

The League of Arab States and human rights

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1 Introduction

The League of Arab States (LAS) was the first regional inter-governmental organisation, created in 1945 by seven newly independent Arab states.¹ These were subsequently joined by 15 others, therefore constituting the current 22 members of LAS.² LAS has its headquarters in Cairo in Egypt, although some of its meetings are held in other locations.

As LAS was created on the backdrop of independence recently acquired by Arab states, the Charter of the Arab League (LAS Charter)³ reflects this fact. Article 2 states that the main purpose of LAS is to:

[D]raw closer the relations between member States and co-ordinate their political activities with the aim of realizing a close collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries.

Article 2 also provides that among the purposes is to ensure a close cooperation of member states in the following matters: economic and financial; communication; culture; nationality, passports and visas; social welfare; and health.

The structure of LAS institutions, processes and rules, especially in relation to human rights, has witnessed little development since the establishment of the organisation. While

1 The first members of LAS, which established the organisation, were Egypt, Iraq, Transjordan (renamed Jordan after 1946), Lebanon, Saudi Arabia, Syria and Yemen. The initial meeting in which a decision was taken to create the organisation was in 1944, and this is sometimes cited as the date of the inception of LAS.

2 The 22 members of LAS (in order of joining the organisation) are: Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, Syria, Yemen, Libya, Sudan, Morocco, Tunisia, Kuwait, Algeria, Oman, Qatar, United Arab Emirates, Bahrain, Mauritania, Somalia, Palestine (represented by the Palestine Liberation Organization – PLO), Djibouti, and Comoros.

3 Arab League Charter (adopted 22 March 1945), available at: <http://www.unhcr.org/refworld/publisher/LAS,,,3ae6b3ab18,0.html/>, accessed 14 July 2012.

there are signs of changes within LAS, the directions where these changes may go, as well as their real impact on the ground, is not yet clear. It is therefore suggested that two factors point to the need for a fresh look at LAS as an intergovernmental organisation, and its potential role in promoting and protecting human rights. These are the following:

- (a) A reform process, which started over 20 years ago aiming partly to strengthen the performance of LAS in relation to human rights, is moving slowly. The Tunisia Summit in 2004 resolved that it is essential for LAS to engage in a reform process which must be internally driven, and that such reform process should focus on human development and the needs of Arab citizens.⁴ The Tunisia Summit dealt with a number of important reform issues that relate to the development of the Arab joint system, as well as issues related to security. The summit adopted the revised Arab Charter on Human Rights, and adopted a reformed Arab Economic and Social Council.⁵ In 2005, the revised Arab Charter on Human Rights was adopted. In 2006, an Arab Peace and Security Council was established. This is still to be activated.⁶ Several other decisions related to economic and social development have been adopted since 2004. Incremental reform steps were taken, including past amendments to the Charter in relation to the role and structure of the LAS Council and the decision-making process, in addition to the creation of the Arab Parliament (see further below). In 2011, the Secretary General of LAS appointed a Commission to provide comprehensive proposals for such reform.⁷
- (b) Recent events in the Middle East (including what is commonly referred to as the 'Arab Spring') have changed some of the approaches of LAS towards human rights concerns within Arab states. However, at the same time, actions and decisions taken by LAS in this context exposed the lack of coherent policies and approaches towards human rights and democracy, as well as a rift between some of its member states.

Hitherto, the Charter of LAS has not referred to human rights. A proposal to add a sentence in the Charter referring to respect and promotion of human rights has been delayed by a decision of the Council in 2010, until decisions are taken on what is referred to 'the

4 Many standards and other documents of LAS provide for the protection of rights of Arab citizens, not the rights of every person within the jurisdiction of the state as is provided by international human rights treaties. See for example Art. 2 of the International Covenant on Civil and Political Rights and Human Rights Committee, 'General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant' (2004) UN Doc CCPR/C/21/Rev.1/Add. 13, para. 10.

5 Tunisia Summit Final Statement (2004), available at: http://www2.ohchr.org/english/law/compilation_democracy/league.htm, accessed on 14 July 2012.

6 Council of the League of Arab States Resolution 18/331 'Statutes of Arab Peace and Security Council', 29 March 2006 (Arabic).

7 The Commission is yet to issue its findings and recommendations. None of its documentation has been made public so far. A number of NGOs in the Middle East and North Africa have submitted a vision for priorities for such reforms from a human rights perspective. See for example, 'Memorandum on the Development of Joint Arab Action' signed by 37 organisations working in the field of human rights in nine Arab countries, including four regional organisations to the Secretary General of LAS and Chairman of the Committee for the development of joint Arab action at the Arab League, charged with preparing a plan for LAS reform to be presented to the next Arab Summit. Text of the memorandum is available through: <http://www.cihrs.org/?p=1892&lang=en>, accessed on 14 July 2012.

development of joint Arab action mechanisms', which refers to a wide reform of the Arab League.⁸

This chapter therefore aims to provide an exposé of LAS as an intergovernmental organisation at a crossroads. It has taken some steps recently, but it lacks coherent and consistent directions and policies in relation to human rights. The focus of the chapter is purely the bodies and instruments that are particularly related to human rights. To do this, the chapter starts with a short introduction to the main bodies of LAS, followed by a discussion of the development of the main human rights standards, with a reference to how these relate to international human rights law. The chapter ends with illustrations of positions that LAS has adopted in relation to the 'Arab Spring'.

Recognising that there is very little literature analysing LAS's work from a human rights perspective, especially in English, this chapter can only provide an overview in order to capture important points which partly delineate recent developments in the organisation. It does not attempt to be a comprehensive analysis.

2 Main bodies of LAS relevant to human rights

Like other intergovernmental organisations, the bodies of LAS fall in three groupings:

- (a) political bodies (e.g. the Summit, Council, Ministerial Councils, Commission on Human Rights);
- (b) expert bodies (e.g. the Arab Human Rights Committee); and finally
- (c) the Secretariat and its different Departments and Units.

While such distinction is present in theory, the dominance of political considerations and centres of power – which may vary depending on the subject or the country – is still a dominant factor influencing much of the dynamics within these structures and between them.

2.1 Political bodies

LAS is composed of the Council, specialised Ministerial Councils and Committees, and specialised agencies.⁹ The Council, which is formed of representatives from each member state, is the chief decision-making organ. In a recent Summit resolution, it was decided that the Council can meet at three levels: (a) summits of heads of states; (b) ministers of foreign affairs; or (c) permanent representatives to LAS. In the same resolution, it was decided that summits of LAS are to be held regularly every year (while previously summits were not regulated or institutionalised).¹⁰

Article 4 of the LAS Charter also provides for the creation of special committees which are responsible for studying subjects of common significance and for drafting agreements. LAS

8 This decision has subsequently been reiterated by various bodies of LAS. See for example LAS Council Resolution 7202, Council Regular Session 133, 3 March 2010, adopting Recommendations of the Arab Commission on Human Rights, Regular Session 28, 26–30 January 2010.

9 For LAS organisational structure, see <http://www.lasportal.org/> (under 'About Us'), accessed on 3 May 2012.

10 LAS Summit Decision 198, 'Decision Adding an Annex to the Charter of the League Concerning the Regular Convening of Summits of the League', 22 October 2000.

also has Ministerial Councils for various issues including justice, interior, social welfare, media and information. These have adopted many important decisions pertaining to human rights, as will be discussed below. Use of force for settlement of disputes among member states, aggression or threat of aggression against a member state, are prohibited. Therefore the Charter establishes a procedure of arbitration and mediation.¹¹ The LAS Charter also provides for the withdrawal and exclusion of a member state from the organisation.¹²

The Arab Economic and Social Council ('Arab ECOSOC') was established by LAS in 1953. In January 2005, Arab ECOSOC adopted Resolution 1540 on 'Criteria for Attendance of Civil Society Organisations in Meetings of ECOSOC and its Bodies'.¹³ In 2009, 2011 and 2013 special 'Economic and Social Development Summits' were convened. In 1968, the Council approved the creation of a permanent body to be called the Arab Commission on Human Rights, also known as the Arab Standing Committee for Human Rights or the Permanent Arab Commission on Human Rights.¹⁴ This is formed of one representative from each LAS member state, who attends as a state representative and not as an independent expert. In September 2007, the Commission adopted its own Rules of Procedures (while before that it applied rules of procedures that applied to the technical committees), which were endorsed by the LAS Council of Ministers.¹⁵ According to the Rules of Procedures, the main role of the Commission is to:

- (a) establish rules of cooperation among LAS member states in the field of human rights;
- (b) formulate an Arab position on human rights issues that are under discussion at the regional and international levels, including positions on draft treaties;
- (c) draft human rights treaties to be presented to the LAS Council of Ministers or the Summit for ratification;
- (d) study Arab agreements pertaining to human rights in order to give an opinion on their compatibility with international human rights principles and standards; and
- (e) promote cooperation in the field of human rights education.

The Commission also studies matters referred to it by the LAS Council, Secretary General or member states.

The Rules provide that on the nomination of representatives, states should give due consideration to expertise in human rights but does not require it. The Commission does not have a mechanism to receive or examine periodic reports from states on human rights situations. It also does not have thematic or country special procedures. A group of experts, initially created as a sub-commission, is appointed to assist the Commission in its work, by preparing proposals (see further below).

The Arab Commission on Human Rights was the first body within LAS to adopt a mechanism to allow non-governmental organisations (NGOs) to attend its sessions. In 2003, the

11 LAS Charter (n. 3) Arts 5–6.

12 Ibid., Art. 18.

13 Many elements of these criteria were adapted for the criteria of observer status of the Arab Commission on Human Rights (see below).

14 Not to be confused with the Arab Commission for Human Rights, an NGO founded in 1998.

15 See Mervat Rishmawi, 'Human Rights Commission of the Arab States' in *Max Planck Encyclopaedia of Public International Law* (OUP/Max Planck Institute for Comparative Public Law and International Law, 2010).

Commission adopted the procedures and criteria for granting observer status for NGOs.¹⁶ While the Commission states that it engages with NGOs, in reality the observer status is very limited. NGOs have only limited and untimely access to documentation, and have limited access to sessions and deliberations. They are not allowed to make statements on agenda items. Although many NGOs have applied to obtain this observer status, only 23 from across the Arab countries have obtained this status as the criteria are very restrictive. They include that the NGO must be registered in an Arab country, which is often not possible due to the restrictive associations' laws in many Arab countries. In fact, a large number of active human rights NGOs in Arab countries have either been denied registration by their national governments, or have not been able to register due to restrictive laws.¹⁷

The Commission has very few major achievements to record. It adopted the revised version of the Arab Charter on Human Rights (discussed below), although it has made significant negative changes to the draft. It has also adopted the Arab Human Rights Education Plan.¹⁸ The structure of the Commission as a political body and its narrow mandate are considered major hindrances towards its active engagement in human rights concerns in the region. The Commission is serviced by a special Human Rights Directorate in the Secretariat of LAS.

2.2 *The Parliament and the Court*

A newly established Arab Parliament is still in its nascent phases. The LAS Charter also allows for the establishment of an Arab Court of Justice, but this is yet to materialise. The Baghdad Summit in March 2012 adopted the Statute of the Arab Parliament, which was previously endorsed by the Council of Ministers of Foreign Affairs.¹⁹ The Arab Parliament is an addition to the structure of LAS through an added article to the LAS Charter which provides: '[a]n Arab Parliament shall be established in the framework of LAS, and its rules of procedure, composition, functions and areas of competence shall be defined'.²⁰ The Statute makes the Parliament a relatively weak body. It is not given the mandate to draft agreements, but can approve agreements referred to the Parliament. Issues for discussion can be referred to it by the Council or any of the other Councils of Ministers or Committees. Its work focuses on issuing recommendations that have to be approved by a Ministerial Council or a Summit.

16 See 'The Arab League and Human Rights: Challenges Ahead' – Regional Seminar held in Cairo on 16–17 February 2013, FIDH, 27–28, available at <http://www.fidh.org/for-an-effective-arab-league-human-rights-protection-system-las-secretary-12932>, accessed on 5 June 2013.

17 This is documented and criticised widely by UN mechanisms and NGOs. See for example the Euro-Mediterranean Human Rights Network, 'Freedom of Association in the Euro-Mediterranean Region: A Threatened Civil Society' (2010), available at: <http://www.euromedrights.org/en/publications-en/emhrn-publications/emhrn-publications-2010/4758.html>, accessed on 14 July 2012.

18 The text of the Plan is available in Arabic on the Childs Rights International Network's website at: <http://www.crin.org/resources/infodetail.asp?id=19376>, accessed on 14 July 2012.

19 LAS Summit Decision 559, Regular Session 23, 29 March 2012 (the Statute is annexed to the decision). This became Art. 19 of the amended Charter of the League of Arab States.

20 LAS Summit Decision 290, 'Development of the Joint Arab Collaboration System: Amendments to some Articles of the Charter of the League of Arab States', Regular Session 17, 23 March 2005; and LAS Summit Decision 292, 'Development of the Joint Arab Collaboration System: Establishment of an Interim Arab Parliament', Regular Session 17, 23 March 2005. The Article about the Parliament became Art. 19 in the revised Charter of LAS.

The Parliament can question Ministerial Councils, the Secretary General, senior staff of the Secretariat or the specialised agencies, who must respond to such questions. Importantly, the Parliament is mandated to develop Arab cooperation in the field of human rights and present recommendations accordingly.²¹ Also the Parliament has a primary role in leading efforts to unify Arab legislation and to give guidance in that regard. The Parliament is composed of four members for each member state of LAS. These individuals are either to be elected directly from their national parliaments, or otherwise chosen or appointed from their own national parliament or similar national assemblies. The Arab Parliament now has a Committee on Legal and Human Rights Affairs.

Although Article 19 of the original LAS Charter (Article 20 of the amended LAS Charter) provides for the creation of an Arab Court of Justice,²² this has yet to materialise. The first attempt to create a regional judicial body was presented to LAS in 1950 by Lebanon. The Council decided to present the proposal to its Political Committee and to form a Committee to suggest a statute for the Court and any amendments to the Charter of the League.²³ The idea was then abandoned for some decades, and only discussed again in 1990 at the extraordinary session of LAS at Summit level. At this session, it was agreed that the Council of Ministers of Foreign Affairs must conclude a study of the draft Statute of the Arab Court of Justice. In 1996, the Summit agreed to establish the Arab Court of Justice in principle and charged Ministers of Foreign Affairs with the completion of the final draft of its Statute.²⁴ A draft Statute was finalised shortly after that and submitted to the Council of LAS, but the consideration of the draft has been periodically postponed by the Council. In 2005, the Secretary General made a number of proposals to the Summit in relation to reform of LAS, including a proposal of the Statute of the Arab Court of Justice. Interestingly, the proposal of the Secretary General in 2005 gave the Court the jurisdiction to look into disputes pertaining to human rights.²⁵ The Summit reviewed the proposals and tasked the Secretary General to establish specialised committees with two representatives from each member state to consider the proposal for the Court and for an Arab Security Council.²⁶ There has been no progress in relation to creation an Arab Court of Justice as at the time of this writing.

However, in 2011, Bahrain proposed the creation of an Arab Court on Human Rights within the LAS system. This was discussed in the Council at the level of Ministers of Foreign Affairs, and then at the Summit level.²⁷ An evaluation of the idea was prepared by experts, and the idea was discussed further in a special conference of member states, hosted by Bahrain. The outcome of this came before of the Summit in March 2013, which took a decision to endorse the idea of establishing the Court. Discussion is underway at the time of writing on

21 See LAS Summit Decision 559, 'Adoption of the Statute of the Arab Parliament', Regular Session 23, 29 March 2013.

22 (n. 3).

23 LAS Council Resolution 316, Regular Session 12, 13 April 1950, and then in 1952, the question was raised again but was postponed. LAS Council Resolution 381, Regular Session 15, 3 October 1951, and LAS Council Resolutions 432, Regular Session 16, 14 September 1952,

24 LAS Summit Decision 196, 'Arab Court of Justice, Honour Charter for Security and Cooperation, League of Arab States Mechanism for Conflict Prevention and Arab Union Proposal', 23 June 1996.

25 LAS Summit Decision 294, 'Development of the Joint Arab Action System: Further Study of the Proposed Arab Court of Justice and Arab Security Council', Regular Session 17, 23 March 2005.

26 Ibid.

27 Council Resolution 7372, 13 September 2011, and Council Resolution 7489, 10 March 2012.

whether the Arab Charter on Human Rights is now a suitable normative framework for the Court, or whether the Arab Charter on Human Rights will need to be revised first. Further discussion on mandate, rules of procedures, composition of the Court and other such matters will also have to take place.²⁸

In 1990, the Council of LAS recommended the establishment of an Arab Centre for Human Rights, and asked the Secretariat to elaborate a proposal for that objective. However, in 1988, the Arab ECOSOC had recommended that LAS should reduce its expenditure. Therefore, the idea of the Centre was abandoned and a Human Rights Directorate was established in 1992. The main role of this Directorate today is to service the Commission and it is also meant to carry out activities in the field of human rights.

2.3 Expert bodies

2.3.1 The Arab Human Rights Committee and the Arab Charter on Human Rights

The Arab Human Rights Committee is the treaty-body that is entrusted with supervising the implementation of the Arab Charter on Human Rights. The Arab Charter was adopted by the Summit in Tunisia in 2004.²⁹ This is a revised version of an old treaty that was adopted by LAS in 1994 but it did not enter into force due to insufficient ratification.³⁰ The 1994 version was widely criticised for falling far below international standards.³¹

The process of revising the Charter was important in itself. A previously existing Memorandum of Intent between LAS and the UN Office of the High Commissioner for Human Rights (OHCHR) was used by OHCHR and the civil society to convince LAS to appoint a team of independent experts to provide their recommendations for the drafting of the revised Charter.³² This Committee was therefore formed of members from Arab countries in various UN human rights mechanisms.³³ This Committee reviewed the provisions of the 1994 version of the Charter and relied in its redrafting on international human rights standards as well as regional instruments, studies and suggestions by its members in their own areas of expertise, and oral and written interventions by national,

28 LAS Summit Decision 573, 'Establishment the Arab Court on Human Rights', Regular Session 24, 26 March 2013.

29 Arab Charter on Human Rights (adopted 22 May 2004, entered into force 15 March 2008), available at: <http://www1.umn.edu/humanrts/instree/loas2005.html>, accessed on 14 July 2012.

30 Adopted by Council Resolution 5437, 15 September 1994.

31 See for example M. Rishmawi: 'The Arab Charter on Human Rights: A Comment', in 'Islam and Human Rights', 10(1) *Interights Bulletin* (1996).

32 'Effective Functioning of Human Rights Mechanisms: Regional Arrangements for the Promotion and Protection of Human Rights – Report of the Secretary-General', 22 December 2004, UN Doc. E/CN.4/2005/104, paras 38–40.

33 The members of the committee were: Hatem Kotrane, Tunisia, member of the Committee on the Rights of the Child (CRC) and independent expert to examine the question of a draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; Ibrahim al-Shaddi, Saudi Arabia, CRC Committee member; Leila Zerrougui, Algeria, Chairperson of the Working Group on Arbitrary Detention and member of the Sub-Commission on the Promotion and Protection of Human Rights; Ghaliya Mohammed Bin Hamad Al-Thani, Qatar, CRC Committee member; and Ahmed Tawfiq Khalil, Egypt, member of the Human Rights Committee. Leila Zerrougui was chair of the Committee.

regional and international NGOs.³⁴ The final draft produced by the experts was welcomed widely by the civil society in the region. The draft was presented to the Arab Commission on Human Rights for adoption. However, unfortunately, the Commission made fundamental changes rendering the document in conflict with international law in some important areas, and lacking in important guarantees in others. Nevertheless, the Commission maintained some very important provisions from the experts' draft, which in any case makes the 2004 version of the Charter a much better document than the 1994 version, despite its many shortcomings.³⁵

It is not possible here to include a full review of the revised Arab Charter of Human Rights; however, some highlights will be helpful.³⁶ On the positive aspect, Article 1 starts with emphasising the importance of human rights, including stressing the principle that 'all human rights are universal, indivisible, interdependent and interrelated'.³⁷ The Charter recognises many important rights including the rights to health, education, fair trial, prohibition of torture and ill-treatment, the independence of the judiciary, the right to liberty and security of person, equality before the law, courts and tribunals. Other political rights include the right to political participation including the right to take part in the conduct of public affairs.

Despite these positive elements and many others, the Charter excludes some important rights and guarantees, and also includes provisions which are inconsistent with international law. The following are only selected examples. The Charter does not prohibit cruel, inhuman or degrading treatment or punishment, nor does it recognise the rights to non-citizens in many areas, for example, health and education, as it limits many rights to citizens (unlike international and other regional treaties which recognise most rights to everyone under the jurisdiction of the state). One of the examples where the Charter is in clear conflict with international law is in relation to freedom of thought, conscience, and religion. The Charter allows for regulating these rights according to national law (Article 30). International law, on the other hand, allows for restrictions only on the manifestation aspect of a religion, thought, conscience or belief, but not on the freedom to hold an opinion, religion or belief, as is evident for example in Articles 18(3) and 19(3) of the International Covenant on Civil and Political Rights (ICCPR).³⁸ The ICCPR does not provide for regulating (i.e. limiting) by national law the right to hold an opinion, religion or belief. Article 19(3) of the ICCPR provides: 'The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions.'

Moreover, the Charter leaves the regulation of many important rights to national legislation. For example, Article 7(1) permits the imposition of the death penalty against

34 For background information about the revision process of the Charter, see M. Rishmawi, 'The Revised Arab Charter on Human Rights: A Step Forward?' (2005) 5(2) *Human Rights Law Review* 361–76.

35 For a full documentation of the process see (in Arabic) Mo'taz alFigiri (ed.), *La Himaya Li Ahad (No Protection to Anyone): the Role of the League of Arab States in Protecting Human Rights* (2006).

36 For a thorough analysis of the Arab Charter on Human Rights, see M. Rishmawi, 'The Revised Arab Charter on Human Rights' in C. Krause and M. Scheinin (eds), *International Protection of Human Rights: A Text Book* (Turku/Abo, second revised edition, 2012).

37 Arab Charter on Human Rights (n. 29) Art. 1(4).

38 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

children if national law allows it, while international law prohibits the imposition of the death penalty on children under the age of 18 in all circumstances. Indeed, Article 6(5) of the ICCPR provides that: 'Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age'; and Article 37(a) of the Convention on the Rights of the Child³⁹ (CRC) provides that: 'Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.' The Charter in Article 33(1) also leaves regulation of rights and responsibilities of men and women in marriage and divorce to national law. Article 23(4) of the ICCPR and Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women⁴⁰ (CEDAW) require states to take measures to ensure equality in rights and responsibilities, and not only to regulate these in law. National law therefore has to be consistent with international law.⁴¹

It can therefore be concluded that the Charter ended up being a document that mirrors the human rights record of some dominant Arab states and the degree to which they accept international human rights treaties, as reflected in the reservations entered by them to international instruments (e.g. ICCPR, CRC, CEDAW). Unlike other regional mechanisms, the Arab Charter on Human Rights does not have individual or collective complaint mechanisms. This is particularly important in the light of the lack of any specific procedures within the Arab League human rights system to consider complaints related to human rights (for example in special procedures). Unlike other international and regional treaties, the Charter does not include clear provisions detailing state obligations. Instead, Article 44 provides this in very general terms stating '[t]he states parties undertake to adopt, in conformity with their constitutional procedures and with the provisions of the present Charter, whatever legislative or non-legislative measures that may be necessary to give effect to the rights set forth herein.'

The Arab Charter entered into force on 15 March 2008, two months after seven Arab states ratified it, pursuant to paragraph 2 of Article 49 of the Charter. By May 2013 11 states, half of the Arab states members in LAS, had ratified the Charter.⁴² According to Article 48, initial reports are to be submitted after one year of entry of the Charter into force in the state party, and periodic reports every three years for review by the Arab Human Rights Committee. By the end of May 2013 Jordan, Algeria, Bahrain and Qatar had submitted their initial reports, although initial reports of all other state parties were already overdue. The Committee has reviewed the reports of Jordan, Algeria and Bahrain by May 2013, and issued its conclusions and recommendations regarding Jordan and Algeria (in Arabic), according to Article 48 of the Charter.⁴³

39 Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

40 Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force on 3 September 1981) UNGA Res. 34/180.

41 See further CEDAW Committee, 'General Recommendation No. 21: Equality in Marriage and Family Relations' (1994) UN Doc. A/47/38, paras 16–17.

42 Jordan, Bahrain, Algeria, Palestine, Syria, Libya, United Arab Emirates, Saudi Arabia, Yemen, Qatar and Lebanon, see ICNL, NGO Law Monitor: League of Arab States, available at: <http://www.icnl.org/research/monitor/las.html>.

43 For details about the Arab Charter on Human Rights, ratifications, state reports, sessions and work of the Arab Committee on Human Rights, see website of the League of Arab States at http://www.arableagueonline.org/wps/portal/las_ar/home_page, accessed on 1 April 2012.

The Arab Charter on Human Rights is the first, and so far the only, treaty in LAS to have an independent supervisory mechanism embodied in the treaty itself. The Secretary General of LAS, on the occasion of the fourth anniversary of the Arab Human Rights Day, recognised that the Arab Charter for Human Rights falls short of meeting international human rights standards, and that revising and amending it has become a pressing requirement that cannot be overlooked.⁴⁴

2.3.2 The Committee of Experts assisting the Arab Commission on Human Rights

A Committee of Experts was established in 2007 to assist the Arab Commission on Human Rights.⁴⁵ It was initially established as a sub-Commission on Human Rights, mandated to develop a proposal for the Human Rights Education Plan for 2009–14, and then follow up the Plan and its implementation. The name of the sub-commission was changed in 2010 into a Committee of Experts of the Arab Commission on Human Rights. The mandate of the Committee of Experts was expanded to include preparation of studies upon the request of the Commission or the Secretariat and to make other proposals for the Commission on its own initiative.⁴⁶

In 2012, the Council of LAS approved the recommendation of the Commission to end the work of the Committee of Experts, and ask an expert committee to supervise the implementation of the Human Rights Education Plan.⁴⁷ The Committee of Experts produced a Plan of Action and guidelines for implementation of the Plan in a form of a manual based on their expertise and information from governments. On 29 March 2007, the Summit of the Arab League approved the Arab Human Rights Education Plan for 2009–14.⁴⁸ The Plan's goal is stated to be to raise future generations that believe in a respect for human rights based on the basic principles of human rights: universality, complementarity and interdependency, equality and participation. The Plan provides that it is based on the main international and Arab human rights instruments besides the main values of Islam, Christianity and Judaism. The objectives of the Plan are:

1. integrating human rights values into education in the Arab world at all levels;
2. capacity-building to ensure specialisation in human rights education;
3. providing a suitable environment for the implementation of the Plan; and
4. encouraging social involvement.

The Plan identifies a number of bodies that should be involved in furthering human rights education in each Arab country including a wide range of governmental institutions and ministries. It also stresses the importance of the work of civil society.

44 See statement by Nabil al-Arabi, LAS Secretary General: 'al-Arabi calls for dignified life for Arab peoples in the occasion of the Arab Human Rights Day', 15 March 2012.

45 Pursuant to LAS Council Resolution 391, 29 March 2007.

46 See agenda item 5 of the Report of the Commission for Human Rights, 26–30 January 2010, approved in LAS Council Resolution 7202, Regular Session 133, 2–3 March 2010.

47 LAS Council Resolution 7488, Regular Session 137, 10 March 2012, approving recommendations of Session 32 of the Arab Commission on Human Rights.

48 (n. 18).

3 LAS and international law

The Charter of the League of Arab States does not include reference to human rights. Attempts to make such inclusion in the past were always delayed until there is reform of the organisation. There are few instances in the past, before the latest developments within the context of the events in the Middle East in the last three years, which became commonly referred to as the 'Arab Spring', when LAS made reference to international law in its documents and decisions. For example, following the outbreak of hostilities between Israel and Hezbollah on 12 July 2006, the Ministerial Council convened extraordinarily on 15 July 2006 and issued two resolutions.⁴⁹ Both resolutions refrained from addressing Hezbollah's role or responsibilities in the conflict, but respectively condemned the Israeli aggression against the Palestinian territories and the Israeli aggression against Lebanon, and stated that the Israeli actions contravened international resolutions, laws and norms.

Before that, at an emergency Summit in August 1990, 12 of the 20 states present condemned the Iraqi invasion of Kuwait. In 2003, the Council of LAS voted 21–1 to adopt a resolution demanding the immediate and unconditional removal of US and British soldiers from Iraq (Kuwait cast the only dissenting vote). Shortly after the US-led invasion of Iraq on 19 March 2003, the Council of LAS adopted a resolution in which it condemned what it called the US–British aggression against Iraq, considered the action a violation of the UN Charter and customary international law, and a threat to international peace and security.⁵⁰ The resolution also demanded immediate and unconditional withdrawal of US and British troops, and held the latter responsible on a legal and moral basis. Notably, the resolution urged all Arab states to refrain from participating in any military action that affects the sovereignty and security of Iraqi territories or any other Arab state. Other resolutions followed to reiterate a similar position.

In September 2003, the Council adopted a resolution which reflected a clear shift in the stance of LAS regarding violations of international law committed by the previous regime in Iraq. Before that, LAS normally did not condemn violations by any Arab leaders or government policies or refrained from addressing violations in Arab countries by member states. This resolution considered the Iraqi transitional government a positive step towards the establishment of an internationally recognised national legitimate government and condemned gross violations of human rights and international law committed by the previous Iraqi regime against its people and detainees from Kuwait and other nationalities.⁵¹ The resolution also called for bringing members of the former regime to justice.

3.1 LAS and the ICC

One of the important issues that LAS has been following closely is the situation in Darfur, Sudan. The Council of LAS affirmed on many occasions the importance of

49 LAS Council Resolution 6656, 'The Israeli Aggression against the Palestinian Territories', 15 July 2006, available in English in UN Doc. S/2006/582; LAS Council Resolution 6657, 'Critical New Developments relating to the Israeli Military Aggression against Lebanon', 15 July 2006, available in English in UN Doc. S/2006/582.

50 LAS Council Resolution 6266/119/2, 'The American/British Aggression against Fraternal Iraq and Its Implications for the Security and Safety of Neighbouring Arab States and Arab National Security', 24 March 2003, available in English in UN Doc. A/57/776.

51 LAS Council Resolution 6325, 'Development of Situation in Iraq', Regular Session 20, 9 September 2003.

the acceptance of Sudan of peacekeeping forces, that the situation should be resolved through Arab and African avenues, and rejected what it called 'the internationalisation of the situation in Sudan'.⁵² LAS agreed to support the deployment of a peacekeeping force by the African Union, contributing to the personnel deployed in the force and supporting it financially. However, following the decision of the International Criminal Court (ICC) Prosecutor to issue the arrest warrant against President Omar Al-Bashir of Sudan, several bodies of LAS, including the Summit, issued resolutions rejecting the decision, stressing the integrity of Sudan, and claiming that the decision of the UN Security Council with regard to the situation in Darfur violated the UN Charter.⁵³ LAS also stated that the decision of the ICC Prosecutor violated the principle of state sovereignty; that the decision to issue an arrest warrant against a sitting head of state was a dangerous precedent which violated the Vienna Convention on Diplomatic Relations (1961) and principles of international customary law, and LAS requested member states to reconsider their position regarding the ICC.⁵⁴

However, this strong position against the ICC came under challenge following changes in Tunisia and Egypt. A conference hosted in Doha, Qatar jointly by the ICC and LAS in May 2011 witnessed many statements on the importance of combating impunity and cooperating with the ICC. Arrest warrants had already been issued by the ICC against the previous president of Tunisia, as well as Qaddafi and members of his family. This was not disputed at all by LAS or any of its members. However, at the same time, LAS endorsed the solution of the Yemen situation according to a plan which was proposed by the Gulf Cooperation Council (GCC), and which included guarantees that President Saleh of Yemen will not stand trial for possible crimes he may be responsible for if he is to step down and leave the country. Saleh lives now in Saudi Arabia. Jordan, Djibouti and Comoros were the first Arab states to ratify the Rome Statute of the ICC. Tunisia, after the fall of the previous regime, announced its accession to the Rome Statute. Nabil al Arabi, the current LAS Secretary General, while Foreign Minister of Egypt, also announced the intention of Egypt to do the same, although this is yet to materialise.⁵⁵

LAS has a number of model laws that are prepared by its legal department and endorsed by its political bodies. One such law is the Model Law on Crimes within the Jurisdiction of the ICC (2005).⁵⁶ While some of the provisions of this Model Law are largely consistent with the ICC Rome Statute, other provisions raise concerns. For example, Article 3 of the Model Law stipulates that the formulation of what it refers to as 'irrelevance of Official Capacity' – ('The person's official rank may not be used as a reason to exempt them from responsibility or mitigate the punishment') – is left to national law, pursuant to the legal

52 See for example LAS Council Resolution 7093, Regular Session 132, 9 September 2009, and earlier LAS Summit Decision 465, 30 March 2009.

53 See for example LAS Summit Decision 465, Regular Session 21, 30 March 2009. See also *Prosecutor v Al Bashir* (Warrant of Arrest) ICC-02/05-01/09-1 (4 March 2009). E.g. see P. Gaeta, 'Does President Al Bashir Enjoy Immunity from Arrest?', 7 *Journal of International Criminal Justice*, (2009) 315–32.

54 LAS Summit Decision 465 (n. 53).

55 See Human Rights Watch: 'Egypt: Important Commitment to Ratify Rome Statute', 29 April 2011.

56 See unofficial translation provided by the Coalition for the International Criminal Court, 'Decree regarding the Arab Model Law on Crimes within ICC Jurisdiction' (2005), available at: http://www.iccnw.org/documents/ArabLeague_ModelImplementationLaw_29Nov05_en.pdf, accessed on 14 July 2012.

system of each state.⁵⁷ The Model Law also provides that the death penalty can be imposed for crimes within the jurisdiction of the law, for example, in relation to genocide, crimes against humanity, war crimes and crimes of aggression.⁵⁸

3.2 *Universality of human rights*

In 1998, the Arab Commission on Human Rights elaborated what it called the Guidelines on Universality of Human Rights.⁵⁹ The Guidelines affirm religious and cultural specificity and state sovereignty and seem to justify the selected respect for universal human rights on this pretext, as is often reflected through the engagement of Arab states in international mechanisms. The Guidelines provide that:

- the importance of considering religious, cultural and social specificity of the Arab states as contributions to the universality of human rights; at the same time, stressing that cultural specificity should not mean cultural alienation and shutting oneself away from other civilisations;
- human rights should not be used as a pretext for interference in internal affairs;
- the need for reaching an Arab understanding of human rights that is based on the concepts and principles of Islam;
- freedom of expression should be respected in a way that does not contradict Islamic Shari'a; and
- affirming the right of Arab states to enter reservations to international treaties.

It should be noted that the Charter of the League of Arab States itself does not refer to Islam. However, many of its associated documents, including human rights standards, refer to Islam as guidance. For example, the preamble of the Arab Charter on Human Rights provides that member states adopt the Charter '[i]n furtherance of the eternal principles of fraternity, equality and tolerance among human beings consecrated by the noble Islamic religion', and also 'having regard to the Cairo Declaration on Human Rights in Islam'. Many of the rights and guarantees that are provided in the Model Law for the Rights of Arab Child of the League of Arab States (see below) are largely framed within concepts in Islamic Shari'a in relation to many issues. This is the same in relation to punishment of crimes within the context of ICC and Rome Statute.

3.3 *Children's rights*

The main LAS instrument on treaty children's rights is the Charter of the Rights of the Arab Child (1983). It refers in its title to the rights of the Arab child, rather than being an Arab charter for the rights of all children in Arab countries.

The Charter of the Rights of the Arab Child has been criticised widely for being inconsistent with international law, particularly the CRC to which all Arab states are party

57 Ibid. Art. 3 which states that '[t]he person's official rank may not be used as a reason to exempt them from responsibility or mitigate the punishment'.

58 Ibid. Arts 10–13.

59 Adopted under item 1 by the Arab Commission on Human Rights, Regular Session 14, 23–24 February 1998.

except for Somalia and Palestine. According to the document, state reports are not to be presented to a specialised committee of experts, but are to be provided to the General Secretariat of LAS on measures they have taken to give effect to the Charter. There is no clear time-frame or format for such reports. The Committee of Experts of the Arab Commission on Human Rights was asked in 2009 to look into updating the treaty. However, the Secretariat recommended instead that states' reports to the CRC Committee on their implementation of the CRC and its two Optional Protocols must be strengthened. In the 2012 Summit, LAS adopted the Marrakech Declaration, which affirmed commitment to the CRC and its Protocols and adopted tools for advancing rights of children accordingly.⁶⁰ No mention or decision was made in connection with updating the Charter of the Rights of the Arab Child. It seems that this idea has been abandoned.

3.4 *Freedom of expression*

As mentioned earlier, the Arab Charter on Human Rights allows for imposing restrictions not only on the manifestation aspect of thought, conscience and belief, but on the freedom itself. The original draft by the Committee of Experts was consistent with international law. The changes were introduced when the draft was brought before the Arab Human Rights Commission, a political body. This indicates that such changes were introduced for political considerations. The Arab Convention on the Suppression of Terrorism⁶¹ (see below) is also a threat to protection of freedom of thought and expression.

In February 2008, LAS introduced the Arab Satellite Broadcasting Charter: Principles for Regulating Satellite Broadcasting Transmission in the Arab World.⁶² The document asserts in its Preface the necessity to preserve what it calls the 'Arab identity' and 'Arab culture' as well as 'Islamic culture and values'. Although these Principles state that their aim is to regulate broadcasting transmission and reception in Arab countries and 'to ensure the right to express opinions',⁶³ the document actually imposes a number of restrictions on the content of the material broadcast on the pretext of respect for human dignity and individual privacy, as well as prohibition on material that would incite hatred, violence and terrorism. While this is to be welcomed, the problem is in the how these general principles are reflected in the details of the provisions. For example, the document permits freedom of expression, but within the limits of broad and undefined notions like 'full responsibility, for the protection of the supreme interests of the Arab countries and the Arab World'.⁶⁴ The document also includes a number of provisions that mirror those that currently exist in Arab codes and which have been used consistently to silence critics of the state, among others. This includes provisions

60 LAS Summit Decision 565, Regular Session 23, 29 March 2012. LAS adopted the 2010 Marrakech Declaration of Arab Conference on Rights of the Child, see http://www.unicef.org/media/media_57288.html, accessed on 10 May 2013.

61 Arab Convention on the Suppression of Terrorism (adopted 22 April 1998), available at: <http://www.unhcr.org/refworld/publisher/LAS,,,3de5e4984,0.html>, accessed on 14 July 2012.

62 Arab Satellite Broadcasting Charter (2008). Text and unofficial English translation available at: <http://www.arabmediasociety.com/?article=648>, accessed on 14 July 2012. See Art. 19, 'Arab Charter for Satellite TV: A setback for freedom of expression' (2008), available at: <http://www.article19.org/pdfs/press/egypt-adoption-of-the-arab-charter-for-satellite-tv.pdf>, accessed on 14 July 2012.

63 Ibid. Art. 1.

64 Ibid. Art. 5(1).

relating to prohibition of the so-called defamation against leaders, religion, national symbols, and damaging social harmony and national unity.⁶⁵

Finally, it should be noted that Arab states have played a negative role in the last few years within the UN Human Rights Council in an attempt to weaken international standards in relation to freedom of expression, including attempts to weaken the mandate of the UN Special Rapporteur on Freedom of Opinion and Expression. For example, Arab states repeatedly attempted to include undefined and broad concepts like ‘defamation of religion’, and ‘respect for traditional values’ in resolutions that relate to freedom of expression through proposals of the Organisation of Islamic States (OIC). While such attempts have not succeeded so far, the threat remains.⁶⁶

3.5 Minorities and non-citizens

It is common that the language of resolutions, texts or instruments adopted by LAS is framed in relation to rights of Arab citizens or Arabs. There is very little attention to and recognition of rights of non-Arabs, including non-citizens. This is pertinent as some Arab countries, especially in the Gulf, have a large number of migrant workers. Also, ethnic and religious minorities, who may also not be Arab citizens, live in many parts of Arab countries. As discussed above, the Arab Charter on Human Rights limits several of its rights to citizens, rather than everyone within the jurisdiction of the state.

The League of Arab States has its own refugee convention: The Arab Convention on the Status of Refugees in the Arab Countries (1994).⁶⁷ The Convention provides that states parties ‘shall undertake to exert every possible effort, to ensure that refugees are accorded a level of treatment no less than that accorded to foreign residents on their territories’,⁶⁸ and that states must not discriminate against refugees as to race, religion, gender and country of origin, political or social affiliation.⁶⁹ The Convention does not include any specific provisions relating to rights, including rights to education and health. A separate protocol to the Charter of LAS was adopted in 1965, ‘the Casablanca Protocol for the Treatment of Palestinian Refugees in Arab States’⁷⁰ to specifically regulate the status of Palestinian refugees. This protocol is considered to be one of the earliest regional attempts at refugee protection. The

65 A number of defamation cases, which resulted mostly in arbitrary detention and accompanied by various human rights violations, have been brought against critics of the state, journalists, bloggers and human rights activists. Concerns over these arrests and detentions have been raised by several UN mechanisms. See for example UNHCR, ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: Summary of cases transmitted to Governments and replies received’ (27 May 2011) UN Doc. A/HRC/17/27/Add.1.

66 See Art. 19 and the Cairo Institute for Human Rights Studies, ‘The Demise of “Defamation of Religions”? Human Rights Council Should Support Resolution On Religious Discrimination’ (22 March 2011), available at: <http://www.unhcr.org/refworld/pdfid/4d94294c2.pdf>, accessed on 1 April 2012.

67 Arab Convention on the Status of Refugees in the Arab Countries (adopted by LAS, 1994), available at: <http://www.unhcr.org/refworld/publisher,ARAB,,,4dd5123f2,0.html>, accessed on 14 July 2012.

68 Ibid. Art. 5.

69 Ibid. Art. 7.

70 Protocol for the Treatment of Palestinians in Arab States (adopted 11 September 1965), available at: <http://www.unhcr.org/refworld/country,,LAS,,SDN,456d621e2,460a2b252,0.html>, accessed on 14 July 2012.

protocol mainly regulates entry and freedom of movement, but does not include specific provisions on many civil, political, economic, social and cultural rights.

Both the 1994 Arab Convention on the Status of Refugees and the 1964 Casablanca Protocol provide narrower protection than that provided under the 1951 UN Convention Relating to the Status of Refugees,⁷¹ which in any case excludes from its protection Palestinian refugees who receive assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East.⁷² There is no treaty body that oversees the implementation of the Arab Convention on the Status of Refugees. According to Article 15 of the Convention, this is entrusted to the Secretary General of LAS, who may request information from states, including on laws, regulation and decisions. The Secretariat of LAS also includes a department that works on the situation of refugees.

3.6 Combating terrorism

The Arab Convention on the Suppression of Terrorism was adopted by the Council of Ministers of Justice in 1998.⁷³ To date it has been ratified by at least 16 of the member states. While it includes many provisions that are consistent with international law and standards, the Convention also includes many problematic provisions. It contains a very broad and widely criticised definition of terrorism.⁷⁴ It defines terrorism as:

Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize national resources.⁷⁵

Therefore, not only an act itself, but a threat of an act which may constitute an act of freedom of expression consistent with international law can be considered an act of terrorism. The Convention, while allowing arrest and detention, does not require that due process and fair trial guarantees be respected in respect of alleged terrorists. The Convention also allows for the imposition of the death penalty in cases that are not strictly limited to most serious crimes as is required by Article 6 of the ICCPR. It places further restrictions on freedom of expression and association. For example, provisions of the Convention could be interpreted to allow for censorship and interference with freedom of expression in the general civilian media, imposed

71 Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

72 Ibid. Art. 1(d) which states that the Convention 'shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.'

73 For a thorough analyses of the Arab Convention on the Suppression of Terrorism, including in relation to freedom of expression, see Amnesty International, 'The Arab Convention for the Suppression of Terrorism: A serious threat to human rights' (2002) IOR 51/001/2002. Available at: <http://www.amnesty.org/fr/library/asset/IO51/001/2002/en/d032efbb-d8a7-11dd-ad8c-f3d4445c118e/ior510012002en.html>, accessed on 14 July 2012.

74 Ibid.

75 Arab Convention on the Suppression of Terrorism (n. 61) Art. 2.

or required by what is called in the Convention the ‘security media services’, on the pretext of ‘security’, which is not defined. The treaty also requires exchange of information and cooperation between states in the field of combating terror.

The definition of terrorism in the Arab Convention and many of its provisions is a replica of Egyptian legislation on the matter.⁷⁶ The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has expressed concern over the Egyptian legislation, noting that the definition of terrorism in addition to violent acts extends to include ‘any threat or intimidation’ with the aim of ‘disturbing the peace or jeopardizing the safety and security of the society’ and contains a wide range of purposes, such as ‘to prevent or impede the public authorities in the performance of their work or thwart the application of the Constitution or of laws or regulations’.⁷⁷ The Rapporteur expresses concern that this definition, including the substantial and intentional elements as well as its purposes, is notably broad and runs the risk of including acts that do not comprise a sufficient relation to violent terrorist crimes. Of particular concern to the Special Rapporteur are the offences beyond most serious crimes which may subject to the death penalty, based on the definition. The Special Rapporteur also expressed concern over the impact of the legislation on restricting freedom of expression, as well as work of human rights defenders and critics of the state.

The Arab Convention on the Suppression of Terrorism does not have supervision or reporting mechanisms. The Council of Arab Ministers of the Interior were entrusted with monitoring the implementation of this Convention. It is reported that under the auspices of Council of Ministers of Interior, several meetings of ministers and experts were convened to discuss ways to improve both cooperation among them and national responses to terrorism, as well as ‘anti-terrorism panels’. For example, the Council hosted the sixth meeting of the Arab Anti-Terrorism Panel on 27–28 June 2008, where participants called on Arab states to implement the UN Global Counter-Terrorism Strategy, noting the emphasis the Strategy placed on capacity-building and technical assistance.⁷⁸ It is important to note that meetings of Council of Ministers of Interior are generally not accessible to NGOs, and the documentation and resolutions are not available on LAS’s website.

76 The Penal Code in Law No. 974 of 18 July 1992, Arts 86–102 establish a number of terrorism-related offences and their corresponding penalties. The definition of terrorism, as provided for in Art. 86, extends to include ‘any threat or intimidation’ with the aim of ‘disturbing the peace or jeopardizing the safety and security of the society’ in addition to violent acts. Furthermore, it contains a wide range of purposes, such as ‘to prevent or impede the public authorities in the performance of their work or thwart the application of the Constitution or of laws or regulations’. See more on this in UNHCR, ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’ (14 October 2009) UN Doc. A/HRC/13/37/Add.2, para. 11.

77 UNHCR, ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’ (14 October 2009) UN Doc. A/HRC/13/37/Add.2, para. 11.

78 E. Rosand, A. Millar, J. Ipe and M. Healey, ‘The UN Global Counter-Terrorism Strategy and Regional and Subregional Bodies: Strengthening a Critical Partnership’ (Center on Global Counterterrorism Cooperation, 2008), available at: http://www.globalct.org/images/content/pdf/reports/strengthening_a_critical_partnership.pdf, accessed on 14 July 2012. For UN Global Counter-Terrorism Strategy (2006) UN Doc. A/RES/60/288, see <http://www.un.org/terrorism/strategy-counter-terrorism.shtml>, accessed on 10 May 2013.

In 2006, the Council of Ministers of the Interior adopted a programme in the field of training and cooperation to combat terrorism that is largely based on the Arab Convention. The Arab Bureau of Criminal Policing, an LAS body, is mandated to collect regular information and reports from states about their implementation of the treaty and their efforts in this regard.

4 LAS and the Arab Spring

The position of LAS on human rights violations leads to, and in the context of the events during what is referred to as the 'Arab Spring' reveals, an inconsistent approach by the organisation to the various countries' human rights situations. Importantly, the Arab Spring reveals that the positions taken are not necessarily driven by a coherent and consistent human rights policy, but are largely politically motivated.⁷⁹ Further, what is very important to note is that the steps taken by LAS in the context of the increasing human rights violations concerns were taken by the political bodies of LAS, and not by the human rights bodies.

From the start of the events in Tunisia, Egypt and other Arab countries, several general statements were issued by the previous Secretary General, calling on states to respect freedom of speech and peaceful assembly, to resort to dialogue and to refrain from the use of excessive and lethal force towards the demonstrators who were exercising their legitimate rights.

4.1 Egypt

Initially, LAS called for an inquiry into violent events in Tahrir Square in Cairo, Egypt⁸⁰ when demonstrators were violently attacked and welcomed the announcement of President Mubarak that he would not run for another term of office. LAS then issued a statement congratulating the Egyptian people on their peaceful revolution, which is expected to have an impact on the rest of the region, the statement said.⁸¹

4.2 Libya⁸²

In February 2011, LAS suspended Libya's right to participate in all the bodies and meetings of the organisation in protest at violence against civilians.⁸³ On 12 March 2011, the Council of the League, meeting in an extraordinary session, while recognising the position of the Gulf

79 The Arab League's conflicting positions are believed by commentators to be due to the disproportionate long-standing influence of Saudi Arabia over the pan-Arab organisation; while in the past: regional policies were largely determined by an axis consisting of the US and Israel on one hand, and Egypt and Saudi Arabia on the other, with the former two using the latter two to implement their policies. See for example Inter Press Service, A. Morrow and K. Moussa Al-Omrani, 'Two-faced Arab League losing ground' (23 April 2011), available at: <http://www.ipsnews.net/2011/04/two-faced-arab-league-losing-ground/>, accessed on 14 July 2012.

80 Statement of the Secretary General of the League of Arab States, 3 February 2011.

81 Statement of the Secretary General of the League of Arab States, 3 February 2011.

82 The reaction of LAS towards Libya's emerging situation was different from that of Tunisia and Egypt. In addition to the reaction of the Libyan Regime to demonstrators with brutal force, at the time of the revolution in 2011, the Libyan leader Muammar al-Qaddafi had made an enemy of almost every Arab regime, and Libyan authorities have historically stood against many initiatives within LAS.

83 LAS Council Statement no. 136, Extraordinary Session, 22 February 2011.

Cooperation Council (GCC), the European Union and the African Union on the situation in Libya, and on basis of the recent previous resolution of LAS on the Libya, decided to ask the UN Security Council to impose a 'no-fly zone' as a preventative measure to protect the civilians. The Council also decided that LAS will cooperate and coordinate with the Interim National Council.⁸⁴

Full membership status was restored on 27 August 2011 when the Libyan Transitional Council was considered the representative of the Libyan people in LAS.⁸⁵ UN Security Council Resolution 1973, which builds on LAS resolutions, authorises 'all necessary measures' to protect civilians in Libya, while excluding a foreign occupation force of any form on any part of Libyan territory.⁸⁶ A coalition of North Atlantic Treaty Organization (NATO) allies and Arab partners began an operation which is said to be for 'enforcing an arms embargo, maintaining a no-fly zone and protecting civilians and civilian populated areas from attack or the threat of attack in Libya'.⁸⁷

4.3 Bahrain

The Council approved the initiative of the King of Bahrain to resolve conflict through dialogue, rejected any foreign interference in its internal affairs, but justified the entry of the Gulf Shield Forces (primarily from Saudi Arabia) into Bahrain on the basis of the joint security and defence agreement between GCC members. LAS did not condemn the excessive use of force against demonstrators. It only expressed its sorrow for the falling of victims.⁸⁸ LAS welcomed the establishment of the Bahrain Independent Commission of Inquiry but did not comment on the outcome of the Commission's investigation, conclusions and report, which has blamed the government for the use of lethal force, as well as pointing to the shared responsibility of the government and the opposition in the escalation of events.⁸⁹

84 LAS Council Resolution 7360, Extraordinary Session, 12 March 2011.

85 LAS Council Resolution 7370, Extraordinary Session, 27 August 2011.

86 UNSC Res. 1973 (17 March 2011) UN Doc. S/RES/1973.

87 See NATO, 'NATO and Libya', available at http://www.nato.int/cps/en/natolive/topics_71652.htm, accessed on 14 July 2012. It is argued that that the decisions taken against Libya within LAS were to facilitate other interests, mainly of NATO, which wanted to avoid the Iraq scenario. This is why it was essential for NATO to have the Arab decisions and backing first so that it could say that it was only implementing the wish of Arab governments.

88 See Agence France-Presse, 'Arab uprisings put off Baghdad summit until 2012' (5 May 2011): 'An Arab summit due to be held in Baghdad next week has been postponed until March 2012, the Arab League chief and Iraq's foreign minister announced on Thursday, after Gulf calls for it to be scrapped'.

89 The Independent Commission of Inquiry concluded that, 'there is no doubt that what occurred in February/March [2011], and subsequently, was the result of an escalating process in which both the Government and the opposition have their share of responsibility in allowing events to unfold as they did.' The Commission adds that '[t]he forceful confrontation of demonstrators involving the use of lethal force and resort to a heavy deployment of Public Security Forces led to the death of civilians. This caused a marked increase in the number of persons participating in protests and led to a palpable escalation in their demands.' See 'Report of the Bahrain Independent Commission of Inquiry' (Manama, Bahrain, 23 November 2011) paras 1690–91. Available at <http://www.bici.org.bh/BICireportEN.pdf>, accessed on 14 July 2012.

4.4 Yemen

LAS's position on Yemen has been weak, calling for a peaceful transition of power, condemning 'crimes against civilians' and requesting concerted efforts to safeguard national unity and the right to freedom of expression.⁹⁰ On 23 March 2011, the LAS Council condemned 'crimes against civilians' in Yemen and urged the government to deal with the people's demands in a 'peaceful manner', called for concerted efforts to safeguard national unity and the right to free expression. A call for dialogue and 'democratic methods' to deal with the demands of the Yemeni people in a peaceful manner was also launched.⁹¹

In April 2012, LAS announced its support for the initiative of the GCC to reach a peaceful solution to the crisis in Yemen. This marked a setback to international justice as the GCC initiative embodied in it a formula for impunity for President Saleh, where he was allowed to leave the country in exchange for transfer of power, with guarantees that he would not be brought to justice.⁹²

4.5 Syria

LAS met in relation to the situation of Syria in a number of regular and irregular sessions, considered a record for LAS as the bodies of the organisation have never considered the human rights situation in a member state so frequently. The approach of LAS towards Syria was more elaborate and marks a shift towards a more proactive role. Beyond condemnation of the use of lethal force and calls for respect for freedom of speech and peaceful assembly, LAS initially approved a four-step agreement with Russia which included: a call for cessation of violence by all parties; the acceptance of an independent monitoring mechanism; the rejection of international intervention; and enabling access to humanitarian assistance.

In October 2011, LAS agreed with the Syrian President a plan which called for: the cessation of violence by all parties; release of all detainees arrested in the context of the crisis; removal of all arms from residential areas; and allowing LAS organisations and all media to access Syria freely.⁹³ In November 2011, in the light of Syria's lack of cooperation with the above the LAS Council voted to suspend Syria's right to participate in its meetings and impose sanctions if the Syrian regime failed to stop violence against protesters. The same resolution provided for the imposition of economic and political sanctions.⁹⁴

LAS decided to send an observer mission to Syria,⁹⁵ which was widely criticised by NGOs and some LAS bodies including the Parliament and the Arab Human Rights Committee for lacking clear guidance and equipment. The Council also adopted a resolution in which it asked the Secretary General to contact international organisations concerned with human rights, 'including the United Nations', if the bloodshed in Syria continued.⁹⁶ On 12 February 2012, the Council of LAS adopted a resolution in which it called on the UN Security Council to adopt a resolution to deploy an Arab–International peacekeeping force to oversee a

90 LAS Council Statement 140, 22 March 2011.

91 LAS Council Resolution 7597, Regular Session 139, 6 March 2013.

92 LAS Summit Decision 555, Regular Session 23, 29 March 2012.

93 LAS Council Resolution 7436, Irregular Session, 2 November 2011.

94 LAS Council Resolution 7438, Extraordinary Session, 12 November 2011.

95 Pursuant to LAS Council Resolution 7438, Extraordinary Session, 12 November 2011.

96 LAS Council Resolution 7438, 12 November 2011, para. 2.

ceasefire agreement.⁹⁷ The same resolution affirms the continuation of the economic blockade which LAS adopted against Syria, and ends the mandate of its observer mission. By June 2012, the report of the mission had not been made public. The resolution also affirms that crimes committed by the government regime and forces are crimes under international law that must be punished.

On 23 February 2012, Kofi Annan was appointed Joint Special Envoy of the UN and LAS to provide good offices aimed at bringing an end to all violence and human rights violations, and promoting a peaceful solution to the Syrian crisis.⁹⁸ As annexed to Security Council Resolution 2042 of 14 April 2012, the Security Council adopted the six-point plan proposed by the Joint Envoy.⁹⁹ These requirements included that the Syrian Government ensure timely provision of humanitarian assistance; intensify the pace and scale of release of arbitrarily detained persons; ensure freedom of movement throughout the country for journalists; and respect freedom of association and the right to demonstrate peacefully.

On 21 April 2012, the Security Council adopted Resolution 2043 that set up the UN Supervision Mission in Syria (UNSMIS), initially for a period of 90 days and a deployment of up to 300 unarmed military observers and a civilian component.¹⁰⁰ However, on 16 June 2012, UNSMIS has suspended its activities owing to an intensification and escalation of armed violence across the country which was deemed to be limiting ability of the Mission to observe, verify, report as well as assist in local dialogue and stability projects as specified in its mandate.

On 3 July, the Arab League hosted a conference in Cairo for the various opposition groups in Syria. The participants affirmed that the political solution for the crisis in Syria starts with the Syrian president and those close to him leaving power. Participants affirmed their support to the Free Syrian Army, and to work towards unifying the leadership of the revolution.

In a very important and unprecedented decision, the Council then called on the Syrian president to leave power. It offered the assistance of the Arab League in securing for him and his family a safe exit. It called for forming a transitional government to lead a peaceful democratic transition.¹⁰¹

In a subsequent resolution the Council considered the crimes committed by the Syrian regime and its militias known as the Shabihha as crimes against humanity and called on the UN Security Council to ensure bringing those responsible to justice. At the same time it condemned violence and crimes against civilians by any party. The Council also welcomed the appointment of al-Akhdar al-Ibrahimi as a joint UN–Arab League envoy.¹⁰²

In December 2012, in a statement, the Arab League Ministerial Committee on Syria welcomed the outcome of the meeting held by the Syrian National Coalition for the Revolution Forces and the Syrian opposition in Cairo and encouraged the establishment of a unified military command of the forces of the Syrian revolution, as well as establishing a framework for joint action between all the revolutionary actors through dialogue in order to manage the transition period as the legitimate representative of the Syrian people.¹⁰³

In 2013, the League started to focus more on the issue of Syrian refugees. In January 2013, the League stressed the importance of implementation of previous resolutions for the support

97 LAS Council Resolution 7446, Extraordinary Session, 12 February 2012.

98 In accordance with UNGA Res. 66/253 (16 February 2011) UN Doc A/RES/66/253.

99 UNSC Res. 2042 (14 April 2012) UN Doc. S/RES/2042.

100 UNSC Res. 2043 (21 April 2012) UN Doc. S/RES/2043.

101 LAS Council Resolution 7510, Irregular Session, 22 July 2012.

102 LAS Council Resolution 7523, Regular Session 138, 5 September 2012.

103 Statement by the Arab Ministerial Committee on the situation in Syria 9 December 2012.

of neighbouring countries in their efforts to host and assist Syrian refugees, asked the Secretariat of LAS to coordinate with relevant UN agencies and bodies and with other relevant bodies to support Syrian refugees in order to ensure the provision of food, medical, health, water and other such services, and reaffirmed the importance of protection of Palestinian refugees.¹⁰⁴

In the subsequent Regular session of the Council in March 2013, the Council asked the Syrian National Coalition to form an Executive Committee in order to occupy the seat of Syria in the League of Arab States and all its bodies, and to represent Syria in the Summit of LAS in Doha on 26–27 March 2013. An Arab League statement issued at the end of the meeting said that Arab states are free to offer military aid to rebels fighting President Assad. This was not included in the resolution itself.¹⁰⁵

In the Summit of the League in March 2013, the Summit decided that the National Coalition for Syrian Revolutionary and Opposition Forces, as the sole representative of the Arab League and the counterpart of negotiations and discussions with the Arab League, will occupy the Seat of Syria in the Arab League and the meetings of its bodies until elections are carried to choose a representative government.¹⁰⁶

5 Conclusion

It is important to understand LAS as an organisation that was formed by and consists of recently independent Arab states which lacked experience in governance. They were keen to maintain balance between intergovernmental cooperation, state sovereignty and equality between states. This therefore resulted in a policy of decision-making by consensus, which has stalled the organisation for many decades until it was changed in 2004–05. Together with possible changes in regional dynamics, this has contributed to the slow reform of LAS. The dynamics within the organisation seem to be changing, and new steps have been taken, especially in the last few years. Although predominantly driven by political interests, these steps and changes will influence the direction of the organisation in the future. It is not clear how much these will be translated into coherent human rights promotion and protection policies, and if so, how long will that take.

The movement of LAS towards more consistency with international law, human rights and the practice of other intergovernmental organisations will depend on the internal political dynamics in the region, and on the level of influence other bodies are willing to exert on LAS to catch up and not lag behind. Only time will tell.

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