

fidh



# THE ARAB LEAGUE AND HUMAN RIGHTS: CHALLENGES AHEAD

Regional Seminar held in Cairo  
on 16-17 February 2013

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security



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# Introduction

The International Federation for Human Rights (FIDH), in cooperation with the Arab Organization for Human Rights (AOHR), the Cairo Institute for Human Rights Studies (CIHRS) and the Egyptian Initiative on Personal Rights (EIPR), organized a regional seminar in Cairo on 16 and 17 February 2013. This seminar gathered over 50 human rights defenders representing national, regional and international non-governmental organizations (NGOs), as well as human rights experts from different regional and universal human rights systems.

Participants gathered to discuss the challenges faced by the League of Arab States in enhancing the protection and promotion of human rights in the region, and to propose their vision for reforming and strengthening the human rights component of the League of Arab State (LAS)..

# Objective

The main objective of the seminar was to highlight challenges and perspectives on strengthening the protection mandate of the League of Arab States' political organs and the treaty body attached to the Arab Charter. Participants also discussed ways of enhancing interaction between the League of Arab States and independent civil society organizations. The seminar provided a useful opportunity for human rights defenders from the Middle East and North Africa (MENA) region to obtain information about the Arab Human Rights Committee, the treaty body attached to the Arab Charter on Human Rights, as well as other organs of the Arab League on the one hand and to develop concrete modalities of interaction between civil society and the LAS.

Indeed, one of the crucial assets of this seminar, in addition to bringing together human rights defenders from all States of the region, was the active involvement of experts from the African Commission (ACHPR) and Court on Human and Peoples' Rights (ACtHPR), the Inter-American Commission on Human Rights, the European Court of Human Rights, and UN experts. This enabled comparative analysis of procedures and practices to feed into all seminar activities. Last but not least, the seminar benefited the preparation and maneuvering of an ad hoc coalition of the main international and regional NGOs involved in efforts to strengthen the LAS protection system. In addition to the co-organizers (AOHR, CIHRS, EIPR, FIDH), other organizations involved in the seminar included: the International Commission of Jurists, the Arab Institute for Human Rights, the Euromed Network for Human Rights (REMDH), and Open Society Foundations. Moreover, Morocco's *Conseil national des droits de l'Homme* was involved throughout, thus bringing insight from a recently established and important national human rights institution.

Seminar activities were organized around the following axis:

- strengthening the capacity of FIDH members and partners to mobilise on reforming the Arab League;
- defining a strategy of action; and
- suggesting reforms through exchange of experience.

# Context/Background

The last few years have seen the League of Arab States constructively engage with a number of human rights situations in the region.

In February 2009, Amr Moussa, then Secretary General of the League of Arab States (LAS), established the Independent Fact-Finding Committee on Gaza to the LAS (hereafter “the Gaza Committee”) in the aftermath of the armed conflict between the State of Israel and Hamas in Gaza in December 2008 and January 2009.

The official task of the Gaza Committee, composed of six international experts led by Professor John Dugard from South Africa, was to act as an independent body to investigate and report violations of human rights and international humanitarian law that took place during “Operation Cast Lead”. This included the collation of information on responsibility for the commission of international crimes during the operation. The report was presented to the League of Arab States on 30 April 2009. The composition of the Gaza Committee was determined by extensive consultation with Palestinian human rights organizations who requested the involvement of renowned international human rights experts.

On 19 December 2011, the Syrian government agreed to allow foreign observers from the Arab League to monitor Syria’s progress in removing troops from protest areas, freeing political prisoners, and negotiating with dissidents. The mission was undertaken in accordance with the Arab League’s peace plan aimed at resolving the Syrian crisis, and monitors were dispatched and supported by the Arab League. Nabeel El Araby consulted a number of Arab NGOs, including the AOHR and CIHRS, after shadow consultation with FIDH, on the composition and mandate of the mission of observers. For the first mission of this type, the urgency of the situation excused the absence of a systematic approach to consultation, though such a process should definitely abide by clear and proper procedures of consultation in future.

That mission would not have taken place without the strong prior mobilisation of Arab League Member States. In the year 2011 alone, the Arab League, at the level of the Council of Foreign Ministers, issued 10 statements on the situation in Syria and convened several extra-ordinary

sessions before finally suspending Syria's membership and adopting a resolution imposing economic sanctions against Syria following the violent crackdown on the popular uprising.

These political developments are attributable in part (besides meetings with the Syrian opposition) to the advocacy activities of our organizations. Since April 2011, FIDH, Crisis Action, the CIHRS and AOHR have held several meetings with the Cabinet of the Secretary General and submitted position papers, persistently raising our concerns over the situation in Syria and urging the Arab League to take a strong stand to stop the killing of the civilian population. At first, we were told that "time was not ripe" for the Arab League to react because Bashar Al Assad continued to enjoy legitimacy in his country and the Arab States did not want to interfere in Syria's internal affairs. In addition, internal divisions were raging within the Arab League, with Sunni monarchies and post-revolutionary governments more eager to oppose Assad's regime than Shia-led governments and secular dictatorships. Soon, however, our insistence changed the frequency of the meetings and some of our concerns became part of internal discussions between LAS Member-States.

On 11 March 2011, the Arab League asked the UN Security Council to impose a no-fly zone over Libya in hopes of halting Gaddafi's attacks on his own people and protecting the civilian population. This extremely rare invitation for Western military forces to intervene on Arab territory was at the time qualified as an "extraordinary move" by the Arab League. It cleared the way for the United States and Europe to press for a strong Security Council resolution, countering objections from China and Russia, who traditionally oppose foreign intervention in internal disputes, and calling for accountability for the authors of "crimes against humanity".

These are but a few examples of how recent events in its Member States have forced the Arab League to resort to unprecedented and positive diplomatic steps to address humanitarian and human rights crises, even before the advent of the "Arab Spring". These strong measures mark a significant departure from the League's previous emphasis on the inviolability of its Members' national sovereignty, and have mostly taken place in consultation with civil society organisations.

Such positive developments in the face of crisis can only be welcomed. However, the lack of a systematic approach in this regard and the impossibility of relying on relevant mechanisms highlight the inadequacy of the system to respond efficiently to the needs of the region.

Bearing this in mind, and considering the tremendous changes that are currently taking place all over the Arab region, there is an unprecedented momentum for the Arab League to take up these contemporary challenges and undertake a role as a significant and efficient regional institution with a higher level of dedication to the promotion and protection of universally recognized human rights.

To contribute to the establishment of an effective Arab human rights system, structural reform of the different organs in charge of human rights issues is inevitable and greater interaction with independent civil society organizations should be encouraged at organic and political levels of the Arab League.

In early 2012, the Secretary General of the Arab League asked Mr. Lakhdar Brahimi<sup>1</sup> to consider reform of the organic structure of the League and to make recommendations on the enhancement of its interaction with the civil society organizations. Mr Brahimi consulted with several civil society organizations, including FIDH, during a private meeting on 22 January 2012.

By the end of September, the rapporteur for the Brahimi Committee suggested that he would be ready to share the main conclusions and recommendations of the report with a group of NGOs before the report was handed over to the Arab League. FIDH then held a one-day meeting in Cairo in October 2012, gathering 6 organizations<sup>2</sup> that have long been involved with the Arab League's developments.

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1. Former Algerian Foreign Minister, conflict mediator and UN diplomat; an expert in peacekeeping and post-conflict reconstruction.

2. The Cairo Institute for Human Rights Studies, Crisis Action, the International Commission of Justists, the Arab Organization for Human Rights, Human Rights and Information Training Center and the International Federation for Human Rights.



Discussions at the meeting focused on the challenges of Arab League reform as well on advocacy strategies, especially regarding interaction with civil society.

The October meeting was followed by a second strategic meeting supported by OSI/MENA in cooperation with AOHR and CIHRS. This meeting sought to further discuss, with a restricted number of NGOs already interacting with the regional mechanism, possible ways to strengthen the engagement of civil society at large with the League of Arab States and to support the ongoing process of reform.

The seminar held in Cairo on 16 and 17 February 2013 was an opportunity to broaden the discussion and exchanges to a wider group of national, regional and international human rights NGOs that operate in the Arab region, as well as experts from other regional human rights mechanisms.

# I. Strengthening the protection mandate of LAS bodies, including through litigation

## **Assessment of the Arab system**

The Arab League was formed in 1945 on the basis of resolutions under the Alexandria Protocol. Its function was to protect Arab interests, and in particular to obtain greater freedom from foreign rule and prevent further development of Palestine as the Jewish national home under the British Mandate.

Whilst stating that “*with a view to strengthen[ing] the close relations and numerous ties which bind the Arab States, and out of concern for the cementing and reinforcing of these bonds on the basis of respect for the independence and sovereignty of theme Stated, and in order to direct their efforts toward[s] the goal of the welfare of all the Arab States, their common weal, the guarantee of their future and the realization of their aspirations*”, the Charter of the League of Arab States makes no reference to human rights nor to any direct representation of Arab citizens.

Despite numerous efforts to modify the Charter, the best that could be managed was the creation of the Arab Inter-Parliamentary Union (AIPU) in 1977, which fell outside of the Arab League and merely sought to act as a forum through which to coordinate policies between the various Arab Parliaments.

During the 1980s, both the AIPU and the General Secretariat of the Arab League worked towards formulating a new legal structure to facilitate the establishment of an Arab Parliament within the framework of the Arab League. This work provided a basis for the Council of the Arab League’s decision during the League’s General Conference in Algiers in March 2005 to amend its Charter to establish an Arab Parliament (AP) as an



Said Benarbia (International Commission of Jurists), Ezzedine Choukry Fishere (Brahimi Committee), Moataz El Fiegery (Euromed Human Rights Network), Lakhdar Brahimi, Mervat Rishmawi (Human Rights Consultant, OSI)

official institution. The Parliament's main objective is to give citizens of the Arab world a voice alongside that of their governments and, in doing so, to strengthen the democratic decision making process.

Although key amendments were ratified by a majority of Member States in 2007, a final decision is yet to be taken by the Council of the Arab League. In the meantime, a transitional Arab Parliament has, since its first meeting on 27 December 2005, been tasked with laying the ground work for a permanent parliament by the end of its mandate in December 2012. At present, the AP seems caught in limbo somewhere between transition and permanence<sup>3</sup>.

The functioning of the Arab system has thus remained widely underdeveloped with almost no relationship between Arab citizens and the LAS. How can the Arab system be reformed to place the promotion and protection of human rights at the heart of the LAS's priorities? How can the protection of human rights be improved when the current regional standards, i.e. the provisions of the Arab Charter on Human Rights, are inadequate and require review for compliance with international standards? How can we ensure that the Arab system secures compliance with current standards?

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3. [www.europarl.europa.eu/meetdocs/2009\\_2014/documents/dmed/dv/5b\\_arabparliame/5b\\_arabparliament.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dmed/dv/5b_arabparliame/5b_arabparliament.pdf)

Lakhdar Brahimi  
and Mervat  
Rishmawi



Moreover, this important project of reform launched by the Secretary General comes at a time when some LAS Member States are pushing hard to exert greater influence in the region and develop a set of norms based on regional specificity. This raises even more concerns about the promotion and protection of women's rights in particular. Indeed, it is generally understood that every human rights body should focus on developing special measures to protect women, who remain one of the most vulnerable and least empowered groups in the population despite constituting the majority.

These are some of the fundamental questions that were debated during the seminar, taking into consideration the concerns that the civil society organizations have raised about possible ways to strengthen the LAS organs.

In a meeting with LAS Secretary General, Nabeel El Araby, at the 17 February 2013 seminar, convenors urged him, in view of the forthcoming Arab League Summit in Qatar at the end of March, to promote and support the upgrading of all LAS standards, organs and procedures to achieve consistency with international human rights standards. Nabeel El Araby who also supported the seminar, welcomed the strong input from human rights NGOs, as well as their mobilisation and convergence on universal human rights standards in the region.

## The Permanent Human Rights Commission

The Permanent Human Rights Commission is the main political organ in charge of the protection of human rights within the Arab League system. It meets twice a year, at the level of the Member States, and has proved to be quite ineffective. Tied to an agenda the first point of which is settlement of the Arab-Israeli conflict, the Permanent Commission barely expresses itself on other issues, despite an increase in the number of councils of Ministers since popular uprisings in the region began.

Responsibility for the protection and promotion of human rights within inter-governmental organizations is often shared by several organs within the same organization: for example, in the UN system the General Assembly, the Human Rights Council and the High Commissioner for Human Rights all have a mandate to promote and enhance respect for human rights by Member States, whereas within the Arab League's system, this power has been devoted to only one political organ, the Arab Permanent Human Rights Commission.

which does not have a history of effectively examining the human rights records of States, nor of engaging in human rights issues.

Indeed, by its very nature, it lacks sufficient neutrality to question human rights issues within States. The need to clarify its mandate is therefore obvious: should the permanent commission have a greater protection mandate? Should its monitoring capacity be enhanced? Should it adopt recommendations and resolutions on the human rights situation in Member States? Should it be vested with the power to establish special procedures and the capacity to receive direct complaints from human rights victims and NGOs and investigate these violations? Should a complaint mechanism be established?

In March 2011, the LAS Council adopted a resolution calling upon the General Secretariat to set forth suggestions on an effective review of the role of both the Permanent Committee and its affiliate sub-committee of experts. However, it would be irrelevant and counter-productive to strengthen the Permanent Commission's mandate on human rights promotion and protection without properly amending the Arab Charter on Human Rights. Thus, reform should be operated on two parallel but simultaneous trains: Charter reform *and* strengthening the organs.

The latter could notably be achieved by promoting the use of investigative missions and effective reporting, as well as providing a possibility for the LAS to publicly qualify situations by reference to international standards and decide on interim measures on a given situation, whilst also providing redress for victims.

Nevertheless, it is highly unlikely that the victims of human rights violations would bring cases before special procedures belonging to a system in which the perpetrating States are political representatives. The only means of securing a stronger and more effective system of human rights protection is therefore to rely on the strengthening of the Arab Human Rights Committee as an independent treaty body attached to the Arab Charter on Human Rights.

### **The Arab Human Rights Committee**

The Arab Human Rights Committee is the treaty body established after the entry into force of the Arab Charter. It is composed of seven members, all men so far, elected for four years in March 2009, pursuant to section 45 of the Arab Charter.

The eleven State parties to the Charter each nominated candidates for the Committee's composition and seven of these were elected by LAS Member States on the basis of their personal skills, and their ability to perform their functions as experts and not as representatives of their State; unlike UN experts, however, most of the experts perform certain governmental functions.

According to Article 45 of the Charter, the Committee shall establish its own rules of procedure and shall meet at the LAS headquarters in Cairo. The Charter contains no other details about the Committee and the latter's relations with other organs of the Arab League. Soon after its establishment, the Committee's experts decided that it should remain independent from the LAS General Secretariat, including the human rights department. The Committee has thus managed to raise its own funding from State parties.

The Arab Human Rights Committee performed its first examination of State reports in 2012, starting with Jordan in March, Algeria in October and Bahrain in February 2013.

The concluding remarks of the Committee are now published on its website in Arabic only. Civil society organizations are to assist in disseminating these concluding remarks in their countries for public outreach (through the media, websites and social networks) and to follow-up with the national authorities.

Officially, the Committee can only receive reports and information from NGOs that are registered in their countries of origin. This therefore excludes a large number of human rights organizations in the region that are refused official recognition due to the repressive measures applied to associations in their country. Envisioning a process of exchange with civil society is rarely part of the master plan designed for inter-governmental bodies. The integration of civil society into formal proceedings is not only due to NGOs efforts, but is also the result of treaty bodies seeing the benefits of promoting and strengthening civil society's position and giving its observations more far-reaching and sustainable effect. Regular contact<sup>4</sup> between FIDH, CIHRS, AOHR and others, and the Committee's Secretariat, as well as efforts to improve interaction between the Committee and its member organizations have made it possible for our partners in Algeria and Jordan to submit alternative reports prior to the examination of their respective country's State report. This is despite the fact that not all of these partner organizations are officially registered. Thus, the information received by the committee from unrecognised NGOs cannot be published on the Committee's website and the experts will not expressly refer to them in their conclusions, but the information they provide may nevertheless be used in the preparatory stages of the examination.

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4. Advocacy through establishment of regular exchange and discussions with the head of the human rights Department since 2007 on the necessity to encourage the states to ratify in order for the charter to enter into force and then push for the establishment of the Committee. After the entry into force of the Arab Charter, FIDH and partners followed and accompanied the establishment of the Human Rights Committee by submitting information and recommendations (especially on the necessity to have an independent body, composed of independent experts) to the human rights department then to the Committee itself. FIDH organized, together with Amnesty International the first meeting between the members of the committee and regional and international organizations in 2009.

The Arab Human Rights Committee's experts agreed on the principle of wider collaboration with NGOs but seemed to move slowly at first, consulting regional and international NGOs on the implementation of their internal rules and then organizing interaction with local NGOs, including an agreement to receive shadow reports. This makes it even more important that clear criteria and objectives are defined to grant observer or consultative status to NGOs.

Indeed, a lot more could be done to enhance the protection mandate of the Committee; namely, in terms of developing expertise, and enabling the Committee to interpret the provisions of the Arab Charter on Human Rights and develop a proper jurisprudence that could be used by judicial bodies at the national level of Member States.

## **The Human Rights Department**

The Human Rights Department lies under the authority of the Secretary General, and is supervised by the Assistant Secretary General for Legal Affairs.

The Human Rights Department has few financial and human resources and lacks a clear mandate. This must definitely be addressed in forthcoming reform efforts. In order to be effective and fulfill its mission to protect and promote human rights, the Department must be more involved in defining the Arab League's human rights policy and strategy. This implies an increase in its resources with the recruitment of highly qualified and experienced staff, and possibly consultation with the civil society. It should also provide expertise on human rights issues to the Secretary General and the permanent Arab Human Rights Committee and could serve as a resource of expertise for other departments in the legal sector, in particular with regard to drafting new regional instruments, including amendments to the Arab Charter.

In addition to developing its relationship with national human rights institutions in Arab League Member States, the Department is starting to interact more with civil society organizations. It could further benefit from them by setting up informal briefings on human rights issues and convey concerns and recommendations to a higher political level.



In this regard, the Department has been consulted on numerous occasions, particularly on the Syrian crisis and the issue of sanctions. For example, the Department and those diplomats working on the Syrian crisis within the cabinet were particularly instrumental in enabling NGOs to submit recommendations to the Office of the Secretary General and to securing some of them consultation over the observer mission to be sent to Syria.

## **The establishment of an Arab Court on Human Rights**

In November 2011, after receiving the final report of the Bahrain Independent Commission of Inquiry (BICI) and in an attempt to evidence its willingness to show a greater commitments to respecting human rights, the Kingdom of Bahrain proposed the establishment of an Arab Court on Human Rights. The LAS Secretary General responded by appointing a committee of experts to look into the legal establishment of such a Court. Their report was discussed in a meeting convened in Manama at the end of February 2013, during which the Secretary General reiterated many of the issues raised by our organizations over the last months.

The participants at our Cairo seminar all agreed that if an Arab Court for Human Rights were to be established to provide redress for victims of human rights violations, including where perpetrated by non-state agents, it should be established in accordance with international standards and with a guarantee that procedural standards would be protected.

During his meeting with our organizations, the Secretary General of the LAS clearly restated that establishing such a new mechanism to guarantee enhanced protection of human rights in the region ranked among his priorities. Our organizations reaffirmed that the Court should not be set up without formal consultation with independent civil society organizations and urged that the Court's establishment and rules be made compliant with international standards. Again, this requires prior reform of the Arab Charter on Human Rights – a pre-requisite to any new human rights mechanism.

Since the February seminar, the principle of the establishment of a Court has been adopted by the Arab League's Member States during the Arab Summit in Doha in March 2013, after discussion of the Brahimi, report which contains a chapter on this issue.

The Doha Summit marked an important step forward in reflecting in its final Declaration<sup>5</sup> some of the main concerns that our organizations had persistently raised:

*“We reiterate our commitment to basic principles and humanitarian values and human rights in all forms, and our commitment to the principles and provisions of the Arab Charter and other treaties and conventions our States have ratified, and our respect for freedom of expression, thought, independence of the judiciary, the enhancement of popular participation and encouraging the role of civil associations and civil society organizations, and we call for a conference with civil society in Doha in order to examine the development of human rights mechanisms in the LAS”.*

The Summit adopted a resolution<sup>6</sup> endorsing the Ministers’ decision issued on 6 March 2013 to establish a committee composed of Member State representatives and members of the Secretary General’s Cabinet to look into the recommendations contained in the Brahimi report. The Secretary General is expected to report on this committee’s activities to the Arab Council of Ministers in September 2013.

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5. [http://lasportal.org/wps/portal/las\\_ar/inner/!ut/p/c5/vZLJjoJAEIafZZ6gqmURjzC4AHaPveBoXwzGJSwKcSZO7KcXw2FOcjLWf\\_xs\\_1eHAg1tztk1P2a\\_eX3OKliBdjfhilulLSxE9eViNjIFghFmeYHb8vVzHpO-7diCb1ihvZHFYrYIMaUQx5MhMkKgL\\_6Pj0vyEIIFzTWMr3mRaG5U6iSobxsLdgtARWU742P-s0PG8D5DZpe3TvUbScXwyPgKb1ac9rEEP\\_1umPLEx4JhsVwQf4qgXnh3v2vwRpf1Rh45qSsGfazq7eNfA2hO6TUXHjt0oXdrGBY7/dl3/d3/L2dBISEvZ0FBIS9nQSEh/?pcid=9702ca804f092ac9b524bf5cbcbca77a](http://lasportal.org/wps/portal/las_ar/inner/!ut/p/c5/vZLJjoJAEIafZZ6gqmURjzC4AHaPveBoXwzGJSwKcSZO7KcXw2FOcjLWf_xs_1eHAg1tztk1P2a_eX3OKliBdjfhilulLSxE9eViNjIFghFmeYHb8vVzHpO-7diCb1ihvZHFYrYIMaUQx5MhMkKgL_6Pj0vyEIIFzTWMr3mRaG5U6iSobxsLdgtARWU742P-s0PG8D5DZpe3TvUbScXwyPgKb1ac9rEEP_1umPLEx4JhsVwQf4qgXnh3v2vwRpf1Rh45qSsGfazq7eNfA2hO6TUXHjt0oXdrGBY7/dl3/d3/L2dBISEvZ0FBIS9nQSEh/?pcid=9702ca804f092ac9b524bf5cbcbca77a)

6. [http://lasportal.org/wps/portal/las\\_ar/inner/!ut/p/c5/vZLLcoJAFES\\_JR9gzfBQYInIm5k4AyKwoQCNTwQBHFHrg5VFVppNy tvLrtunFw0SMOiuXXeBrNtVpwIIPBM0plCaChSAcLgcwJt3ppRzGFBnk4GP37u09wf30sQQTH1931t3w93upco8iXCkKcypB\\_urTe1gwXfoxliHbxh7K0QCgXzGKBaxUuNIiu2rWGNfkD-Fkz5CWvii8-Dx8-ORUCbFXIGsQgkX5TTOKK0Cb-GDv-nFNCCIJ\\_7P2axb-RJbyRxQ2s2AUOSDBHKh-GtqQxk7QWMV0P5mLpeMsbyhcXcijo-dZti6 aapv6mvudj1tXbi4VjYm53XmMaplPC96vBEverVgxcrttbDb2nyoJKbRulmld1Exv4Sk6EOXuY5YpG7psgmNYte4F4VcbW9v5qUlJYSN00XyPI32Jv60oZkrgkCkJWrlGdTL4rcjMv76EfoGhfTUwg!!/dl3/d3/L2dBISEvZ0FBIS9nQSEh/?pcid=9fa800804f088eeb86079ea79d151c73](http://lasportal.org/wps/portal/las_ar/inner/!ut/p/c5/vZLLcoJAFES_JR9gzfBQYInIm5k4AyKwoQCNTwQBHFHrg5VFVppNy tvLrtunFw0SMOiuXXeBrNtVpwIIPBM0plCaChSAcLgcwJt3ppRzGFBnk4GP37u09wf30sQQTH1931t3w93upco8iXCkKcypB_urTe1gwXfoxliHbxh7K0QCgXzGKBaxUuNIiu2rWGNfkD-Fkz5CWvii8-Dx8-ORUCbFXIGsQgkX5TTOKK0Cb-GDv-nFNCCIJ_7P2axb-RJbyRxQ2s2AUOSDBHKh-GtqQxk7QWMV0P5mLpeMsbyhcXcijo-dZti6 aapv6mvudj1tXbi4VjYm53XmMaplPC96vBEverVgxcrttbDb2nyoJKbRulmld1Exv4Sk6EOXuY5YpG7psgmNYte4F4VcbW9v5qUlJYSN00XyPI32Jv60oZkrgkCkJWrlGdTL4rcjMv76EfoGhfTUwg!!/dl3/d3/L2dBISEvZ0FBIS9nQSEh/?pcid=9fa800804f088eeb86079ea79d151c73)

## Strengths and weaknesses of other regional systems

### The Inter-American System

The Inter-American system for the promotion and protection of human rights was formed after the World War II with the adoption of its main instrument, the American Declaration of the Rights and Duties of Man in 1948.

The system lies on four main pillars:

- *Human rights treaties*, among which the American Convention on Human Rights;
- *Institutions*, composed of the Inter-American Commission on Human Rights, established in 1959; and the Inter-American Court of Human Rights, established in 1979. These entities are independent from both States and NGOs, and supervise compliance with the seven regional treaties;
- *States*, being the creators of the system and being required to comply with the decisions of the Commission and the Court; and
- *Civil society*, which provides the engine behind the functioning of the system, as advancement in the protection of human rights only occurs if and when civil society exerts pressure.

Notably, when the Inter-American human rights system was established most of the States in the region were dictatorships. Civil society organizations, having to defend themselves in those hard times, then played a major role in pushing for an independent system for the protection of human rights.

The protection mandate of the Inter-American system revolves around four main activities:

1. **Country visits:** even during dictatorships, reports were issued denouncing human rights abuses, such as in the case of Argentina in 1979. Here, the Commission met with the military Junta's Generals, as well as with Argentinean NGOs and victims. It decided to open an office in the country and continued to denounce human rights violations committed by the Argentine Junta. This was possible because the Commission was genuinely independent from the outset.

2. Special rapporteurs on human rights issues, similar to the UN system.
3. Protective measures: the Commission has the mandate to grant protective measures, a very critical and important aspect of its role in protecting and defending human rights. Those protective measures, when granted, have proved to be effective because of previous decisions made by the Commission, which have consolidated its credibility.
4. Complaints: initially, complaints by victims of human rights abuses were not supposed to be part of the system. However, soon after it was created, the Inter-American Commission received a significant number of complaints that it could not possibly ignore. This led to subsequent amendments to the Commission's rules. A major step in the development of the system was taken in 1965 when the Commission was expressly authorised to examine specific cases of human rights violations. In 2012, the Commission received no less than 2,000 complaints. When the Commission reviews a complaint, if no settlement can be reached or if the State does not comply with the Commission's decision, then the case is transferred to the Inter-American Court.

Over the years, the Commission and the Court's decisions have had a great impact on the promotion and protection of human rights in the Americas. Certain landmark decisions could serve as a reference for countries facing similar situations: for example, most of the military officers from the Latin American dictatorships benefited from amnesty laws, which both the Commission and the Court ruled were in violation of international human rights law. Consequently, several countries (Argentina, Chile, etc) repealed their amnesty legislation and began to prosecute military officers going back to the 1970's. Moreover, the Inter-American Commission was the first international body to ask the United States for information on Guantanamo in 2003, and has been requesting its closure ever since.

### **The European System**

The European system has many similarities to the Arab League system. The Council of Europe adopted the European Convention on Human Rights in 1954 and established its Court in 1959. This court is based in Strasbourg (France). The Convention covers a very vast geographical area and is confronted with a wide diversity of legal systems. Up until 1998, the European Commission on Human Rights would screen individual complaints to reassure States who feared being destabilised by such petitions.

The European Court is not a court of appeal and should be primarily seized on the basis of breaches of the European Convention.

The Court is faced with many challenges. These include:

- Long procedures that often last for years.
- The principle of “fair satisfaction” based on what is deemed a “fair remedy” to the victims of human rights violations rather than ordering the State to remedy a breach of the Convention, such as for instance the cancellation of the expulsion order of a foreign citizen; the Court will rather compensate the victim directly.
- The failure of State complaints: almost none of the State parties to the European Convention has ever filed a complaint against another State for violating the Convention. Fortunately, the Court has received a very high number of complaints by individuals (more than 120,000 were pending at the end of 2012).

On the other hand, the Court can boast of a number of successes, among which its power to order provisional measures, usually implemented by States, as well as the development of its jurisprudence, including decisions on more geo-strategic issues arising between States.

Here again, civil society organizations have played a tremendous role in establishing<sup>7</sup>, supporting and helping to develop the European human rights system. NGOs still play a fundamental part today as they participate in procedures before the Court, represent victims, and act as third-party interveners in support of complaints in order to highlight specific issues. They also remain active in the reform of the Court so as to prevent States from significantly reducing its powers.

The European Court could be a definite source of inspiration for a future Arab Court on Human Rights, notwithstanding of the challenges that NGOs should ensure are addressed, such as the Court’s ability to adequately address high numbers of complaints, the execution of judgments, and the refusal of certain States to implement the Court’s decisions.

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7. The European system was actually initiated in 1948 by the “European Movement” a lobbying association that coordinates the efforts of associations and national councils with the goal of promoting European integration, and disseminating information about it.

## **The African system**

The creation of a coherent continental system of human rights protection in Africa responded to the development of the European and the Inter-American systems, and above all to the post independence period. The delay in establishing the African system corresponded mainly with the political and social environment of the 1970s and 1980s. At this time, many Heads of State were still far from interested in building a supra-national system for human rights protection, frequently resorting to the principle of national sovereignty to hide human rights violations committed in their countries<sup>8</sup>.

The African Charter on Human and Peoples' Rights was adopted in 1981 by the Conference of the Heads of State and Governments of the Organization of African Unity (OAU). The African Union (AU), which replaced the OUA in 2000, established the rights guaranteed under the African Charter as principles and objectives in its Constitutive Act.

Opening a new era of human rights protection in Africa, the Charter was influenced by the legal texts of international and regional human rights protection systems as well as the legal traditions of the continent; hence its inclusion of "peoples' rights" as well as civil, political, economic and social rights.

The African Commission for Human and Peoples' Rights, the Charter's mechanism for monitoring its implementation (including of its Protocol on Women's rights in Africa), began to function in 1987. It has a dual promotion and protection mandate under Article 45 of the Charter.

The promotional functions of the Commission include:

- The collection of documents and conducting of research on African problems in the field of human rights; organizing seminars, symposia and conferences, disseminating information; making recommendations to governments;
- Sending missions to gather information on the human rights situation in a State party;

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8. FIDH Practical Guide on the African Court of Human and Peoples' Rights, ed 2010.

- Formulating and developing principles and rules relating to human rights to serve as the basis for the adoption of legislation by African governments; and
- Cooperating with other African and international institutions working on the promotion and protection of human rights.

With regard to protection, the African Commission has the mandate to:

- Send protection missions on the territory of State parties;
- Receive communications from State parties, NGOs and individuals about human rights violations committed by a State party;
- Adopt urgent resolutions on the human rights situation in countries and adopt resolutions on specific human rights issues;
- Send urgent appeals to State parties and publish press releases; and
- Examine State reports on legislative or other measures taken to bring about the practical protection of rights guaranteed under the African Charter, and make recommendations in this regard.

The Commission also has jurisdiction to interpret provisions of the African Charter at the request of a State party, an AU institution or an African NGO.

However, the African Commission for Human and Peoples' Rights (ACHPR) has often been seen by observers as a "Sleeping Beauty in the woods". This is because it faces many challenges, starting with an obvious lack of the necessary political will to ensure that the system is effectively implemented and enhanced. Moreover, the Commission has long suffered from a very limited operating budget, preventing it from organizing seminars, conferences and meetings with State authorities. Since the early 1990's NGOs have denounced the non-compliance of many States with their obligation to submit regular reports on the human rights situation on their territory to the Commission, as well as the lack of binding effect of Commission decisions and their non-implementation by States.

However, African and international NGOs have taken a key role in the work of the Commission (notably through the presence of over 100 NGO representatives at each ACHPR session), pushing it over the last decade towards greater independence. This has led the Commission to enhance its structure with the creation of special rapporteurs and working groups on

specific human rights issues, and secure funding to strengthen its human rights promotion and protection mandate.

Thus, the ACHPR's protective mandate has played a critical role in advancing African standard setting in the human rights field, and in providing remedies to thousands of victims of human rights violations. The Commission's communications procedure has contributed to the reversal of death penalties, to the repatriation of thousands of expellees and to legislative changes in Member States<sup>9</sup>.

Nevertheless, since its establishment, the Commission has received a very limited number of communications from Arab NGOs from the African continent (only 17). Seminar participants noted that NGOs should ordinarily be flooding the African Commission with communications, as per civil society engagement with the Inter-American system. Many participants felt that this is the only way to force the system to move forward.

Other significant challenges faced by the Commission include serious delays in the consideration of communications. The Commission's jurisprudence requires the processing of many more cases before it can fully develop to maturity. In addition, there are significant problems in implementing Commission decisions. These issues may undermine the effectiveness of the Commission's protective mandate, particularly given the increase in the number of communications filed with the Commission over recent years by victims of human rights violations and their representatives.

Here again, civil society – in particular litigants before the Commission – have been responsive to these difficulties, deciding to combine into a 'Litigants Group'. Over the past three years this group has engaged in research, discussion and advocacy as part of an attempt to improve the protective mandate of the Commission. Litigants have identified a number of challenges which, if overcome, will allow for the enhanced effectiveness of the Commission. These include practical challenges relating to communication between the Commission, its Secretariat and litigants; institutional challenges; litigation challenges, including delays in the consideration of cases and jurisprudential issues; and a lack of understand-

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9. Concept note of the Litigants' group, African Commission for Human and Peoples' Rights, April 2013.



ing of the Commission's Rules of Procedure by litigants. A general lack of awareness of the Commission's protective mandate was also highlighted during the Cairo seminar, reflected in the small number of cases that the Commission has dealt with to date despite the scale of the human rights violations committed in Africa as compared to other systems.

The Commission has nevertheless taken some positive steps to tackle such problems, for example, establishing a Working Group on Communications (WGC) in November 2011. This group has a mandate to consider communications, deal with the backlog of cases and follow up on implementation of the Commission's rulings.

Despite the fact that, unlike its European and American counterparts, the African Charter does not provide for the establishment of a Human Rights Court, a draft protocol to the African Charter establishing an African Court was prepared after pressure exerted by African and international NGOs. It was finally adopted in 1998 and came into force in 2005.

According to Article 2 of the Protocol, the Court "shall complement the protective mandate of the African Commission conferred upon it by the African Charter". This complementarity is reflected in the relationship between the Court and the Commission, which is specified in their respective rules of procedure. In particular, the Commission can bring a case to the Court when it involves a serious violation of the rights guaranteed by the African Charter by a State party to the Protocol, or where a State party fails to implement a decision taken by the Commission under the communications procedure. This power is significant as it may allow individuals and NGOs who are unable to appeal directly to the Court, to refer a matter to the Commission in the hope that it will be subsequently referred on to the Court. Indeed, many African States have not made the declaration under Article 34.6 of the Protocol allowing direct appeal to the Court by individual and NGOs, denying victims and NGOs from those countries direct access.

NGOs are essential to promoting the Court, submitting complaints, and providing consultative opinions and *amicus curiae* etc. Moreover, they have a role to play in the process of nominating judges at the national level.

Challenges faced by the Court include:

- the risk of overlap with the work of the Commission;
- very limited resources;
- the need to harmonize the Court’s jurisprudence with that of other regional judicial and quasi-judicial organs;
- that NGOs and individuals can seize the Court directly on human rights violations committed only in 6 African States – those who have made the declaration under Article 34.6 of the Protocol. African States must thus be encouraged to ratify the Optional Protocol to the Charter;
- effective implementation of the Court’s decisions; and
- the visibility of the Court.

## II. Promoting interaction with civil society organizations

FIDH's experience of working with human rights bodies and inter-governmental organizations makes it aware that it is not easy to create space for civil society organizations to interact with regional human rights mechanisms. Envisioning a process of experience-sharing is rarely part of the master plan. Although the process remains quite fragile within the other regional mechanisms, our experience shows that encouraging the interaction of such bodies with the civil society as well as strengthening their capacity through exchange of expertise with other existing mechanisms, including UN organs, can foster the development of reliable mechanisms of human rights protection.

Again, during his meeting with our organizations, the Secretary General of the LAS showed a strong interest in all suggestions for securing effective interaction with civil society to strengthen human rights in the Arab region. Fully aware of the demands for social justice and fundamental freedoms that the Arab revolutions have made on States, the Secretary General has reaffirmed the need to upgrade the LAS's own mechanisms to meet such demands.

The last session of the Cairo seminar was dedicated to the role and place of civil society vis-à-vis regional human rights bodies. Here, some of the main challenges faced by Arab and international civil society organizations in the LAS system were discussed. The main challenge obviously stems from the fact that LAS organs cannot formally interact with NGOs that are not officially recognized in their own State, accepting only information from and meetings with registered NGOs. This is unlike the African system, where an organization – once certain requirements are fulfilled – can play an active role before the African Commission for Human and Peoples' Rights, whatever its national status.

Amina Bouaayach (FIDH Vice-President) and Souhayr Belhassen (FIDH President)



Before the Arab Spring, 17 civil society organizations had observer status with the Permanent Human Rights Committee within the Arab League system, including FIDH member and partners: OMDH, the Arab Organization for Human Rights and the Arab Institute for Human Rights. Most of these organizations disappeared with the rulers that stepped down, an obvious indication that many were not independent organizations but rather governmental “NGOs” (GoNGOs).

In 2013, a new list of 23 entities with an observer status was made public. These entities are a combination of NGOs and national human rights institutions, namely the National Human Rights Council of Morocco and the National Human Rights Commission of Qatar. Unfortunately, these organizations cannot address the Commission, being entitled to attend meetings, at most.

There are 8 criteria to be met in securing observer status as an NGOs at the Arab League. Notably, no mention is made of national human rights institutions in the guidelines, as only NGOs are supposed to request the observer status. The 8 criteria require that:

1. the NGO must be registered in an Arab country and have the nationality of and its headquarters in that Arab country. It must provide its statutes and a list of its board members;

2. the NGO must be non-profit and work on issues under the mandate of the Permanent Human Rights Committee;
3. the goals and activities of the NGO must be in compliance with the Arab Charter and other international human rights treaties;
4. the NGO must continue to be active for three years at least at the time of application;
5. the NGO's funding should originate from Arab organizations and institutions in the field or from the member donations. If donations/contributions/support is given directly or indirectly from a government or non-governmental individuals, then accurate and transparent information on the amount and the donors must be provided to the Committee;
6. the NGO must provide the Committee with a copy of its annual budget and its sources of funding;
7. NGOs with "Pan-Arab" identity, must have members from at least 3 different Arab countries, or must work within a regional organization that includes individuals from Arab countries; and
8. the NGO must be in compliance with its own mandate, and hold regular elections.

Regional and international governmental organizations have been invited by the LAS to issue a Memorandum of Understanding to attend meetings of the permanent Arab Human Rights Committee as observers, on the basis of reciprocity.

Until 2013, applications for observer status were primarily processed by the LAS' Human Rights Department, the Cabinet of the Secretary General and then endorsed by the Member States. In January 2013, after internal discussions about whether the LAS's relationship with civil society should be managed by the social affairs department or whether specific mechanisms should be established, it was finally decided to engage in administrative restructuring. The Secretariat for Civil Society was established, principally to provide technical assistance and liaise with civil society organizations, the UN and the African Union systems, to help convey recommendations from civil society to Arab League Summits. It remains unclear though how the Secretariat will coordinate and interact with the Human Rights Department regarding such issues.

The Head of the Secretariat for Civil Society, a renowned Egyptian human

rights activist, submitted her views on how the Secretariat should work and interact with LAS Member States to Lakhdar Brahimi, as well as to the LAS Economic and Social Council (ECOSOC). She suggested that the LAS should establish a criteria to accept civil society organizations as observers under ECOSOC.

In these times of tremendous change in the Arab region, States must realize that independent civil society organizations should be considered reliable partners in securing change and improving the regional system. Thus, a new type of cooperation must be envisaged involving civil society in the reform of the LAS's structure, as well as the Arab Charter on Human Rights. This cannot be achieved unless the criteria for NGO acceptance within the LAS system are amended. Unfortunately, instead of opening States up to civil society, the Arab revolutions seem to have increased their fear of NGOs; this may impede any agreement on a simplified criteria for the granting of observer status and the acceptance of a wider diversity of independent civil society organizations to include humanitarian and development organizations – many of which already interact with the UN and African systems.

To date, only a small number of NGOs actually interact with the LAS. This is due to stringent conditions imposed by the ECOSOC. LAS requests for amendment proposals from technical committees to ease the process of cooperation has been met with even more stringent conditions. The solution may therefore lie in some kind of sequenced approach starting with strengthening partnerships before moving gradually towards consultative status.

The Head of the LAS Secretariat for Civil Society agreed with seminar participants that NGOs should be invited to events, including the Arab Summits, to discuss certain issues. It was also agreed that their status should be raised from observer to consultative, which would involve procedural modifications not only with regard to the status of NGOs but also to the organization of Arab Summits. These modifications would need to enable civil society to prepare for such summits in accordance with the agenda, thus giving them a chance to express their views and concerns and submit recommendations.



**Antoine Bernard,**  
FIDH CEO  
**Bahaa Ezzelarab,**  
Legal Adviser, EIPR  
**Ziad Abdeltawab,**  
Executive Director,  
CIHRS

In this regard, lessons could be learned from UN consultative status as recently practiced:

NGOs took an increased role in formal UN deliberations through the Economic and Social Council (ECOSOC) in 1968. Article 71 of the UN Charter opened the door for suitable arrangements for consultation with NGOs. This relationship with ECOSOC was reformed in 1996 and is governed today by ECOSOC resolution 1996/31, according to which international, regional and national NGOs, non-profit public or voluntary organizations are eligible to obtain consultative status.

After the fall of the Berlin wall, the world witnessed a proliferation of NGOs at the national level and their legitimate demand to access the international system to use it, influence it and benefit from it. At the time of the Vienna Conference in 1993, only international NGOs enjoyed ECOSOC consultative status, and the vast majority opposed opening that consultative status to national organizations (except for FIDH, ICJ and AI). This ignored the need for the UN system to evolve in tandem with historical change.

Today, 24,000 NGOs have formal relations with the UN system. Of this, 3,500 have consultative status, including 625 human rights NGOs. Nevertheless, admissibility requirements (Article 71 of the UN Charter *de facto* requires the consent of the home State for admission of a national NGO) as well as substantial criteria for the granting of the consultative status, have often proved unsuitable for human rights NGOs. This, together

with the interstate composition of the politically biased ECOSOC NGO committee, have resulted in two major flaws in the system: the prevention of independent human rights organizations from obtaining admission and the promotion GONGOs and business organizations. It is essential to learn from the UN experience that allowing access to civil society with no protection from political bias may dilute NGO independence, credibility and impact.

In order to circumvent these difficulties, the LAS needs to guarantee that its system of interaction with civil society can guarantee the total independence of NGOs. In this regard, it will have to determine:

1. clear criteria for the independence of NGOs;
2. modalities for interaction with NGOs; and
3. clear criteria, an independent procedure and a body for granting and reviewing consultative or observer status, including to independent NGOs that are not recognized in their own countries.

The LAS should also consider the lessons to be learned from cooperation between the African Union and civil society.

The African human rights system has developed a rather unique level of cooperation with civil society organizations, framed notably by positive provisions contained in a number of instruments, including:

- Article 45 of the African Charter on Human and Peoples’ Rights, enabling the African Commission on Human and Peoples’ Rights to invite individuals and organizations to enlighten and inform it in the field of human and peoples’ rights.
- The Kigali Declaration, adopted during the first ministerial AU conference on human rights in 2003, which encourages NGOs to participate in building democracy in Africa. This Declaration is founded on the idea that civil society should be viewed as a monitor and a vital partner in enhancing the relationship between democratic States and their citizens.



Of the 440 or so NGOs enjoying observer status with the African Commission on Human and Peoples' Rights, over 70 % are based in sub-Saharan Africa. The rest hail from every continent, including Latin-America and Europe.

Observer status not only allows NGOs to have access to information and publications from the Commission, but also enables them to advocate for the ratification and implementation of international human rights instruments, to act as information providers on the human rights situation to the African organs, to engage with national human rights institutions and governments and to remind them of their obligations to prepare and submit reports to the African Commission and other relevant bodies.

The African Commission, in return, benefits from the presence and cooperation of NGOs, who provide alternative information to State reports and play a role in disseminating the Commission's concluding observations. Persistent finger-pointing by NGOs attending Commission sessions has gradually led Member States to refrain from nominating Commissioner candidates with executive functions in their home country or mandates for external representation (ambassadors, diplomats etc). This has enhanced compliance with the independence requirements of the Commission.

The most significant step forward for civil society participation, however, was taken by civil society itself through the establishment of a forum for the participation of NGOs prior to each ordinary session of the ACHPR. This Forum, initiated by the African Center for Democracy and Human Rights Studies in collaboration with the African Commission and other human rights organizations, has become an essential venue for civil society representatives to share information and recommendations. These are then put across to the African Commission, facilitating the participation of NGOs, academics and other professionals, mobilising a fluid civil society from Africa and beyond.

The Forum aims to foster closer co-operation among NGOs. With the African Commission it also offers some protection to NGOs and human rights defenders who may face retaliation or punishment at home after their participation in an ACHPR session. This is because some contributions are not attributed named persons or entities, being made simply on behalf of the Forum as a whole in order to protect their authors.

The Forum's eventual success, is also attributable to its bestowal on civil society organizations of a sense of ownership in the process of developing cooperation with the African Commission. Thus, it is seen as something more than an opportunity to organize against GONGO attempts to undermine the credibility of independent NGOs. This is another lesson that Arab civil society should bear in mind in enhancing its interaction with the LAS.

# III. Final Declaration and Recommendations

From 16 to 18 February 2013, more than 50 human rights defenders representing national, regional and international non-governmental organizations (NGOs) as well as human rights experts from different regional and universal human rights systems gathered in Cairo, Egypt. This gathering was convened to discuss the challenges faced by the League of Arab States in enhancing the protection and promotion of human rights in the region and to propose visions for the reform and strengthening of the League of Arab State's human rights component.

## **The participants,**

- 1.0 **Expressing** their appreciation that the Secretary General of the League of Arab States, Dr. Nabil Al Araby, and other representatives from the LAS supported the discussions;
- 1.1 **Regretting** that Arab Civil Society Organizations still face severe restrictions on their effective participation in the LAS' political organs and that the accreditation of CSOs to attend the LAS's deliberations remains dependant upon the approval of their country of registration;
- 1.2 **Encouraged** by the statement made by the Secretary General of the League of Arab States on the fourth anniversary of Arab Human Rights Day in which he recognized the need to reform the Arab Charter on Human Rights to bring it into conformity with universal human rights standards and acknowledging that reforming the League and its relevant mechanisms to ensure the full protection and promotion of human rights in the region has become a pressing requirement that can neither be condoned nor overlooked;
- 1.3 **Encouraged** by the League of Arab States position over the deteriorating humanitarian and human rights situation in the Arab Republic of Syria and its unprecedented steps to address the human rights situation in Libya during the revolution;

- 1.4 **Affirming** that the League of Arab States needs to be consistent in its decisions on human rights issues throughout the Arab region and that it needs to address other pressing human rights situations in the Arab Region [including in Bahrain, the Kingdom of Saudi Arabia, the United Arab Emirates, Oman, Yemen and the Occupied Palestinian Territories] with the same degree of determination and persistence it has shown over the situation in Libya and Syria;
- 1.5 **Reiterating** the responsibilities of Member States to respect, protect and promote the universality of human rights as stipulated by their obligations under the different international and regional agreements and conventions;
- 1.6 **Reaffirming** that no justification (be it political, cultural, religious or economic) can be used to derogate from the obligations of State and non-State actors in the Arab region to respect, protect and fulfill universally recognized human rights standards and norms;
- 1.7 **Stressing** the importance of the correlation between LAS reforms on the one hand, and the obligations of Member States by virtue of their ratification of international and regional human rights conventions on the other, which makes it imperative to ensure respect of human rights and enact measures to this end not only at the national level but also at the regional and international levels;
- 1.8 **Affirming** that the Arab Charter on Human Rights in its current form is inconsistent with international human rights standards and lacks effective guarantees to ensure the aspirations of Arab people for an effective human rights system;
- 1.9 **Recalling** past civil society initiatives and recommendations proposed to the League and its different mechanisms with the purpose of providing a comprehensive view of mechanisms to guarantee genuine and effective reforms that ensure strengthening the League's human rights protection and promotion mechanisms, including the recommendations of the First and Second Civil Arab Society Forum Parallel to the Arab Summit held in 2004 and 2006, and the recommendations of the Civil Society Forum Parallel to the Arab Economic and Social Development Summit in 2013;

1.10 **Believing** that the LAS cannot take on a new role in democratic transition, consult with civil society and support its claims in that regard, without operating an effective change in the modality of its relationship with civil society organizations, and set forth mechanisms and unambiguous criteria based on transparency, in order to ensure a permanent relationship with all the League's bodies;

**The participants to the seminar have agreed on a set of recommendations for the Secretary General and the Member States of the LAS, concerning:**

## **2.0 The Promotion of an effective regional system of human rights protection**

The participants urge the League of Arab States to take the necessary measures to:

- 2.1 Undertake amendments of the Arab Charter on Human Rights in accordance with the recommendations of Arab human rights experts of January 2004;
- 2.2 Clarify the protection mandate of the League of Arab States by enhancing its monitoring capacity (enabling the issuance of recommendations and resolutions on the human rights situation in Member States, enabling the establishment of independent special procedures to receive information from any source and investigate allegations, publicly qualify the human rights situation in Member States, establish an independent complaint mechanism to deal with individual and collective communications received in accordance with established practice in other systems), taking in to account the experience accumulated through the development of human rights protection mechanisms at the regional and international levels;
- 2.3 Ensure interaction with local, regional and international NGOs through the development of a concrete modality of engagement between all LAS bodies and NGOs. Such a modality should ensure a strategic, transparent and permanent relationship between civil society and the LAS, translated not only through institutional development and reform, but also through a genuine change in the perception of this

relationship and the recognition of civil society as an imperative pillar of the system by exploring a clear criteria for granting consultative status to independent organizations and establishing independent management of the procedure for granting observer and/or consultative status. In doing so, it must be kept in mind that the absence of an NGO's domestic legal status should not be an obstacle to granting consultative status. Participants underlined that for the sake of credibility LAS bodies should cooperate with genuine independent NGOs only, without restrictions pertaining to their registration in their home countries;

- 2.4 Encourage the publicity of meetings, in particular those meetings in which human rights situations are considered.
- 2.5 Guarantee that any Arab Court for Human Rights providing redress to victims of human rights violations, including violations perpetrated by non-State actors, shall be established in accordance with international standards.

### **3.0 The strengthening of the Arab Committee for Human Rights**

The participants urge the League of Arab States to take the necessary measures to:

- 3.1 Promote the Arab Human Rights Committee (by inviting States to submit their reports engage in a constructive and results-oriented dialogue with the Committee, and appoint qualified and independent experts for the election to the Committee in 2013);
- 3.2 Urge States parties to elect women as independent experts to the Committee;
- 3.3 Encourage States parties to adopt clear criteria for the appointment of members to the Committee in order to ensure their independence, dedication and human rights expertise.
- 3.4 Encourage local, regional and international NGOs to submit alternative reports and documentation to the Committee and to disseminate the Committee's concluding remarks through websites, social networks

and the traditional media of the country at issue. NGOs should be able to review State reports and publish their review publicly, as well as attend Committee sessions. It is crucial that a separate public document be compiled stating in detail the relationship between civil society and the Committee, and that opportunities be made for civil society organizations to brief Committee experts prior to Committee sessions.

- 3.5 Expand the Committee's protection mandate by vesting it with the ability to interpret the provisions of the Charter in accordance with universally established international human rights standards.
- 3.6 Ensure the Committee's transparency and competence by encouraging it to devise an access to information plan where it posts on its website its mechanisms of action, guidelines for reporting, State reports, concluding remarks, annual reports, and any other relevant documents.
- 3.7 Support the Committee to clarify its methods of work, including modalities of interaction with local, regional and international civil society organizations, notably with a view to ensuring public sessions.

#### **4.0 Ensuring greater interaction with civil society organizations**

The participants urge the League of Arab States to take the necessary measures to:

- 4.1 Amend the LAS Charter so that it explicitly recognizes universal human rights standards, and amend LAS procedures in order to allow NGOs to attend the meetings of all LAS bodies, possibly through an independent mechanism for granting consultative status to independent NGOs. The domestic registration status of an NGO should not be an obstacle to its application for consultative status.
- 4.2 Encourage interface meetings between independent NGOs and the diplomatic missions of Member States, as well as the Cabinet of the Secretary General and other relevant departments and units placed under the authority of the Secretary General.

- 4.3 Take concrete and enforceable steps, based on UN standards, to combat reprisals, including administrative and security harassment, targeted at human rights defenders participating in the deliberations of LAS bodies or providing information and analysis on the human rights situation in their countries.

The participants urge the Arab League's Member States to sign the Swiss Initiative urging the UN Security Council to refer the situation in Syria to the International Criminal Court.



# Annexes

## Annex 1. Agenda of the seminar

### SATURDAY 16

<b>8:00 - 9:30</b>	Registration of participants  Opening Plenary  - Welcome by FIDH President, Ms. Souhayr Belhassen, on behalf of the four inviting organisations - Mr. Nabil El-Arabi, Secretary General of the League of Arab States - Mr Andrea Ori, Head of the Regional Office for North Africa, OHCHR
<b>10:30 - 11:00</b>	Coffee Break
<b>11:00 - 13:00</b>	<b>SESSION 1 - HUMAN RIGHTS IN THE ARAB LEAGUE SYSTEM</b>  <i>Moderator:</i> Raji Sourani, President of AOHR and Vice-President of FIDH  - Achievements and challenges of the Arab League human rights system: Stéphanie David, Head of Middle East and North Africa Desk, FIDH - Interaction between NGOs and the Arab League: Sohair Riad, CIHRS - Political advocacy with the League of Arab States: the situation in Syria, Nirvana Shawki, Crisis Action  <i>Questions and debate with participants</i>
<b>13:00 - 14:15</b>	Lunch Break
<b>14:15 - 15:00</b>	Continuation of Session 1  <i>Moderator:</i> Amina Bouayach, former President of Moroccan Human Rights Organisation (OMDH)  Civil society and the Arab League Summits: ANND experience with the economic summit  <i>Questions and debate with participants</i>
<b>15:00 - 15:20</b>	Coffee Break

**15:20 - 18:00** | **SESSION 2 - REVISION OF THE ARAB CHARTER: PERSPECTIVES**

*Moderator:* Motaz Fegeiry, Euro-Mediterranean Human Rights Network

- The revision of the Arab Charter: current perspectives, Mr Lakhdar Brahimi, Representative of the Secretary General on the reform of the LAS
- Obstacles to ratification of the Charter by states : Said Bernabia, ICJ
- Litigation under the Arab Charter: state of play and perspectives, Mervat Rishmawi, OSI

*Questions and debate with participants*

**SUNDAY 17**

**9:00 - 11:00** | **SESSION 3: PERSPECTIVES TO STRENGTHEN THE PROTECTION MANDATE OF THE LAS BODIES**

*Moderator:* Abdel Basset Hassen, Director, Arab Institute for Human Rights (IADH-AIHR)

- Brief presentation of FIDH comparative study on international and regional bodies and mechanisms: Antoine Bernard, FIDH Chief Executive Officer
- Evolution of the role and articulation between the African Union, the Commission and the Court and impact on NGOs strategies, Mabassa Fall, FIDH permanent representative to the African Union
- Place of women's rights in the work and functioning of the African Commission: trends and perspectives,
- Women's Rights and the LAS: NGOs' expectations, Amal Abdel Hadi, Head of the Coalition Equality Without Reservations
- Challenges faced by the inter-american system: Santiago Canton, Director of RFK Partners for Human Rights and former Executive Secretary of the Inter-American Commission on Human Rights

*Questions and debate with participants*

**11:00 - 11:20** | Coffee Break

**11:30 - 13:00** | **SESSION 4: LITIGATION BEFORE REGIONAL MECHANISMS**

*Moderator:* Hossam Bahgat, Director, EIPR

- Civil society role in litigation before the interamerican human rights system and possible lessons for other regional systems, Santiago Canton, Director of DFK Partners for Human Rights and former Executive Secretary of the Inter-American Commission for Human Rights

- Litigation before the European Court of Human Rights: Vincent Berger, Jurisconsult, European Court of Human Rights

*Questions and Debate with participants*

**15:20 - 18:00 SESSION 5: ROLE AND PLACE OF CIVIL SOCIETY BEFORE REGIONAL BODIES**

*Moderator:* Driss El Yazami, President of the National Human Rights Council (Morocco)

- Weaknesses and strengths of the consultative status at the United Nations (ECOSOC), Antoine Bernard, FIDH Chief Executive Officer
- The role and place of civil society in the African human rights system: Hannah Foster, Executive Director, African Centre for Democracy and Human Rights Studies (ACDHRS)
- Outlook for immediate and longer-term interaction with civil society, Inas Makkawi, Head of Secretariat for Civil Society, League of Arab States

*Questions and Debate with participants*

**15:20 - 18:00** Coffee Break

**15:20 - 18:00** Discussion and adoption of a final statement by the participants to disseminate and exploit the Beirut Summit and beyond

**MONDAY 18**

**LAST HALF DAY RESERVED FOR NATIONAL NGOS**

Mobilization strategy for civil society  
Challenges and Opportunities for advocacy and dialogue in selected Member States  
Possible actions at the national, regional and international levels  
Strategic alliances

## Annex 2 : International and regional courts and other treaty-based mechanisms for the protection of human rights, a comparative analysis

### A. FUNCTIONS AND POWERS

	Arab Committee for Human Rights	Human Rights Committee	African Court on Human and Peoples' Rights and commission	European Committee of Social Rights	Inter-American Court of Human Rights and commission	European Court of Human Rights
<b>Periodic evaluation of the Human Rights situation in a country</b>	Yes. States are required to submit reports every three years (ArCHR, art. 48).	Yes, reports are requested from States, usually every four years (ICCPR art. 40). The Committee will then issue <i>concluding</i> observations on each report.	Yes. States party to the ACHPR have the obligation to submit every two year a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the Charter (ACHPR art. 62). The African Commission on Human and Peoples' Rights is mandated to receiving and reviewing these reports.	Yes. States party to the ESC have to produce a report every two years (ESC Part IV art. 21). The committee adopts <i>conclusions</i> on these reports.	No	No
<b>Existence of interstate complaint mechanism</b>	No	Yes, Conditional to prior declaration accepting the procedure (ICCPR art. 41).	Yes, both the commission (ACHPR: art. 47 ) and the Court (ACHPR Protocol, art.5) are enabled to respectively receive State communications and State complaints.	No	IACionHR: Yes, conditional to prior declaration accepting the procedure (ACHR art. 45). IACrHR: Yes, conditional to prior declaration accepting the procedure (ACHR art. 62.3).	Yes (ECHR art. 33).

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Possibility of proprio motu examination of a situation</b>	No	Yes, the committee can proceed to the examination of the human rights situation in a country even if this country has not submitted its requested report (art. 70 of the Rules of Procedure of the Human Rights Committee).	Yes. In case of serious or massive human rights violations, or danger of irreparable harm, the Commission shall take any appropriate action including urgent appeals (art. 79 and 80 of the Rules of Procedure of the Commission). If it deems it necessary and advisable, the Commission may also carry out protection missions to States party. States party are required to provide the Commission with an open invitation for protection missions (art. 81 of the Rules of Procedure of the Commission).	No	Yes, especially until the 1990s, the Commission conducted several factfinding missions to examine the Human Rights situation in several countries (IACionHR Statute: art. 18). Visit of a country is conditional to acceptance by the visited State but does not take place if the State does not grant unconditional access to any place of interest for the mission.	No. However, the Secretary General of the Council of Europe can request any High Contracting Party to provide an explanation about the manner in which it ensures the effective implementation of any of the provisions of the Convention (ECHR art. 52).
<b>Availability of individual complaint mechanisms</b>	No	Yes, conditional to the ratification of the Optional Protocol to the International Covenant on Civil and Political Rights. Upon ratification, individuals have the possibility to lodge individual communications against the State allegedly responsible for a breach of their rights. The Committee will then render its final views on the case.	ACTHPR : Yes, conditional to a declaration made by States party to the ACHPR Protocol (ACHPR Protocol, art. 5.3 and 34(6)). Individuals and NGOs with observer status before the Commission are then able to directly institute cases before the African Court on Human and Peoples' Rights.  ACommHPR : Yes, the Commission may be seized of individual communications (ACHPR art. 55-59). In this case, the Commission can eventually seize the Court if the incriminated State is party to the ACHPR Protocol (art 5.1.a).	No. But the Additional Protocol to the European Social Charter creates a system of Collective Complaints and gives the right to several types of civil society organizations and representative interest groups to lodge a collective complaint in front of the committee (ESC Protocol art.1). The Committee adopts decisions on these reports.	IACionHR: Yes. Any individual, group of individuals, or nongovernmental entities can lodge petitions before the commission (ACHR art.44). IACTHR: Yes, but indirect, cases have to be transferred from the commission. Jurisdiction of the Court is moreover conditional to prior acceptance of the State party to the Convention (art. 62).	Yes. Art 34 of the ECHR allows any person whose rights have been breached to file an individual complaint. (For admissibility criteria, see art. 35).

## B. BINDING CHARACTER AND ENFORCEMENT OF FINDINGS AND DECISIONS

	Arab Committee for Human Rights	Human Rights Committee	African Court on Human and Peoples' Rights and commission	European Committee of Social Rights	Inter-American Court of Human Rights and commission	European Court of Human Rights
<b>Publicity of findings</b>	Yes. Art. 48.6 of the ArCHR provides that "the Committee's reports, concluding observations and recommendations shall be public documents which the Committee shall disseminate widely."	Yes. Both <i>final views</i> concerning individual communications and <i>concluding observations</i> to reports are published on the website of the Human Rights Committee. Dissemination of the report to the public further constitutes a standard request of the Committee's concluding observations.	While not secret, findings and reports of the ACommHPR are not always systematically published by the Commission and when they are, not always <i>in extenso</i> .  Judgments and orders of the ACTHPR are systematically published on the website	Yes. <i>Conclusions</i> and decisions are published on the website of the Committee.	IACionHR: in case of non-compliance by the concerned State with the Commission's recommendations, the Commission may decide to publish its report (ACHR: art. 51). This risk of publicity represents in itself a means of pressure on States to ensure proper implementation of the Commission's recommendations.  IACHR: Yes. Caselaw of the Court is systematically published on its website.	Yes. Case Law is published on the website of the Court.
<b>Binding character of decisions and findings</b>	No	No. Both final views concerning individual communications and concluding observations to reports have a nonbinding character.	Reports and conclusions of the Commission have no binding character. Judgments of the Court on the other hand are binding for the states against whom they have been delivered (ACHPR Protocol, art.30).	No. Both conclusions on State reports and decisions relative to collective complaints have a non-binding character	IACionHR: No. Reports of the commission have a non-binding character. IACHR: Yes. Judgments of the Court are binding for the states against whom they have been delivered (ACHR art. 58).	Yes, judgments of the Court are binding for the States against whom they are delivered (ECHR art. 46).

	Arab Committee for Human Rights	Human Rights Committee	African Court on Human and Peoples' Rights and commission	European Committee of Social Rights	Inter-American Court of Human Rights and commission	European Court of Human Rights
<b>Follow-up of decisions and findings</b>	The Committee must submit an annual report containing its comments and recommendations to the Council of the League. The role of the Council upon reception of this report is however unclear.	Regarding <i>final views</i> , follow-up to communications is ensured by a special rapporteur and the insertion of a clause in the views prescribing that the State should inform the committee within 90 days of the measures taken to comply with the view. Regarding <i>concluding observations</i> , the Committee can request a State to report back within a specific period to provide answers to the Committee's recommendations (Rules of procedure: art 71, 72). These answers will be examined by a special rapporteur and then examined by the committee.	The ACHPR has to submit to each regular session of the Assembly of Heads of State and Government of the African Union, a report on its work during the previous year. This one has to specify, in particular, the cases in which a State has not complied with the Court's judgment (ACHPR Protocol, art.31). If the Commission has taken a decision with respect to a communication and considers that the State has not complied or is unwilling to comply with its recommendations, the Commission may submit the Communication to the Court (art. 118.1 of the Rules of Procedure of the Commission).	<i>Decisions</i> on collective complaints are transmitted to the Council of Ministers and to the Assembly of the Council of Europe (ESC Protocol art. 8).	IAChR: Cases where States have not complied with findings of the Commission will normally be referred to the Court, provided the State has accepted its jurisdiction (IAChR Rules of Procedure art. 45)  IAChR: the Court itself ensures follow-up of its decisions and has developed a practice to render resolutions on non-compliance by member States. It can ultimately report non-compliance to the General Assembly of the Organization of American States (ACHR art. 65).	Compliance with judgments of the Court is ensured through supervision of the Council of Ministers of the Council of Europe (ECHR art. 46).

## C. JUDGES AND EXPERTS: STATUSES AND CRITERIA OF NOMINATION

	Arab Committee for Human Rights	Human Rights Committee	African Court on Human and Peoples' Rights and commission	European Committee of Social Rights	Inter-American Court of Human Rights and commission	European Court of Human Rights
<b>Publicity of findings</b>	Yes. Art. 48.6 of the ArCHR provides that "the Committee's reports, concluding observations and recommendations shall be public documents which the Committee shall disseminate widely."	Yes. Both <i>final views</i> concerning individual communications and <i>concluding observations</i> to reports are published on the website of the Human Rights Committee. Dissemination of the report to the public further constitutes a standard request of the Committee's concluding observations.	While not secret, findings and reports of the ACommHPR are not always systematically published by the Commission and when they are, not always in <i>extenso</i> . Judgments and orders of the ACTHPR are systematically published on the website	Yes. <i>Conclusions and decisions</i> are published on the website of the Committee.	IACionHR: in case of non-compliance by the concerned State with the Commission's recommendations, the Commission may decide to publish its report (ACHR: art. 51). This risk of publicity represents in itself a means of pressure on States to ensure proper implementation of the Commission's recommendations.  IACHR: Yes. Caselaw of the Court is systematically published on its website.	Yes. Case Law is published on the website of the Court.
<b>Binding character of decisions and findings</b>	No	No. Both final views concerning individual communications and concluding observations to reports have a nonbinding character.	Reports and conclusions of the Commission have no binding character. Judgments of the Court on the other hand are binding for the states against whom they have been delivered (ACHPR Protocol, art.30).	No. Both conclusions on State reports and decisions relative to collective complaints have a non-binding character	IACionHR: No. Reports of the commission have a non-binding character.  IACHR: Yes. Judgments of the Court are binding for the states against whom they have been delivered (ACHR art. 58).	Yes, judgments of the Court are binding for the States against whom they are delivered (ECHR art. 46).



	Arab Committee for Human Rights	Human Rights Committee	African Court on Human and Peoples' Rights and commission	European Committee of Social Rights	Inter-American Court of Human Rights and commission	European Court of Human Rights
<b>Follow-up of decisions and findings</b>	The Committee must submit an annual report containing its comments and recommendations to the Council of the League. The role of the Council upon reception of this report is however unclear.	Regarding final views, follow-up to communications is ensured by a special rapporteur and the insertion of a clause in the views prescribing that the State should inform the committee within 90 days of the measures taken to comply with the view.  Regarding <i>concluding observations</i> , the Committee can request a State to report back within a specific period to provide answers to the Committee's recommendations (Rules of procedure: art 71, 72). These answers will be examined by a special rapporteur and then examined by the committee.	The ACHPR has to submit to each regular session of the Assembly of Heads of State and Government of the African Union, a report on its work during the previous year. This one has to specify, in particular, the cases in which a State has not complied with the Court's judgment (ACHPR Protocol, art.31). If the Commission has taken a decision with respect to a communication and considers that the State has not complied or is unwilling to comply with its recommendations, the Commission may submit the Communication to the Court (art. 118.1 of the Rules of Procedure of the Commission).	<i>Decisions</i> on collective complaints are transmitted to the Council of Ministers and to the Assembly of the Council of Europe (ESC Protocol art. 8).	IAChR: Cases where States have not complied with findings of the Commission will normally be referred to the Court, provided the State has accepted its jurisdiction (IAChR Rules of Procedure art. 45)  IAChR: the Court itself ensures follow-up of its decisions and has developed a practice to render resolutions on non-compliance by member States. It can ultimately report non-compliance to the General Assembly of the Organization of American States (ACHR art. 65).	Compliance with judgments of the Court is ensured through supervision of the Council of Ministers of the Council of Europe (ECHR art. 46).

## C. JUDGES AND EXPERTS: STATUSES AND CRITERIA OF NOMINATION

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Composition of the institution</b>	7 nationals of States Parties to the Charter serving in their personal capacity (ArCHR art 45).	18 nationals of States Parties to the ICCPR serving in their personal capacity (ICCPR art. 28).	ACTHPR: 11 nationals of the States having ratified the Protocol to the African Charter on Human and Peoples' Right. They exercise their functions in their individual capacity (ACHPR Protocol, art. 11).  ACommHPR: 11 nationals of the State party to the Charter serving in their personal capacity (ACHPR art 31-32).	15 independent experts (established by a decision of the Committee of Ministers at the 751st meeting of the Ministers' Deputies)	IACionHR: 7 members serving in their personal capacity (ACHR art. 34, 36)  IACtHR: 7 judges serving in an individual capacity (ACHR art. 52).	One judge per member State of the Council of Europe (currently 47, ECHR art. 20). They serve their mandate in their personal capacity (ECHR art. 21.2).
<b>Qualifications</b>	Members of the Committee are to be "highly experienced persons competent in the Committee's field of work" (ArCHR art 45.2).	Experts are to be "persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience" (ICCPR art 28.2).	Members of the ACommHPR have to be "personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience." (ACHPR art. 31.1).  Members of the ACTHPR are to "be jurists of high moral character and of recognized practical, judicial or academic competence and experience in the field of human and peoples' rights" (ACHPR Protocol art. 11).	Experts must be "of the highest integrity and of recognized competence in international social questions" (ESC Part IV, art. 25).	IACionHR: members of the commission are to be "persons of high moral character and recognized competence in the field of human rights." (ACHR art. 34 ; IACionHR Statute, art. 2).  IACtHR: judges of the Court are elected amongst "jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions in conformity with the law of the state of which they are nationals or of the state that proposes them as candidates." ACHR art. 52 ; ACTHR Statute, art. 4).	Judges have to be "of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence" (ECHR art. 21.1).

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Incompatibility with other functions</b>	No official incompatibility prescribed.	No official incompatibility is prescribed by the ICCPR. However, the fact that experts have to exercise their functions in their private capacity makes the tenure of their mandate difficult should they exercise official functions in their State of origin.	Judges of the ACHPR cannot exercise "any activity that might interfere with the independence or impartiality of such a judge or the demands of the office, as determined in the Rules of Procedure of the Court"(ACHPR Protocol art. 18). The rules of the Court further provide that "Members of the Court may not hold political, diplomatic or administrative positions or function as government legal advisers at the national level." (art. 5).	Members cannot perform "any function which is incompatible with the requirements of independence, impartiality or availability inherent in their office." (ESC part IV art. 25.4; ESCR Rules, art. 5).	IACionHR: members of the commission cannot exercise functions which are "incompatible with the exercise of activities which could affect the independence or impartiality of the member, or the dignity or prestige of the office" (IACionHR Rules of Procedure art. 4; ACHR art. 71). IActHR: "The position of judge of the Court is incompatible with any other activity that might affect the independence or impartiality of such judge or member" (ACHR art. 71).	Judges cannot "engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office" (ECHR art. 21.3) This provision has been developed in the Rules of the Court which provide that judges cannot engage "in any political or administrative activity or any professional activity which is incompatible with their independence or impartiality or with the demands of a full-time office" (Rules of the Court, art. 4).
<b>Gender representation</b>	No specific rules on gender representation.	No specific rules on gender representation.	Regarding the Commission, practice has been to ensure equal gender representation. Regarding the Court, due consideration shall be given to adequate gender representation in the processes of nomination (by States party) and then election (by the Assembly) of the judges (ACHPR Protocol art. 12.2 and 14.3). Besides, in the process of electing their President and Vice President and nominating their Registry staffs, judges are requested to pursue a balanced gender representation to the greatest extent possible (Rules of the Court, art. 13).	No specific rules on gender representation.	No specific rules on gender representation.	Each section of the Court has to be gender balanced (Rules of the Court, art. 25).

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Geographical representation</b>	The Committee may not include more than one national of the same State (ArCHR art 45.3).	The Committee may not include more than one national of the same State and consideration is to be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems (ICCPR art 31). No strict quota is however in place, and representation can vary notably on the basis of qualification of candidates.	Neither the Commission, nor the Court can include more than one national of the same State. (ACHPR art. 32; ACHPR Protocol, art. 12.2). Rules of the Court further require a balanced representation of the principal legal traditions and main regions of Africa (art. 13).	No specific rule of geographical representation.	Neither the Commission, nor the Court can include more than one national of the same State (ACHR art.37, 52).	The composition of each section has to reflect "the different legal systems among the Contracting Parties." (Rules of the Court, art. 25).
<b>Method of designation</b>	Elected by States party to the Charter (ArCHR art 45.1).	Elected by States Party to the Covenant (ICCPR art. 29).	Members of the ACommHPR and judges of the ACtHPR are elected by the Assembly of Heads of State and Government of the African Union (ACHPR art 33; ACHPR Protocol, art. 14).	Elected by the Committee of Ministers of the Council of Europe although a modification introduced by the protocol of Turin provides that this election should ultimately be done by the parliamentary assembly of the Council of Europe (ESC part IV art. 24.1). This rule however is still not being applied.	IACionHR elected by the General Assembly of the Organization of American States (ACHR art. 36). IACtHR: elected by an absolute majority vote of the States Parties to the Convention (ACHR art. 53)	Judges are elected by the Parliamentary Assembly of the Council of Europe (ECHR art. 22).

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Length of the mandate</b>	Four years (ArCHR art 45.4).	Four years (ICCPR, art. 32).	Six years (ACHPR art 36; ACHPR Protocol, art. 15).	Six years (ESC part IV art. 24.2).	IACionHR: four years (ACHR art. 35).  IACtHR: six years (ACHR art. 53).	Nine Years (ECHR, art. 23).
<b>Renewability of the mandate</b>	Yes, once (ArCHR art 45.3).	Yes	Yes, once (ACHPR art 36; ACHPR Protocol, art. 15).	Yes, once (ESC part IV art. 24.2).	IACionHR: yes, once (ACHR art. 35). IACtHR: yes, once (ACHR art. 53).	No
<b>Remuneration</b>	Similar to experts of the Secretariat of the League of Arab States (ArCHR art. 46.5).	Members of the Committee should in theory receive emoluments from United Nations resources (ICCPR art. 35). However, while the amount of the emolument should theoretically have regard to the importance of the Committee's responsibilities (ICCPR art. 35), UN General assembly resolution 56/272 has limited the amount of the emolument to a symbolic	Emoluments and allowances of the members of the Commission and judges of the Court come from the Budget of the African Union (ACHPR art 41 and 44; ACHPR Protocol, art. 32).	No specific rule on remuneration.	Both the emoluments of members of the Commission and of Judges of the Court are determined by the budget of the General Assembly Organization of American States (ACHR art. 72).	Remunerated by the Council of Europe, around 15 000 € monthly. The choice was made of a high remuneration to avoid any risk of corruption of the judges).

## D. STRUCTURAL INDEPENDENCE AND FINANCING

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Subordination to political organs</b>	No	No	No	No	No	No
<b>Financing of the institution</b>	League of Arab States financing (ArCHR art. 46.5). Adequate financing remains an issue.	United Nations Budget (ICCPR art. 36).	The ACommHPR and the ACtHPR are funded by the African Union's Budget (ACHPR art. 41 and 44, ACHPR Protocol art.32). The institutions also receive financial support from various private and public development organizations.	Provided by the Secretary General of the Council of Europe (ESCR Rules art. 13).	Budgets of the IACionHR and the IACTHR are determined by the budget of the General Assembly Organization of American States (ACHR art. 72).	Council of Europe's budget (ECHR art . 50).

## E. PARTICIPATION OF CIVIL SOCIETY

	<b>Arab Committee for Human Rights</b>	<b>Human Rights Committee</b>	<b>African Court on Human and Peoples' Rights and commission</b>	<b>European Committee of Social Rights</b>	<b>Inter-American Court of Human Rights and commission</b>	<b>European Court of Human Rights</b>
<b>Accreditation requirement and conditions thereof</b>	No specific requirements.	No specific requirements to present alternative reports. NB: NGOs can only present individual complaints before the Committee if they represent an individual or act on his behalf when he is not capable of giving his consent (Rule of the Committee art. 96).	Yes, in order to participate both before the Court and the Commission, nongovernmental organizations have to be granted observer status before the Commission. Requirements to be recognized observer status include statutes, proof of legal existence, a list of members, a description of the constituent organs, its sources of funding, its last financial statement, as well as a statement on its activities (see the Resolution of the African Commission on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organizations Working in the field of Human and Peoples' Right).	No specific requirements for submitting shadow reports to the committee. Comments from NGOs are published on the website of the Court.  Nongovernmental organizations which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee can additionally submit collective complaints (ESC Protocol art. 1.b). In order to be put on the list, NGOs must provide documentation attesting their reliability (see § 20 of the Explanatory Report to the Additional Protocol providing for a system of Collective Complaints).	To be able to submit a case before the commission, an NGO must be "legally recognized in one or more member states" (ACHR art. 44).	No specific requirements.

	Arab Committee for Human Rights	Human Rights Committee	African Court on Human and Peoples' Rights and commission	European Committee of Social Rights	Inter-American Court of Human Rights and commission	European Court of Human Rights
<b>Possibility to submit <i>amicus curiae</i> or shadow reports</b>	Early practice indicates the Committee welcomes the submission of shadow reports.	Yes. No specific rules exist on the question. In recent years, practice has however developed on the matter and encourages the submission of NGO reports (See notably the 2012 annual report of the Committee - A/67/40 (Vol. I), p. 244).	Yes, both the Court and the Commission welcome the submission of <i>amicus curiae</i> briefs (ACHPR Protocol art. 45.1, art 99.16 of the Rules of Procedure of the Commission).	Yes. The Committee welcomes reports of NGOs which are also published on the website of the Committee.	IACionHR: No specific rule on the subject, but the Commission has developed a practice of accepting <i>amicus curiae</i> . IACtHR: Yes (IACtHR Rules of procedure art. 41)	Yes, conditional on prior leave to submit an <i>amicus curiae</i> (ECHR art. 36 ; Rules of the Court, art. 44.3).
<b>Possibility to be auditioned during deliberations</b>	No specific rule on the subject.	Possible presentation of oral information by NGOs before the examination of State reports (See notably the 2012 annual report of the Committee - A/67/40 (Vol. I), p. 244). Regarding the examination of individual communications, no oral hearings are conducted.	NGOs with observer status are allowed to present oral statements during the opened sessions of the Commission. Hearings on communications may also be granted to the parties (art 99 of the Rules of Procedure of the Commission) While examining a case brought by the Commission, the Court may decide to hear the individual or NGO that initiated this communication to the Commission (art. 29.3.c of the Rules of the Court).	Yes. "Upon a proposal by the Rapporteur, the President of the Committee may invite any organization, institution or person to submit observations" (ESCR Rules art. 32A).	No specific rule on the subject.	Exceptional. No specific rule exists on the matter.



### **Annex 3 : List of participants**

**African Center for Democracy and Human Rights Studies** - Hannah Forster  
**African Court for Human and People's Rights** - Judge Sylvain Ore  
**Al Haq** - Nasser Rayes  
**Amel Center** - Karim el Mufti  
**Amman Center for Human Rights Studies (ACHRS)** - Nizam Assaf; Maysoun Jerali  
**Arab Institute for Human Rights (AIHR)** - Abdel basset Hassan  
**Arab Organization for Human Rights (AOHR)** - Hamed Fadlalla; Rassem al Attasy; Abul Menem el Hur; Mahmoud Marei; Alaa Shalaby; Moataz Osman; Haidi Ali  
**Arab Women Organization** - Leila Hamarneh  
**Bahrain Center for Human Rights (BCHR)** - Sayed Youssef  
**Bahrain Human Rights Society (BHRS)** - Ahmed El Hujairi  
**Cairo Institute for Human Rights Studies (CIHRS)** - Sohair Riad; Ziad Abdetawab  
**Collectif des Familles de Disparus en Algerie (CFDA)** - Julia Levivier  
**Council of Europe** - Vincent Berger  
**Damascus Center for Human Rights Studies (DCHRS)** - Radwan Ziadeh  
**Djiboutian League for Human Rights (LDDH)** - Zakaria Abdillahi  
**Egyptian Initiative for Personal Rights (EIPR)** Hossam Bahgat; Bahaa Ezzelarab; Yasmine Shash  
**Gulf Center for Human Rights (GCHR)** - Khalid Ibrahim  
**Human Line Organization** - Maha Barjes  
**Human Rights Information and Training Center (HRITC)** - Ezzdine El Asbahy  
**Human Rights Watch** - Tamara El Rifai  
**Independent** - Magdy el Naim  
**Inter-American Commission and RFK Center** - Santiago Canton  
**International Commission of Jurists (ICJ)** - Said Benarbia; Mohamed farahat  
**International Federation for Human Rights (FIDH)** - Souhayr Belhassen; Amina Bouayach; Mabassa Fall; Antoine Bernard; Stephanie David; Tchérina Jerolon; Marie Camberlin; Salma Hoseiny.  
**Libyan Center for Human Rights Development** - Fadwa Gallal  
**Libyan Organization for Documenting War Crimes (LODWC -Misrata)** - Ahmed Sereati  
**Mauritanian Association for Human Rights (AMDH)** - Fatimata Mbaye  
**Mediterranean Human Rights Network (EMHRN)** - Motaz El-Fegeiry  
**Moroccan Association for Human Rights (AMDH)** - Naima Rahma  
**National Council for Human Rights (CNDH)** - Driss El Yazami  
**National Council for Liberties in Tunisia (CNLT)** - Sihem Bensedrine  
**National Institution for Defending Human Rights and Freedoms (HOOD)** - Ahmed Arman  
**New Woman Foundation** - Amal Abdel Hadi; Lamia Lotfy Hadi

**Open Society Foundations (OSF)** - Mervat Richmawi;

Ammar Abu Zayyad

**Palestinian Center for Human Rights (PCHR)** - Raji Sourani

**Palestinian Human Rights Organization (PHRO)** - Ghassan Abdallah

**Tunisian League for Human Rights (LTDH)** - Abdel Sattar ben Moussa

**Yemeni Organization for Defense of Human Rights** - Fadl Ali Abdullah



**fidh**

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**FIDH**  
represents **164**  
**human rights organisations**  
on **5 continents**



of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be

## **ABOUT FIDH**

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 164 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

**fidh**

Find information concerning FIDH's 164 member organisations on [www.fidh.org](http://www.fidh.org)