

The Arab Human Rights System

Annex to the ABC of Human Rights for Development Cooperation

Introduction

Human rights are protected at the global, regional and national level. While the human rights protection system of the United Nations (UN) seeks to provide protection at the global level, regional organisations have devised mechanisms to address human rights concerns and particularities at the regional level. The UN actively supports these regional processes and stresses their complementary character.

This publication seeks to inform development practitioners about the little known Arab human rights system. This system is established under the auspices of the Arab League and the Organization of Islamic Cooperation (OIC), with a partly overlapping membership of 22 and 57 states respectively. Particularly the Arab League is low profile with respect to making its efforts at human rights protection public; the respective websites are hard to find and navigate even for the native speaker, often outdated or undated, and devoid of core content.

This e-info tool is an annex to the [ABC of Human Rights for Development Cooperation](#) (PDF, 377 KB) which provides information about the core United Nations (UN) human rights instruments.

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1. The Arab League

Founded in 1945, the Arab League has 22 members, with Syria suspended since 2011. Next to their international obligations, the League's members are bound by a web of regional treaties, regulating common standards and cooperation.

Formal acceptance of international treaties is high among Arab States (see Box 3). However, when it comes to controversial human rights issues, for example the abolition of the death penalty or the rights of migrant workers and the obligations of states to prevent and punish enforced disappearances, only very few Arab League member states have entered into those commitments. The same holds true for all international human rights treaties or provisions that enable individuals to submit individual complaints to the UN treaty bodies or that establish national structures of monitoring the implementation of a respective treaty. For example, only four members have ratified the treaty obliging them to monitor all places of detention; eight committed themselves to monitor the implementation of the Convention on the Rights of Persons with Disabilities.

Core Human Rights Treaties

Arab Charter on Human Rights

The 2004 [Arab Charter on Human Rights](#) (PDF, 85 KB) is the main Arab League treaty in the field of human rights, and entered into force in 2008. Currently, it is ratified by 14 states. Its 1994 predecessor never entered into force for lack of ratifications.

Quite unlike other Arab League treaties, the 2004 Charter was drafted with participation of experts and civil society. A draft prepared by a Committee of Experts was presented to the Permanent Arab Committee on Human Rights (on which see more on page 5) for adoption and referral to the Arab League Council. However, the Permanent Committee made fundamental changes to the initial draft, thus failing to meet international standards in a couple of areas.

Overall, the Charter is rightly considered an improvement to its predecessor since it includes a number of human rights which were missing in the previous one:

- Broad anti-discrimination clause, including the prohibition on ground of disabilities (Article 3 (1)); obligation of states to take measures for effective equality, and extra measures for equality between men and women (Article 3 (3))
- Freedom to manifest religion or beliefs (Article 30), protection of minorities' cultural rights (Article 25)
- Redress, compensation and rehabilitation for victims of torture or cruel treatment (Article 8 (2))
- Rights to participate in public life spelled out more clearly, including freedom to form associations etc. (Article 24)
- No derogation possible for a large number of rights, for example fair trial guarantees cannot be lifted in times of emergency, including the right to challenge detention before a competent court (Articles 13, 14 (6))

On the other hand, the Charter has severe shortcomings. While it prohibits torture and cruel, inhuman, or degrading treatment, it does not rule out cruel, inhuman, or degrading punishments like lashing, or amputation of limbs which are practiced in a small number of Arab League member states. The Charter limits the death penalty to the most serious crimes, and prohibits the death penalty against children below the age of 18 – unless national law permits it. Three Arab League states (Saudi Arabia, Sudan and Yemen) permit and execute the death penalty on minors. Another shortcoming relates to freedom of religion and belief: It can be circumscribed by law, implicitly referring to the right to leave one's religion which is either legally or socially impossible for Muslims in most Arab States. Migrant workers will be protected 'in accordance with the laws in force', thus condoning the discrimination of migrant workers in the Arab Gulf states.



The Charter limits a number of key rights to citizens – such as all rights related to pursuing a political activity, the rights to access free health care and education, and the rights to work and social protection. Only the rights to property, to an adequate standard of living, to health and education, and to take part in cultural life are guaranteed to all persons living on the respective territory. While the Arab Charter recognizes the right to request asylum (Article 28), there is – as in international treaties – no state obligation to grant asylum.

Many of these shortcomings can be remedied by Article 43: Where the Charter falls below the obligations member states have accepted by ratification of international or other regional treaties, like the [African Charter on Human and People's Rights](#), the international and regional obligations trump the Arab Charter. Where national standards offer a higher level of protection than the provisions in the Charter, national law prevails. What has not been effectively remedied so far, is the Charter's lack of a protection mechanism (see page 4). Furthermore, Article 52 permits the development of optional protocols – this can also be a tool for improving the regional protection level.

Charter of the Rights of the Arab Child

[The Charter of the Rights of the Arab Child](#) (PDF, 362 KB, Arabic,) was issued in 1983, and appears to be currently [ratified by seven states](#) (PDF, 53 KB, Arabic). As evidenced by its title, it does not cover minority children living under the jurisdiction of Arab states, for example children of Kurdish or Amazigh background.

The Charter lays out the main rights for the Arab child including the right to be raised in a family, the right to identity and nationality, the right to education, health care, and social security. To guarantee these rights, states are obliged to strengthen the legislative framework; through amending the relevant laws affecting children, and comprehensive policies and programmes to benefit children's development and well-being. All measures should be guided by the best interest of the child. In 2009, the Permanent Arab Committee on Human Rights (see page 5) discussed updating the Charter,

but that appears to have dropped off the League's agenda. The Charter establishes a regular reporting procedure to the General Secretariat (Article 50), without any other specifications. Reports cannot be found online.

Unrelated to the Charter, the League has an Arab Childhood Committee, assisted by its [Technical Secretariat for Women, Family and Childhood](#) (Arabic). It is responsible for all child-related plans and programmes and implements activities such as regional conferences and workshops on women, family and child related issues. The Committee submits reports on the status and condition of Arab children and on member states' programmes and activities regarding children.

Other Relevant Arab League Treaties

Only nine member states of the Arab League have ratified or accessed the 1951 Geneva Convention on the Status of Refugees and the 1967 Protocol. Among them is Egypt, but none of the other Arab States currently hosting large numbers of persons in need of protection. Regional refugee protection is likewise weak: [The Arab Convention on the Status of Refugees in Arab Countries](#) of 1994 did not enter into force till now. The Arab League has been engaged in a process of redrafting the Convention to be consistent with international standards, in close collaboration with UN High Commissioner for Refugees. But a revised draft that went to a committee of representatives of interested Arab states in 2012 has not resurfaced. The [1965 Casablanca Protocol](#) calls upon member states to take the necessary measures to guarantee to Palestinians full residency rights, freedom of movement within and among Arab countries, and the right to work on par with citizens. Saudi-Arabia, Morocco and Tunisia have not ratified the Protocol, and in practice, the rights of Palestinians living in Arab states are largely restricted by national laws.

The [Arab Convention on the Suppression of Terrorism](#), adopted in 1998 and ratified by 16 member states, undermines human rights protection in the region. Among the Convention's problematic provisions is an overly broad definition of terrorism. The Convention establishes common procedures



for intelligence and judicial cooperation, with no guarantees for due process or non-refoulement.

Monitoring and Enforcement Mechanisms

The Arab regional human rights system is weak on monitoring and enforcement mechanisms. Nevertheless, there have been some encouraging steps; but it will take time and resources – as well as political will and popular pressure – to improve these mechanisms. With the Arab League in dire financial straits and crippled by political infighting, this may take a while.

Arab Human Rights Committee

The Charter established the [Arab Human Rights Committee](#) (Arabic) as a treaty body with seven members, to be elected every four years for a maximum of two terms. At the time of writing, only one of the members was a woman. Until 2016, the committee has discussed [state reports](#) (Arabic) of ten countries, and issued [concluding observations](#) (Arabic), as the international treaty bodies do. Unlike most of the latter, the Arab Human Rights Committee does not have the authority to receive individual complaints regarding human rights violations committed by member states. Committee members are elected by member states to serve as independent experts, however, a number of the experts perform governmental functions: One member is the current Yemeni minister for human rights, another an acting director of the human rights department in the UAE Ministry of Foreign Affairs.

Just as in the international human rights system (see [The ABC of Human Rights for Development Cooperation](#)), the Arab Human Rights Committee issues Concluding Observations regarding the human rights situation in a member country. Since the Arab Concluding Observations need to cover

all human rights guaranteed in the Arab Charter, they do not address each right in depth as the specialized international treaty bodies do. This makes their concluding observations often less precise and detailed than the ones by international treaty bodies.

Compare, for example, the Arab Human Rights Committee's [Concluding Observations on Lebanon](#) (PDF, 394 KB, Arabic) 'Continue their effort to enable persons with disabilities to enjoy a dignified life' (paragraph 79) with the [2016 recommendations by the Committee on Economic, Social and Cultural Rights to Lebanon](#) on persons living with disabilities: 'Adopt rights-based policies and programs for persons with disabilities to (a) Bring the definition of disability in law [...] into conformity with international standards; (b) Ensure that sufficient resources are allocated to the special fund for persons with disabilities [...]; (c) Ensure that persons with disabilities have equal access to education and training, including by promoting inclusive education.' (paragraph 22). In its [2012 Concluding Observation to Algeria](#) (PDF, 449 KB, Arabic), the Arab Human Rights Committee focuses on 'effective equality of men and women to hold leadership positions in public office' while the [Committee on Economic, Social and Cultural Rights recommended in 2010](#) a full range of measures to abolish the entrenched discrimination of women, and not only one of its symptoms.

Since the Charter itself limits certain rights to citizens (see above), the Concluding Observations of the Arab Human Rights Committee rarely address the rights of refugees. See, for example, the [2016 recommendations by the Committee on Economic, Social and Cultural Rights to Lebanon](#) focusing inter alia Syrian and Palestine refugees and cultural rights. The Committee includes recommendations on a comprehensive legal framework for combating discrimination, conducting campaigns to combat prejudice and stigma against members of marginalized groups, pursuing a rights-based



approach in its provision of support to refugees and protecting and promoting the cultural rights of all minorities (paragraphs 19, 24, 65). The [Arab Human Rights Committee stresses in 2015](#) (PDF, 394 KB, Arabic) along the same line that the political system in Lebanon leads to de-facto discrimination and exclusion, and recommends Lebanon ‘to take legal and institutional measures to ensure equality and equality of opportunity on the basis of citizenship’. With respect to non-citizens, it recommends to lift restrictions on ownership of private property (paragraphs 46, 69).

The Arab Human Rights Committee regularly chides member states for preparation of state reports without participation of civil society, for their failure to supply statistics and the lack of legal domestication of and awareness-raising on the Arab Charter.

Arab Court of Human Rights

In 2014, the Ministerial Council of the Arab League adopted the [Statute of an Arab Human Rights Court](#) and opened it for ratification. As of this writing, only Saudi Arabia ratified the statute. The Arab Court shall be constituted of seven judges and the court shall be based in Bahrain, a decision which was highly criticized by human rights NGOs due to the country’s record of human rights violations. The statute restricts access to the court to state parties and to accredited NGOs permitted by the state party to submit complaints on behalf of individuals. Procedures for the nomination and election of judges are insufficient to guarantee that judges sit in their individual capacity and not as representatives of their home state, as a [2015 analysis by the International Commission for Jurists](#) criticizes. On the other hand, Article 21 of the statute gives the court some space to contribute to the reform of the Arab human rights system. It allows the court to issue opinions regarding any legal issue relating to the Arab Human Rights Charter or to any other Arab convention on human rights, based

on the request of the League of the Arab State’s Assembly or any of the subsidiary organization or authority. In addition, each judge is entitled to express dissenting opinions from the majority.

Permanent Arab Committee on Human Rights

The [Permanent Arab Committee on Human Rights](#) (also translated as the Arab Human Rights Commission) is the main political human rights body of the Arab League, established in 1968. Each member state of the Arab League sends one representative. Giving due consideration to expertise in human rights while nominating the members is recommended by the Committee’s [internal regulations](#) (PDF, 100 KB, Arabic), however this is not mandatory.

All human rights related treaties are referred to the Permanent Committee before they are adopted by the Council of Ministers of Foreign Affairs. The Committee has an advisory and regulatory role; it can provide recommendations on human rights related issues, promote the implementation of human rights treaties, and regulate cooperation between the Arab members in the field of human rights. NGOs and National Human Rights Institutions may attend its sessions if granted observer status. Observer status requires NGOs to be registered in their home countries (which are increasingly restrictive, see Box 2) and with the Committee. According to (undated) information from the Arab League, only 22 NGOs and one National Human Rights Institution (Morocco) had [observer status](#) (Arabic). [Reports of the Committee’s sessions](#) are only available in Arabic. In the 2017 [February session](#) (PDF, 178 KB, Arabic) members were requested to submit their comments to an Arab Human Rights Strategy (not available online). The Permanent Committee has a technical secretariat, the [Human Rights Department](#). It prepares the Committee’s reports and recommendations, and arranges meetings on thematic or general human rights issues.



There have been numerous calls for reform of the Arab League, particularly after the Arab uprisings when human rights demands of Arabs became heard world-wide. Among the substantive reform demands was the inclusion of human rights in the League's Charter. Amendments proposed in 2015 recognize human rights as one of the League's founding principles. Provisions on the [Arab Parliament](#) and the Arab Human Rights Court were also integrated in the proposed charter to reflect existing decisions by the Arab League Summit. Seemingly, the 2016 and [2017 Summit](#) did not decide on any amendments.

National Human Rights Institutions and their Arab Network

Most Arab states have accredited National Human Rights Institutions with a mandate to promote and protect human rights in their respective countries. They also have the mandate to receive individual complaints, which they may refer to law enforcement or the executive. Only five Arab National Human Rights Institutions are accredited by the Global Alliance of National Human Rights Institutions (GANHRI) as in conformity with the Paris Principles (A-status), that is they act independent from the government, are granted sufficient financial resources by the government to cover at least their most basic functions and appointment to the respective institution follows a fair and transparent procedure.

All Arab National Human Rights Institutions are members of regional networks of National Institutions in [Asia-Pacific](#) and [Africa](#). In addition, they have established the [Arab Network for National Human Rights Institutions](#) in 2011. The Arab Network also comprises the National Institutions of Djibouti and Sudan, which have not submitted themselves to accreditation by GANHRI.

Box 1: Arab National Human Rights Institutions, Status and Date of Last Accreditation

Algeria, National Human Rights Commission	B, Oct. 2010
Egypt, National Council for Human Rights	A, Oct. 2006
Morocco, National Human Rights Council	A, Nov. 2015
The Palestinian Independent Commission for Citizens' Rights	A, Nov. 2015
Qatar, National Human Rights Committee	A, Nov. 2015
Jordan, National Center for Human Rights	A, Nov. 2016
Bahrain, National Institution for Human Rights	B, May 2016
Iraq, High Commission for Human Rights (website currently inoperative)	B, Mar. 2015
Oman, Human Rights Commission	B, Nov. 2013
Libya, National Council for Civil Liberties and Human Rights (website currently inoperative)	B, Oct. 2014
Tunisia, High Committee for Human Rights and Fundamental Freedoms	B, Nov. 2009

Data: GANHRI, [Status of Accreditation Chart](#) (PDF, 444KB), May 2017

According to its [statute](#), the Network aims at

- strengthening and promoting human rights through the consolidation of Arab National Institutions, so that they can effectively play their role in the protection and respect for human rights;
- promoting and disseminating the culture of human rights among citizens, stakeholders, in the public and private sectors, and civil society associations;
- advising on harmonization of national legislation with the provisions of international human rights conventions, ratified by the Arab countries; and



- urging states to interact with the international and regional human rights treaty bodies.

The shrinking space for civil society in most Arab League states also affects how National Human Rights Institutions can act but as National Institutions, with a basis in the constitution or in law, they are less vulnerable than non-governmental organisations. As Box 2 shows, civil society is in dire straits, with most governments either having closed civil society space or repressing it.

Box 2: The space for civil society in Arab League member states is ...

narrowed	on the Comores,
obstructed	in Jordan, Kuwait, Lebanon, Morocco, Tunisia,
repressed	in Algeria, Djibouti, Egypt, Iraq, Mauritania, Oman, State of Palestine, Qatar, Yemen,
closed	in Libya, Somalia, Sudan, Syria, United Arab Emirates, Saudi Arabia.

Source: Data from [Civicus Civil Society Monitor 2017](#)

To close civil society space, governments resort to different means – they either cut off funding from abroad, close down human rights groups, claim administrative irregularities, or defame, detain and imprison human rights defenders, in particular journalists or leaders of social movements.

Relevance for Development Cooperation

The Arab regional system for human rights protection is at an early stage but has come a long way. With the region in general torn apart by conflict, authoritarianism, and inefficient human rights protection at the country level, a regional protection system is more important than ever.

In policy dialogue, development cooperation can refer to commitments Arab states have undertaken under the Arab Charter, and the respective recommendations by the Committee. In sector initiatives, for example in the field of good governance including human rights, development cooperation can foster regional and sub-regional cooperation, for example of Arab National Human Rights Institutions and the respective networks, while at the same time supporting the linkage with the Arab League's human rights mechanisms. The closed or narrow space for civil society is a delicate challenge for development cooperation – cooperation with civil society and human rights defenders may endanger them, and non-cooperation may weaken the few remaining voices for human rights.

2. Organization of Islamic Cooperation (OIC)

The OIC is a faith-based intergovernmental organization founded in 1969 as an attempt to strengthen solidarity among Muslim countries. It now comprises 57 member states. As the Arab League, the OIC has devised a web of treaties regulating cooperation in the political, economic, cultural and scientific areas. The OIC is headquartered in Saudi-Arabia.

Core Human Rights Instruments

Cairo Declaration on Human Rights in Islam

The [Cairo Declaration on Human Rights in Islam](#) (PDF, 1 MB) was issued by the Organization of Islamic Cooperation (OIC) in 1990 and is its main reference document for human rights. It is a non-binding declaration; and serves as general guidance for the OIC member states in the field of human rights. It is thus not comparable to the Universal Declaration on Human Rights, parts of which constitute customary international law.



The Cairo Declaration makes all rights and freedoms subject to Islamic law, and defines the latter as the only source for explanation or clarification with respect to the provisions in the declaration (Articles 24, 25). The declaration does not specify what school of Islamic law shall be used and who has the authority to clarify the declaration; given the fact that there is a range of opinions between the different Islamic schools and across time regarding the freedoms and rights in Islam, it is nearly impossible to know which rights and freedoms are protected to what degree under the declaration.

While the declaration guarantees women's equal dignity and specific rights and duties (Article 6), it declares the husband responsible for the support and welfare of the family (Article 5 b). Women enjoy full equality with respect to the right to work (Article 13). Freedom of movement is guaranteed, within the realm of Islamic Law, and countries 'shall be obliged to provide protection to the asylum-seeker until his safety has been attained, unless asylum is motivated by committing an act regarded by the Shari'ah as a crime.' (Article 12).

Covenant on the Rights of the Child in Islam

The OIC [Covenant on the Rights of the Child in Islam](#) was adopted in June 2005. It has not entered into force, for lack of ratifications. The Covenant reflects the OIC efforts towards promoting child protection and development, with a strong emphasis on children's right to education, including compulsory free primary and secondary education as one of its goals. One of the three state obligations under the Covenant is the abolition of harmful traditional practices (Article 4 (3)). The Covenant appears to mainly aim at guaranteeing that all children can have an Islamic upbringing, under the supervision of their families and the state.

Monitoring and Enforcement Mechanisms

The Covenant of the Rights of the Child in Islam envisions an Islamic committee on the rights of the child, to meet bi-annually to discuss progress in implementation of the Covenant (Article 45). Since the Covenant has not been ratified by a sufficient number of OIC members, no such committee has been established.

Independent Permanent Human Rights Commission

[The Independent Permanent Human Rights Commission](#) (IPHRC) of the OIC was established in June 2011, with the adoption of its [Statute](#) (PDF, 55 KB). It consists of 18 persons (six from each Arab, African and Asian member states), not all of them with human rights expertise, and many holding government office. The IPHRC is charged with promoting human rights among the member states. It has a consultative role and it presents recommendations to the OIC Council of Foreign Ministers, carries out [studies on human rights issues](#) and can suggest new conventions. It also promotes cooperation in the field of human rights and exchange of information among member states through technical cooperation and awareness raising activities. The IPHRC has some specific mandates given to it by the Council of Foreign Ministers such as [reporting on islamophobia and incitement to hatred](#) (PDF, 356 KB) as well as monitoring the human rights situation of Muslim minorities in Kashmir, Myanmar and the Central African Republic. Members of the IPHRC regularly conduct seminars in the context of international human rights debates, e.g. on religious freedom/incitement to hatred and traditional values.



Relevance for Development Cooperation

The OIC is a faith-based international organization and as such does not – and probably will not – have a binding human rights mechanism. However, the OIC is an influential actor, in the international human rights system, with several initiatives in the framework of the UN Human Rights Council regarding in particular ‘traditional values’ (read: resistance to the rights of LGBTI persons) and freedom of expression/hate speech with respect to religion. It is also an influential actor on the inner Islamic discourse on human rights, and its voice tends to be louder than the voice of actors less well resourced. Development cooperation should thus engage with the OIC human rights discourse, for example take up the organization on their aims with respect to children’s and women’s rights, and at the same time also support the debate among Muslims about human rights, mainly driven by human rights defenders and independent NGOs.

Status of Ratification of Nine International Human Rights Treaties by Arab League Member States

Box 3: Status of Ratification of Nine International Human Rights Treaties by Arab League Member States									
	Racial Dis-crimination (CERD)	Civil & Political Rights (CCPR)	Econom-ic, So-cial&Cul-tural Rights (CESCR)	Torture and inhuman treat-ment (CAT)	Rights of women (CEDAW)	Rights of children (CRC)	Rights of migrant workers (CMW)	Rights of persons with dis-abilities (CRPD)	Enforced Disap-pearance (CED)
Algeria	x	x	x	x	x	x	x	x	/
Bahrain	x	x	x	x	x	x	/	x	/
Comoros	x	/	/	/	x	x	/	x	/
Djibouti	x	x	x	x	x	x	/	x	/
Egypt	x	x	x	x	x	x	x	x	/
Iraq	x	x	x	x	x	x	/	x	x
Jordan	x	x	x	X	x	x	/	x	/
Kuwait	x	x	x	X	x	x	/	x	/
Lebanon	x	x	x	X	x	x	/	/	/
Libya	x	x	x	X	x	x	x	/	/
Mauritania	x	x	x	X	x	x	x	x	x
Morocco	x	x	x	x	x	x	x	x	x
Oman	x	/	/	/	x	x	/	x	/
Palestine/ OPT	x	x	x	x	x	x	/	x	/
Qatar	x	/	/	x	x	x	/	x	/
Saudi Arabia	x	/	/	x	x	x	/	x	/
Somalia	x	x	x	x	/	x	/	/	/
Sudan	x	x	x	/	/	x	/	x	/
Syrian Arab Republic	x	x	x	x	x	x	x	x	/
Tunisia	x	x	x	x	x	x	/	x	x
United Arab Emirates	x	/	/	x	x	x	/	x	/
Yemen	x	x	x	x	x	x	/	x	/
Ratifications	22	17	17	19	20	22	6	19	4

Data: OHCHR, Status of Ratification, June 2017.

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