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TRAINING MANUEL ON HUMAN RIGHTS AND HUMAN RIGHTS PROTECTION FOR LAWYERS

FILE N° 12: THE ARAB CHARTER ON HUMAN RIGHTS

➤ *Preliminary reminder on the League of Arab States*

Regional organisation with the observer status to the United Nations Organisation, with its headquarters based in Cairo.

It was founded on 22 March 1945 by seven countries - Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan and North Yemen – and today has twenty two Member States : Libya (1953), Sudan (1956), Morocco (1958), Tunisia (1958), Kuwait (1961), Algeria (1962), South Yemen (1967) – united since 1991 with North Yemen - le Bahrain (1971), Qatar (1971), United Arab Emirates (1971), Oman (1971), Mauritania (1973), Somalia (1974), Djibouti (1977), Comoros (1993), Palestine Liberation Organisation (1976).

The Arab League is based on the following bodies :

- The Council of the League (political body bringing together representatives of each Member State),
- The General Secretariat (headed by Amr Moussa since 2001),
- Special permanent committees (economics, culture, politics etc.),
- Specialised and autonomous agencies (Arab Labour Organisation, Postal Union, Telecommunications Union etc.).

The Council of the Arab League established, through its resolution 2443 (XL VIII) of 3 September 1968, the **Permanent Arab Commission on Human Rights**, with responsibility for the promotion of Human Rights, through the functions of information and coordination.

Since its creation, the Permanent Arab Commission on Human Rights has held several meetings and has participated in various seminars and sessions organised by regional and universal organisations.

Within the regional framework of the Arab States, the Commission has been concerned with matters relating to the protection of human rights through voting for resolutions concerning the teaching of these rights, at various levels, in Arab states, and the possibility of creating divisions specialising in the area of human rights in these states.



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➤ *Adoption of the Arab Charter on Human Rights and general changes to the text*

On 14 September 1994, the Council of the League, on the proposal of the Permanent Commission on Human Rights, adopted the 1st Arab Charter on Human Rights. The text comprises a preamble and 43 articles. It was ratified by only one state, Jordan. This Charter yielded no results and was criticised both by States and international organisations.

In March 2003, the Council of the League decided to revise and update this text with respect to international standards of human rights protection. This task was entrusted to the Permanent Commission on Human Rights. A new text was proposed in October 2003. It refers to the Universal Declaration of Human Rights of 1948, international pacts, and the Cairo Declaration on Human Rights in Islam of 1990, as well as the principles of Islam and other religions.

The final text of the charter was adopted in 2004 in Tunis and became effective on 15 January 2008. The Charter has been ratified by 7 Arab states : Algeria, Bahrain, the United Arab Emirates, Jordan, Libya, Palestine and Syria.

The revised Charter is more oriented towards compliance with international norms (taking into account certain recommendations made by a group of Arab experts established within the framework of a technical assistance agreement between the United Nations Office of the High Commissioner for Human Rights and the League of Arab States). It also presents some ground-breaking features : principle of non-discrimination, equality between sexes, prohibition on slavery, forced labour, all forms of exploitation, the right to a fair trial and the right to a healthy environment.

However, certain concerns still persist within international organisations with regard to discrimination towards women, children and resident citizens. The High Commission for Human Rights has also reacted against the comparison of Zionism with racism which is made in the Charter.

➤ *What are the rights recognised in the Arab Charter on Human Rights ?*

The Charter comprises a preamble and 53 articles.

In its preamble, the Charter sets out a certain number of principles such as liberty, equality and fraternity between human beings.

It proclaims a set of **rights of peoples** : the right of peoples to self-determination, to dispose of their wealth and natural resources, the right to determine their political system, and the right to ensure their economic, social and cultural development.

In addition, the Charter condemns racism, Zionism, foreign occupation and foreign domination.

It recognises **individual civil liberties and rights** such as the right to life, liberty and safety of the person, the right to respect for private life and family life, the right to marriage, protection of the family, the right to private property, free movement of persons, the right to nationality, and the right to political asylum. In the area of justice, it enshrines the principle of presumption of innocence, the principle of irretroactivity of criminal laws, except more lenient, the principle of legality of criminal penalties, and guarantees the right to a fair trial by a competent, independent and impartial court, and prohibits arbitrary arrests. Moreover, it prohibits torture and improper treatment.

It also recognises **political freedoms and rights** : freedom of belief, thought and religion, the right to information, freedom of expression (on condition that it does not impinge upon the freedom of others), the right of assembly, freedom of peaceful association, the right to form a trade union and the right to strike.

In the area of **economic, social and cultural rights**, the Charter makes reference to the right to health, the right to work, and the right to an adequate standard of living, and recognises a set of rights for persons with disabilities.

Thus, the rights recognised in the Charter show an advance in the protection of human rights. However, the text contains certain limitations, in particular by the absence of any reference to certain rights and freedoms. For example, the Charter recognises, admittedly, equality between men and women before the law, but it makes no reference to their equality in law. It does not expressly prohibit cruel, inhuman or degrading punishment. Neither does it abolish the death penalty.

With regard to this last point, it is important to add that article 7.a) of the Charter specifies that: « *the death penalty must not be passed on a person aged less than 18 years of age, unless specifically indicated in laws in force at the time the crime was committed.* » This provision is contrary to international norms and standards, and in particular article 37 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights, which sets out that the death penalty cannot be passed for crimes committed by persons aged less than 18 years. All Member States of the Arab League have adhered to the Convention on the Rights of the Child, but none of them has made any reservation in relation to article 37.

➤ **Are there any control mechanisms for application of the Charter ?**

Article 45 of the Arab Charter established a **Human Rights Committee**, with responsibility for examining reports submitted by States, on measures taken to give effect to the rights and freedoms recognised in this Charter and on the progress made in the exercise of these rights.

• **What is the procedure for the examination of state reports ?**

Under article 48 of the Charter, States must submit a periodic report every three years (to the Secretary General, who then forwards to the Committee).

The Committee may request States Parties for additional information.

The Committee studies the report in session in the presence of and with the participation in discussions of the representative of the State concerned.

Once the report has been examined, the Committee makes observations and formulates recommendations required in accordance with the objectives of the Charter.

The Committee submits an annual report containing its observations and recommendations to the Council of the League through the Secretary General.

All these documents constitute public documents.

• **Does the Charter provide for the possibility of submitting individual or state reports in the event of violation of a right recognised by the Charter ?**

The Charter does not provide for any mechanism which makes it possible to submit individual and state reports in the event of violation by a State of a right recognised by the Charter. No legal body which is likely to oversee the application of the Charter has been established.

Sources :

- Arab Charter on Human Rights:

<http://www1.umn.edu/humanrts/instree/loas2005.html?msource=UNWDEC19001&tr=y&auid=3337655>

- Web site of the Arab Centre for International Humanitarian Law and Human Rights Education <http://www.acihl.org/>

- Web site of the Internet Association for the Promotion of Human Rights: <http://www.aidh.org/>

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