council - marked the first formal interactions of the LAS with rebels or political opposition. Another astounding step taken by the LAS regarding Libya was the Council of the League's resolution 7360, passed during its extraordinary session in August 2011, which directly asked the UN Security Council to "take all necessary measures to impose a 'no fly zone' in Libya" to protect civilians.

Similar steps have been taken on Syria. An observer's mission was mandated by the LAS to go to Syria in November 2011 to look into the ceasefire agreement brokered with Syria as a last chance for allowing it to remain as a member of the LAS. In November, the Council of the League voted to suspend Syria's right to participate in its meetings, in addition to imposing economic and political sanctions through its resolution 7438. Additionally, in July 2012 Council resolution number 7510 called for President Bashar Al-Assad to step down. The League then started holding official meetings with Syrian opposition groups and armed militias until it granted Syria's seat to the Syrian National Council in March 2013. In September 2013, the Council of the League released statement number 178 condemning the alleged use of chemical weapons against civilians by the Syrian government and calling for bringing perpetrators of alleged war crimes to international criminal justice. The same language calling for international justice for alleged international crimes was used a few days earlier in August 2013 in the Council's resolution number 7651.

However, the balance of power and political considerations remain at the core of all initiatives taken by the LAS. The rise of the influence of the Gulf Cooperation Council states within the LAS has halted any constructive talks on the human rights situation in countries like Bahrain and Yemen, which have witnessed similar catastrophes the last two years.

All these developments led the newly appointed Secretary General of the League to suggest reforming the LAS, including, most specifically, its human rights protection components. Nabeel El-Arabi, like his



predecessor, recognized that the Charter falls short of international standards.<sup>49</sup>

Discussion of including human rights in the Arab League Charter has been ongoing for a very long time. Yet it was not until March 2011 that the Council of the League adopted resolution 7343 to endorse a report prepared by the Permanent Committee on ways to improve the Committee's work and to incorporate human rights protection and promotion as one of the League's principles. Potential ways to strengthen NGO engagement within the League were also proposed in the report, as suggested by the Commission and endorsed by the Council. As a result, a commission on Arab League reform, established by the Secretary General and headed by Ambassador Lakhdar Brahimi, was created to look into ways to reform the Arab League.

On 20 March 2012, 37 Arab human rights NGOs sent a 6-page memorandum to the League's Secretary General and the head of the League's reform commission. The letter included the NGOs' suggestions on strengthening the role of the Arab Human Rights Committee, the selection criteria of its members, its engagement with NGOs (through allowing NGOs to submit shadow reports, attend state reviews and other relevant meetings within LAS, and obtain observer status through less complicated means). The letter further included previous demands pertaining to the strengthening the Permanent Committee on Human Rights.

Perhaps it is only fitting to conclude this paper with a quote from the NGOs' letter to the LAS. The letter stated the following:

"A growing number of human rights NGOs and activists in the region perceive the need to develop a more strategic and practical relationship than ever before with the LAS. However, we consider that this relationship requires not only that institutions develop their mode of action with the Arab League, but also that the latter adopt a new vision regarding its relationship with civil society. We would like to inform you that we are in the process of conducting

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<sup>49</sup> Memorandum on the Development of Joint Arab Action presented by 37 Human Rights Organizations, CIHRS, (20 March 2012), available at: <http://www.cihrs.org/?p=1892&lang=en>

wide-ranging dialogues on how to develop common action between human right NGOs and the Arab league system.”<sup>50</sup>

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<sup>50</sup> Memorandum on the Development of Joint Arab Action presented by 37 Human Rights Organizations, CIHRS, (20 March 2012), viable at: <http://www.cihrs.org/?p=1892&lang=en>

## Chapter Two:

# Strengthened NGO Engagement in League of Arab States

## Opportunities and Strategies

Mervat Rishmawi<sup>51</sup>

Project on Strengthening NGO Engagement  
with the League of Arab States

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## I. Introduction

In the last 20 years, the League of Arab States (LAS) has taken some steps towards reforming itself internally. Whether these are based on genuine decision rooted in real willingness to bring LAS in-line with recent developments by similar organisations at the international and regional levels, and with the actual needs in the Arab countries, is a matter of dispute. Nonetheless, this process, coupled with the changes that the “Arab Spring” brought, and the positions that LAS took during that, which diverged from past practice of the LAS, create unprecedented opportunities for engagement of civil society organisations (NGOs) with the League of Arab States and its role in promotion and protection of human rights in Arab countries and globally.

Civil society organisations, including human rights organisations, have in the past engaged with LAS through various ways for the purpose of influencing the Organisation’s outcomes on important discussions. Primarily, the revision process of the Arab Charter on Human Rights has presented a unique opportunity for human rights organisations. Meetings of LAS bodies related to that, including the Summits, witnessed special targeted activities by NGOs. The emergence of Economic and Social Summits at a later stage also attracted the attention of organisations working on issues related to development, economic and social rights.

However, with the exception of the adoption of the Arab Charter on Human Rights and the creation of the Arab Parliament as a new body in LAS, there have been very little meaningful developments before 2011. Decisions have been taken by Arab Summits in 2004 and 2005 to change the voting system of LAS, and some other such procedural changes. Decision to insert reference to human rights in the founding Charter of LAS is repeatedly being postponed.

However, since the start of the “Arab Spring”, LAS has slowly moved to new directions. Unprecedented decisions have been taken by political bodies of LAS, many citing human rights concerns. At the same time, the reform process of LAS has taken new momentum, whereby a special commission was assigned to come up with specific proposals on reforming LAS, including its structures. The Arab Human Rights

Committee has also started to function and receive and consider state reports (prior to that, the Committee focussed since its creation in 2008 on adopting its internal and procedural regulations). Such developments provide NGOs in the region with new opportunities to engage with LAS and influence its human rights mandate.

The following document is based on the main discussions and outcomes of initiatives by NGOs during 2012 – 2013 in the process of developing engagement with LAS. It sheds some light on the main initiatives and highlights the main issues raised through such initiatives. It is very important, however, to highlight that the latest discussions have stressed that NGOs' engagement with LAS is not new. NGOs have realised some achievements, and it is important for us to build our future engagement on the basis of our past experiences.

## II. Engagement since the “Arab Spring”

Since the start of the “Arab Spring”, more NGOs started to recognise the increased possibility to influence LAS, and hence the importance of further engagement. Therefore, the Open Society Foundations assigned a Consultant to work with NGOs in the region on strengthening the engagement of NGOs with the League of Arab States. The process started with an assessment of the willingness and plans of NGOs in the region to engage with the LAS. This has shown clearly that an increased number of NGOs would like to develop their knowledge of the structure of LAS, and to advance their approaches to the organisation. This therefore has resulted in a plan to hold a series of consultation meetings in the region to discuss this further. The Cairo Institute for Human Rights Studies (CIHRS) and the Arab Organisation for Human Rights (AOHR) were approached to work together with the Open Society Foundations in order to organise these meetings. The reasons for choosing these two organisations is based on that these are the two main regional organisations who have in the past engaged with LAS; therefore, both have deep knowledge of the LAS; both are based in Cairo (where the headquarters of LAS are); and both have a wide reach to NGOs in the region and beyond. Close coordination was maintained with the International Federation for Human Rights (FIDH), which has been

engaged with LAS in the past and also had its own plans for future activities relating to LAS.

The initial consultation meeting with a small number of actors, convened by the AOHR, was in March 2012 (earlier meetings were not possible because of the volatile situation in the region). One of the main outcomes of this meeting was the determination to engage with the reform process and the Committee which was assigned by the LAS Secretary General (SG) to make recommendations on reform, headed by L'Akhdar Ibrahim (hereinafter referred to as the Reform Committee). It was also decided that NGOs and activists need to deepen their understanding of structure and mechanisms of LAS and convey that information to a wider pool of NGO partners. It was also decided that a larger consultation meeting must be held.

Subsequently, 2 letters were sent in March 2012 to the Arab League with suggestions on reform. The first was sent by AOHR alone (referring to its members in the region). The second, spearheaded by CIHRS, and drafted by the OSF Consultant, carried the joint signatures of 37 regional and national organisations. The comments made in the two letters were not too dissimilar.

In the following months, the partners in this joint initiative continued to contact NGOs in the region to engage them in developments in LAS. They have also met LAS officials and attended sessions of the Arab Human Rights Committee (see below) to deepen their understanding of the organisation.

Following this, the FIDH held a small informal consultation meeting at the beginning of October which included the Rapporteur of the Reform Committee and a small number of organisations and experts, to engage in a discussion on the vision of NGOs on the reform process. This was a very fruitful discussion where the Rapporteur discussed many issues with the NGOs and NGOs were able to provide their vision, especially from their experience in comparative settings. This was followed up with another letter to the LAS Secretary General in October 2012, signed by the CIHRS, FIDH and the AOHR, expressing deep interest in the reform process and the work of the special Reform Committee; informing the SG

that meetings have been held in the region to consult on these issues; and also bringing the previously mentioned two letters to the attention of the SG. Importantly, the letter called on the SG to ensure that the report of the Reform Committee is made public; ensure that adequate time and facilities are given to civil society organisations to comment on the report; and calling on the SG to meet with representatives of the NGOs to discuss the matter.

In November 2012, another consultation meeting was held, this time organized by CIHRS bringing together over 25 participants from 9 Arab countries. These included 5 regional organisations and networks, in addition to the regional offices of FIDH and OSF. The meeting reviewed past engagement of NGOs with LAS, the degree of success and the challenges they faced in this regard; recent developments especially in the context of the “Arab Spring”, threats and opportunities these bring. The meeting also analysed changes within the Arab League itself, and identified possibilities for engagement. The meeting ended with discussing a broad outline for a future strategy. It was emphasised in the meeting that 1) our engagement with LAS is not new; therefore we have to learn from our past experience; 2) our strength for future engagement will be based on our collective efforts; and 3) our success will also depend on our accurate analyses of our past engagement as well as the current situation.

In March 2013, the Arab NGO Network for Development (ANND) convened a wide consultation meeting prior to the Economic and Social Development Summit of LAS (see below). The meeting agreed a final declaration which was carried by a small number of participants to the NGO consultation that is held by LAS before the Summit.

In February 2013, FIDH, in cooperation with CIHRS, AOHR, and the Egyptian Initiative for Personal Rights (EIPR), held a conference attended by more than 50 human rights defenders representing national, regional and international NGOs as well as human rights experts from different regional and international human rights systems. Participants discussed the challenges faced by LAS in enhancing the protection and promotion of human rights in the region and made proposals on reforming and strengthening the human rights components of the work of LAS.

In recognition of the importance of working in a more concerted and coordinated way, the CIHRS created a post for an officer to work specifically on the LAS. Among the tasks of that officer is to make information on LAS available to a wider network of organisations, and to facilitate coordination between main actors.

One of the main observations that can be made from the last two years is that there is clearly an increased number of international, regional and national NGOs who interested in engaging with LAS and its human rights mandate. The process of consultation in the last two years, the documents issued, and the practical engagement with some LAS bodies, has resulted in increased recognition by NGOs of the possibilities to influence LAS. However, and importantly, this has also resulted in signs of recognition by LAS itself of the importance of its engagement with NGOs, and for consultation in LAS discussions. A number of LAS officials from the Secretariat attended parts of some of the consultation meetings mentioned above. It should be stressed, though, that the willingness of LAS to engage more with NGOs is still at initial stages.

The Open Society Foundations, through its MENA Regional Office, will continue to provide expertise and support to the process of enhancing the engagement of NGOs with the League of Arab States. It will support the development of knowledge of NGOs around the standards, structures and mechanisms of LAS, as well as support the joint efforts to influence the organisation. It will also facilitate exchange of knowledge, including through benefitting from expertise from other regional systems.

### III. Past NGO engagement with LAS

The human rights standards, mechanisms, procedures and debates of LAS are not widely known. Very few civil society human rights organisations in the region and beyond have engaged with LAS on a relatively regular basis. This trend has recently started to change.

However, there is number of organisations which have had activities that related to the LAS, and have therefore acquired important experience in the organisation. **It is important that our future work builds on the past achievements and on the lessons-learnt.** The following are a few brief



selected examples (which do not reflect the width and depth of NGOs experience with LAS):

- ▶ **Arab Organisation for Human Rights:** AOHR is the main regional NGO with observer status in the LAS Human Rights Commission. It attends the sessions of the Commission, and engages with several units and bodies of the Secretariat of LAS, often providing advice. It has in the past organised meetings about LAS. It was involved in some consultation regarding Syria, and travelled to Syria with the Arab League as part of the pre-mission (with the agreement that it provides support to the pre- mission, however, the AOHR withdrew from the process because it had concerns over the inadequacy of the process).
- ▶ **Cairo Institute for Human Rights Studies:** The CIHRS has convened several regional meetings and consultations relating to LAS, including previously in relation to the revision of the Arab Charter on Human Rights, and organised meetings prior to selected Summits of the Arab League. CIHRS also monitors LAS in the Human Rights Council in Geneva and issues an analysis of the role of LAS in protecting human rights in its annual reports and other documents. CIHRS, as one of the main organisations in the region, has been invited by LAS at several occasions to engage in consultations and discussions, including lately on Syria and Libya.
- ▶ **FIDH:** a past resolution of the Arab Commission on Human Rights of LAS to hold a meeting/ conference in cooperation with the FIDH on human rights in the region have encouraged the FIDH to open its regional office in Cairo. This has not materialised yet. The Cairo regional office of the FIDH maintains regular contacts with bodies of the secretariat of the League, and often meets and lobbies the political leadership of the secretariat on human rights concerns. It has also recently organised and attended meetings relating to the reform of the LAS.
- ▶ **Crisis Action:** Crisis Action organises lobbying action activities, on behalf of a wide coalition of NGOs in the region on various issues including Darfur, Gaza, Syria, Libya, etc. The Crisis Action engages

with the offices of the Secretary General or top leadership of the Secretariat of LAS, meets with them as need arises to convey messages on behalf of the coalition.

- ▶ **The Coalition for Darfur:** The Coalition has lobbied bodies of the LAS (mainly meetings with officials at the Secretariat). They have also held parallel meetings on the margin of the Arab summits at a number of occasions. Not much of this has yielded results. Representatives of LAS also attended activities held by the NGO coalition at a number of occasions.
- ▶ **Arab NGO Network for Development:** this is the main regional development organisation, formed of a network of members which include NGOs, trade unions, and networks. ANND takes particular interest in the socio-economic development issues, and therefore have been the main rights organisation which engages with the Socio-Economic Development Summits of LAS. In 2011 and 2013, ANND organised regional consultations prior to the Summit and attended the civil society forum.

## IV. Potential for the future

In the last above-mentioned meetings, especially in November 2012 and February 2013, the need to establish a form of coordination was stressed as essential in order to ensure a strengthened influence of civil society on the human rights promotion and protection by LAS.

The following is a synthesis of the main issues raised by NGOs in relation to their engagement with LAS since the start of the “Arab Spring”, presented in a structured manner, in order to lay the ground for future structured, coordinated and increased engagement.

### I. Considerations

The following considerations must be highlighted as pivotal for any future work:

- ▶ Future engagement of NGOs with LAS will be built around universal human rights including the commitments which Arab states have made by virtue of their ratification of international

treaties and interaction with international human rights mechanisms;

- ▶ It is essential that future work is based on experience and analyses of the achievements of the past engagement of the NGOs with the Arab League
- ▶ It is also essential that future interaction and engagement by NGOs with LAS builds on experience gained and lessons learnt from engagement with international mechanisms and the African Commission on Human and Peoples' Rights (for North African and Sub-Saharan Countries);
- ▶ Other regional inter-governmental organisations are playing increasing role in the promotion and protection of human rights. The Arab League is lagging behind. It is important to study the experience of other regional mechanisms to use lessons for the development of LAS;
- ▶ LAS has played little role in the past with regards important human rights situations in the Arab countries. The current structure of LAS does not bring victims of violations directly in contact with the organisation (for example through special procedures or through complaints mechanisms). Linking LAS bodies with victims of human rights violations will be important in future strategies;
- ▶ In the last two years, within the context of the “Arab Spring”, LAS has adopted unprecedented positions and taken steps that sharply diverge from its past practice of “non-interference in the internal affairs of member states”. However, this does not necessarily reflect new overarching principles and strategy of LAS whereby human rights concerns become central to the work of the organisation. It is essential that future work aims to achieve this;
- ▶ LAS still has a rigid and archaic approach towards civil society, particularly human rights organisations. Therefore, future work should not aim only at strengthening the engagement of NGOs with LAS, but also to aim at changing the rules of engagement of LAS with civil society;

- ▶ Although there are examples of past NGO engagement with LAS, such work was largely not coordinated, systematic, or strategic (especially on the part of the NGOs). Future engagement should aim at a level of coordination between main NGOs in order to achieve higher impact;
- ▶ There is a need for NGOs to understand how LAS and its bodies work in order to develop appropriate strategy for engagement;
- ▶ Human rights work of LAS is obviously not limited to the human rights bodies (the Commission, sub-commission and the Arab Human Rights Committee, or the relevant bodies within the Secretariat). It is important to consider approaches to political bodies. Also, achievements at occasions can be realised through approaches to senior leadership of the Secretariat (Secretary General, Under Secretary General, heads of Sectors and Secretariats, etc), as well through political meetings of the LAS, including meetings of the Council.

## 2. Main areas of focus

The following are main stepping stones that NGOs have generally agreed on for their future engagement. These may not all be realised in the short term, but most of them can be achieved in the medium to long term.

- ▶ **A human rights agenda for LAS:** this should aim to put human rights concerns at the heart of the work of the organisation; whereby promotion and protection of human rights are seen as guiding principle of the organisation. This should be elaborated through a collaborative and consultative effort among NGOs and between them and LAS.
- ▶ **Revision of the Arab Charter on Human Rights:** The Arab Charter on Human Rights falls below international standards. It conflicts with international law in some places, and it fails to recognise important standards at other places. However, there are many important positive provisions in the Charter. Therefore, careful

consideration should be given to revising the Charter to bring it in line with international standards.

- ▶ **Reform of human rights bodies:** this is to reform the mandate, role, and rules of procedures of the main human rights bodies of LAS, including the Arab Human Rights Committee and the Arab Commission on Human Rights in order to strengthen their protection mandate, and to give easier access to NGOs to these mechanisms.
- ▶ **Arab Court on Human Rights:** The discussion around the human rights standards of the Arab League is now amplified with the adoption of the Summit of the League in March 2013 a resolution endorsing the creation of an Arab Court on Human Rights. NGOs will engage with the discussion on jurisdiction, structure, and other such matters related to the creation of the Court and make clear proposals on this.
- ▶ **Other standards:** NGOs call for their inclusion in consultations around other decisions and preparatory work relating to human rights, for example when discussing and elaborating model laws, human rights education plans, new treaties, etc.
- ▶ **Reformed NGO status:** Currently NGOs can have an observer status with the Arab Commission and with the Arab ECOSOC. Criteria for obtaining such status are restrictive, and NGOs do not have the possibility to engage actively with the work of these bodies. This must be changed to a meaningful consultative status, with a more NGO-friendly criteria and process for obtaining such status; and clearer procedures and process of meaningful consultation.
- ▶ **Wider consultation with NGOs:** NGOs must be enabled to engage in consultation prior to decision-making process on country situations and other such major matters, both at the levels of meetings of political representatives, or consultation with the Secretariat. This, in no way, should be limited to NGOs with observer (or consultative) status. NGOs must be invited to provide

their opinions and knowledge and engage in debates through effective, timely, and genuine consultation process.

- ▶ **LAS and other international and regional mechanisms:** the future engagement with LAS should not be limited to influencing the internal LAS debates, mechanisms and decisions, but also influence how LAS interacts with other international and regional fora. This should include influencing the role of LAS/ Arab Group within the UN.
- ▶ **Access to information:** The engagement of NGOs with LAS is severely curtailed because of lack of availability of information to NGOs including through the website, or indeed from its headquarters and secretariat.

### 3. Bodies to engage with

The following brief note on the main bodies of LAS will facilitate understanding which bodies NGOs will engage with in the future. This is not a comprehensive overview of the structure and bodies of LAS.

#### 3.1 The main bodies of LAS: An Introduction

The League of Arab States was created in 1945 by 7 independent Arab States. The following are the main bodies of the LAS as specified in the Charter of the League of Arab States

- ▶ **The Council:** This is the highest decision making body of the League. Major country situations, adoption of treaties, and such major issues fall under the mandate of the Council. The Council is formed of representatives of member states. Each member state has one vote (Article 3 of the Charter of the League). The Council meets at three levels:
  - ▶ Summits of heads of States
  - ▶ Ministers of Foreign Affairs
  - ▶ Permanent Representatives
- ▶ **Specialised Commissions/ Committees:** These are for the following issues (Article 4 of the Charter of the League):

- ▶ financial and economic matters;
  - ▶ transport matters;
  - ▶ cultural matters;
  - ▶ citizenship and visas;
  - ▶ social matters; and
  - ▶ health matters;
  - ▶ political matters (not mentioned specifically in Article 4)
  - ▶ human rights (not mentioned specifically in Article 4)
- ▶ A Permanent General Secretariat (Article 12 of the Charter of the League);
  - ▶ An Arab Parliament (Article 19 of the amended Charter of the League); and
  - ▶ An Arab Court of Justice, (allowed for under Article 20 of the amended Charter, but this has not yet been established).
  - ▶ **The Arab Commission on Human Rights:** also known as the Arab Standing Committee for Human Rights or the Permanent Arab Commission on Human Rights was created in 1968 and technically is one of the Arab League's permanent specialized committees. It is made up of one representative from each of the 22 member state. All draft treaties relating to human rights are referred to the Arab Commission on Human Rights before they are adopted by the Council or the Summit. The Commission therefore has adopted the revised Arab Charter on Human Rights and the Arab Human Rights Education Plan. The Commission is serviced at the Secretariat by the Human Rights Directorate, which does not have a wide human rights mandate, but works mainly with the Commission.
  - ▶ **The Arab Economic and Social Council** (the 'Arab ECOSOC') was established in 1953. It approves the creation of any of the Arab League's specialised organisation. The Arab ECOSOC has recently

started convening the Economic and Social Development Summits. So far, three such summits have been convened: Kuwait in January 2009, Egypt in January 2011 and Saudi Arabia in January 2013. Each such Summit ends with the adoption of a Programme of Action.

- ▶ **The Arab Human Rights Committee:** This is the treaty body that is entrusted with supervising the implementation of the Arab Charter on Human Rights. The Charter has been ratified by 11 States members in the LAS (state parties in order of date of ratification, as of May 2013: Jordan, Algeria, Bahrain, Libya, Syria, Palestine, United Arab Emirates, Yemen, Qatar, Saudi Arabia, and Lebanon). The Arab Charter on Human Rights is the first, and so far the only Arab League treaty to have an independent supervisory mechanism created the treaty itself. The Arab Human Rights Committee is composed of seven independent members. Article 45 of the Charter provides that members sit in the Committee on their personal capacity and requires that they have expertise in the domain of the Charter. The initial rounds of elections of members of the Committee did not secure any female to the membership of the Committee. According to Article 48, initial state reports are to be submitted one year after the Charter has entered into force in the state party, and periodic reports every three years. The Committee can ask states to submit other reports or additional information. By June 2012, the Committee has considered reports of 4 States out of the 11 State Parties to the Arab Charter on Human Rights. These are Jordan, Algeria, Bahrain and Qatar. The Committee has an administrative and technical secretariat, which is separate from the Human Rights Directorate/Unit at the Secretariat of the Arab League.
- ▶ **Arab Court on Human Rights:** as stated earlier, the Charter of the League does not refer to an Arab Court on Human Rights specifically. The Charter rather refers to an Arab Court of Justice (Article 20 of the revised Charter). A proposal was made by the Kingdom of Bahrain in 2011 to introduce an Arab Court on Human Rights to the structure of the League. The Council of the League discussed the proposal and asked the Secretariat to consult experts on the matter. It has also asked for a meeting of member



stated to be convened. The results of these consultations, which did not involve NGOs in the region, were brought before the Summit of the League in March 2013, which took the decision to endorse in principle the creation of this court. Further consultations are due to take place in order to decide the jurisdiction, mandate, methods of work, and other such matters. It is not clear if the Court will be created through a Protocol to the Arab Charter on Human Rights, or through an amendment to the Charter of the League. It is also not clear if the Court will adopt the Arab Charter on Human Rights as it is now as its framework document, or that amendments to the Charter will take place before the Court is created. It is also not clear if individuals will have direct access to the Court to submit cases, and how the Court's role will relate to the role of the Arab Committee on Human Rights. These are just a few issues that will need to be debated and decided on.

- **The Secretariat:** According to new structure of the Secretariat, which was enforced in January 2013, a new Civil Society Secretariat was established and falls directly under the office of the Secretary General, therefore forming one of the three pillars of the responsibilities of the office of the Secretary General (together with the Secretariat of the Arab ECOSOC, and the Secretariat of the Council of the League). A Secretariat for the Arab Commission on Human Rights, and another separate Secretariat for the Arab Human Rights Committee fall both under the Legal Department. They are separate from each other. It should be noted that there is no overarching body or directorate for human rights in the Arab League Secretariat.

### 3.2 Main Bodies for Engagement

On the basis of the above, the following are the bodies within the LAS, and outside it, which NGOs have highlighted as the main ones they will need to engage with in order to influence the promotion and protection of human rights in LAS.

- **The Human Rights Committee:** this has started functioning recently, lacks wide expertise, and has made signals that it is open to cooperate with NGOs. This is partially reflected in their rules of

procedures, although officially the Committee deals only with registered organisations.

- ▶ The Secretariat, including the office of the Secretary General, the Human Rights Department, Civil Society Secretariat , and the secretariat of the Arab Human Rights Committee: these are all directly relevant departments within the Secretariat are very important interlocutors for NGOs. They must not limit their work to NGOs with consultative status. It is very important that NGOs increase their engagement with these different bodies.
- ▶ **The Arab Commission on Human Rights:** The role of the Commission on Human Rights must be reformed. NGOs must formulate opinions and convey those to the relevant bodies of LAS in relation to reforming the role of the commission, especially on the basis of their experience with other international and regional bodies.
- ▶ **Political bodies of LAS, including the Council, Summits, and the Economic and Social Development Summits:** these bodies provide almost no access to NGOs to their meetings. However, organisations need to constantly make their voice heard and positions known to the meetings of these bodies.
- ▶ **The Arab Parliament:** while it is not clear yet how NGOs can engage with the parliament and the level of influence of the Parliament on human rights, NGOs will engage with the parliaments in order to influence its debates and strengthen positions it may take in regards to human rights.
- ▶ **National governments:** representatives of national governments of member states of LAS participating in the different bodies of LAS would be important to approach to debate issues under consideration and present recommendations. This includes representatives in Summits, the Council, specialised Ministerial Councils, the Economic and Social Council, the Parliament and the Economic and Social Summits.

- ▶ **Other inter-governmental bodies:** several inter-governmental bodies have dialogues with LAS including the EU and the African Union. NGO positions on issues on the agenda and debate must be relayed to these bodies so that these bodies can also convey these messages to LAS.

### 3.3 Methodology: how?

In order to be able to achieve the above, the following are important considerations which need to be maintained in the process of furthering the engagement of civil society organisations with the LAS

- ▶ It will be important that a coalition of NGOs who are interested and willing to further their engagement with LAS is formed.
- ▶ A mechanism for regular monitoring of LAS, sharing information, timely coordination with NGOs, and drafting documents (as necessary) will be essential for achieving a more timely and effective engagement of NGOs with LAS.
- ▶ It is most logical that regional NGOs – based in Cairo – take the primary responsibility of guiding such a coordination mechanism to service the Coalition.
- ▶ The role of the coordinating mechanism should not be limited to the monitoring and sharing information. It should be possible for this mechanism to develop and suggest strategic creative ideas to increase pressure of NGOs on LAS bodies (for example, such mechanism can develop the idea and lobby the Arab Human Rights Committee to persuade it to demand states (for example Syria) in certain situations to submit a special report in accordance with the Arab Charter and rules of procedures of the Committee).
- ▶ To achieve better engagement, it is important that there is more sharing of information among NGOs about the nature of the work of LAS, approaches and best practices. Background material and training sessions and debates must be held to facilitate this. This will include a general background document (in a NGO friendly format – a tool-kit for example) explaining the structure of LAS and the role of the different bodies, decision making mechanisms, status of

NGOs, how NGOs can engage with the organisation and such useful information.

- ▶ A detailed work-plan that takes into account the calendar of LAS, important events in the region and beyond, must be developed and shared with the members of the Coalition in order to ensure timely engagement of relevant NGOs.
- ▶ Strategic demands and priorities for action from each of the main bodies of LAS which NGOs should be engaged in (Council, Secretariat, Human Rights Committee, and Human Rights Commission) must be developed and distributed among the members of the Coalition.
- ▶ NGOs should develop their own proposals on how the consultative status in LAS and convey this and work collectively towards influencing the process. Current NGOs with observer status can play an important role in this.
- ▶ Complementary strategies for influencing the work of LAS on thematic areas, for example in relation to women's rights, human rights education, freedom of expression etc, must be developed in consultation with the relevant organisations in the region. More detailed and tailored background information on the relevant theme will need to be developed to accompany thematic strategies in order to increase the ability of NGOs to engage with such thematic work.
- ▶ A regular review of the strategy, taking into account the achievements will ensure the regular adaptation of plans accordingly.
- ▶ The human rights strategy to be developed must take note of important dates in the agenda of LAS, and develop material and activities accordingly. For example, 22 March of every year is the LAS day (the League of Arab States was established on 22 March 1945). 16 March of every year is Arab Human Rights Day.
- ▶ The coordinating mechanism, in cooperation with relevant NGOs, must develop lobbying tools relating to the role of LAS in

international and regional fora, for example the role of LAS in the UN Human Rights Council.

- To achieve the above, the coordinating mechanism must at times initiate and organise consultation meetings, and ensure exchange of information and debate among the concerned NGOs.

## V. Positions by NGOs

The following is a summary of the main issues raised in debates and expressed in various positions and documents issued by NGOs as a result of collective efforts and consultations. The summary below does not include the various outcomes of individual meetings or positions.

### LAS Charter

The LAS Charter must be amended so that it explicitly recognizes and refers to universal human rights standards. This will have major impact on the development of the human rights system of LAS as a whole.

### The Arab Charter on Human Rights:

The Arab Charter on Human Rights (not to be confused with the Charter of LAS) in its current form is inconsistent with international human rights standards. Therefore, the Arab Charter on Human Rights must be amended to bring it into conformity with universal human rights standards

NGOs will not call for the ratification of the Arab Charter on Human Rights as it stands. Nonetheless, NGOs will monitor its implementation by States which have ratified the Charter.

### Arab Human Rights Committee

NGOs call for the enhancing the role of the Arab Human Rights Committee by inviting states to submit their reports; engaging in a constructive dialogue with the committee; and electing qualified and independent experts for the membership of the Committee (including electing women).

Therefore, clear criteria for the appointment of the members of the Committee must be elaborated in order to ensure their independence, their dedication and their human rights expertise.

The Committee must ensure the development of a positive relationship between it and NGOs, and that a long-term strategy is set forth including the best means to ensure the participation of NGOs in the work of the Committee.

On their part, national, regional and international NGOs must engage more with the Committee by providing the Committee with information and reports (including through submitting alternative reports) to assist it in reviewing State reports and elaborating on the nature of state parties' obligations under the various provisions of the Charter.

This will require that NGOs should be able to review State reports well in advance, have their alternative reports issued as official public documents by the Committee, and attend Committee sessions.

It is therefore imperative that the Committee elucidates this relationship and procedures in separate and public guidelines, including the possibility for the NGOs to brief the experts prior to the Committee's sessions.

The Committee's mandate must be expanded by vesting it with the mandate to interpret the provisions of the Charter in accordance with the universally established international human rights standards.

It is essential to ensure that the secretariat of the Committee has sufficient resources and expertise.

### Arab Parliament

NGOs consider the recent incorporation of the Parliament into the League of Arab States an opportunity for further progress towards more practical and effective action and potentially a major role in the promotion and protection of human rights.

It is vital that the Parliament issues guiding principles on how states can adjust their laws to their international obligations arising from the ratification of international treaties.

The Arab Parliament should also revise several of the Arab model laws adopted by LAS to ensure their compliance with international human rights standards.

The role of NGOs in the work of the Parliament should be expounded, through mechanisms ensuring transparency, positive and effective relations, including the possibility for NGOs to attend parliament sessions and hearings, present interventions and obtain information.

### Human rights mechanisms

The League must ensure the creation of mechanisms for providing a comprehensive, genuine and effective strengthening of the League's human rights protection and promotion mandate.

The League, therefore, needs to ensure the establishment of independent special procedures to receive information from any sources and investigate allegations, make public their qualification of country, thematic or individual situations under consideration. In addition, LAS must seek to establish independent complaint mechanism(s) to deal with individual and collective communications received in accordance with other systems' established practice.

In doing so, the League must take into account the experiences and developments of human rights protection mechanisms of the other regional and international systems.

Human rights mechanisms and procedures must particularly ensure access to them by various disadvantaged groups.

### Relations with NGOs

Arab Civil Society Organizations continue to face severe restrictions on their effective engagement with LAS organs. The accreditation for an observer status to NGOs to enable them engage with the bodies of the League, including attending deliberations, is dependent on archaic criteria which includes the approval of the state where they are based. The criteria effectively requires that the concerned NGOs are registered in the countries where they are based, which is a problem in itself in the light of the severe restrictions on freedom of association in many Arab countries.

LAS must adopt a new vision regarding its relationship with civil society. This must ensure a strategic, transparent and permanent relationship between civil society and LAS and is translated not only through institutional development and reform, but also through a genuine change

in the perception of this relationship whereas LAS recognises civil society as an imperative pillar to the system.

The interaction between LAS with local, regional and international NGOs must be amended through the development of a concrete modality of engagement between all LAS bodies concerned and NGOs. Therefore, clear criteria for granting consultative status to independent organizations must be elaborated after consultation with NGOs. An independent body must be created for the management of the procedure pertaining to the granting of consultative status. The absence of a NGO domestic legal status should not be an obstacle in granting consultative status. For the sake of their own credibility, LAS bodies should cooperate with genuine independent NGOs, without restriction pertaining to their registration in their country. Procedures must also be amended in order to ensure access to information; NGOs are able to review relevant material beforehand; allow for NGOs to attend meetings of all LAS bodies, and to input into the deliberations as appropriate.

LAS must also take concrete and enforceable steps, based on the UN standards in that respect, aiming at combating reprisal against human rights defenders (HRDs) including administrative and security harassment against HRDs participating in the deliberations of the LAS bodies or providing information and analysis on the human rights situations in the various Arab countries. Therefore, the relationship should become truly consultative whereby NGOs act as more than just observers. This must be established according to institutionalized criteria, similar to those implemented by the United Nations in its dealings with NGOs.

### **Standing Committee/Commission on Human Rights**

It is necessary to embark on a real review of the role and mechanisms of the Committee. Genuine consultation with NGOs must be an essential integral part of this review, especially prior to any decision-making in this regard.

It is imperative for the Committee to begin appointing independent special procedures competent to receive directly any complaints from human rights victims and investigate human rights violations in their respective field of specialization, following the example of the United Nations and the African Union.



General guidelines for the participation of state representatives in the Committee, so that it would be composed of persons well-versed in human rights and in regional and international standards, should be developed.

### The Secretariat

Letter of 37 NGOs to Ibrahimi on reform stated that “the Human Rights Division ... charged with supporting the Committee in its work within the General Secretariat. However, this Division has not so far mobilized sufficient staff (its total staff amounts to few persons). Therefore, it would be necessary to increase the Division’s resources on the one hand, and ensure the recruitment of a highly qualified and experienced staff in the field of human rights on the other. Furthermore, a long-term strategy should be designed promptly, which includes the best and most effective means to ensure NGO participation.”

### Arab Court on Human Rights

It is essential that any future Arab Court for Human Rights provide redress to victims of human rights violations, including violations perpetrated by non-state actors. It must be established in accordance with international standards.

Civil society organisations take great interest in this issue, and demand to be consulted in the process in relation to the mandate, jurisdiction, methods of work, and other such matters.

### Access to information

Civil society organisations find difficulties in obtaining information on meetings of LAS bodies. Resolutions, reports and other material are often unavailable, and even when they are accessible through the webpage, they are mostly not made available in a timely fashion. This hinders any effective relationship between LAS and different actors, including NGOs.

NGOs call on LAS to devise mechanisms to make their documents and information available to NGOs in a timely manner in order to ensure genuine interaction.

NGOs call on LAS to ensure that the report of the Reform Committee is made public and available to civil society organisations; provide civil

society organisations with adequate time and facilities to review and comment on the report; and for the Secretary General to meet with representatives of civil society organisations to discuss their observations on the report.