

UNIT 8: THE PROTECTION OF HUMAN RIGHTS FROM A REGIONAL PERSPECTIVE (V): THE WORK OF THE ARAB LEAGUE AND THE ASEAN

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1. THE WORK OF THE ARAB LEAGUE

1.1. General ideas

- Regional IO created in Cairo, Alexandria Protocol of 22/3/1945.
- 22 member states: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Mauritania, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen and Palestine.
- Its member states are also party to other human rights conventions, including regional ones (African Union).



1.2. The Arab Charter on Human Rights

a) Legal texts and State commitments

- 3/9/1968 Arab Permanent Commission for Human Rights.
- Promotion of Human Rights.
 - Draft Arab Charter. 15/9/1994: [Arab Charter on Human Rights](#) not ratified.
 - 22/5/2004 Tunisia: [Arab League Human Rights Charter](#), in force between 15/1/2008 and 15/3/2008.
- Currently parties: Algeria, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, United Arab Emirates, United Arab Emirates and Yemen. Palestine (linked).
- State commitments
 - ❖ Respect and guarantee to all individuals under their jurisdiction the recognized human rights without discrimination as to color, race, sex, language, religion, opinion, national or social origin, property, birth and physical or mental disability.
 - ❖ Adopt the necessary measures to guarantee equality in their exercise.
 - ❖ Adopt necessary measures to guarantee equal opportunities and effective equality between men and women.

- Problem: respect for positive discrimination "Islamic sharia and other divine laws".
- Possibility of suspending obligations in situations of exceptional urgency that endanger the life of the nation-obligation to inform the rest of the States.
 - ❑ Exceptions: Right to life. Prohibition of torture, inhuman or degrading treatment. Medical or scientific experiments without consent. Prohibition of slavery and servitude. Right to fair trial. Right to liberty and security. Principle of legality. Presumption of innocence. Prohibition of imprisonment for debt. Non bis in idem rights. Legal personality. Enter and leave any country freely. Right to political asylum. Right to nationality. Judicial guarantees to all of the above rights.

b) Rights recognized

➤ Rights of the Peoples:

- ❖ Right to self-determination and permanent sovereignty over wealth and resources.
- ❖ Right of resistance to foreign occupation.

➤ Individual rights:

- ❖ Right to life.
- ❖ Prohibition of torture, inhuman or degrading treatment.
- ❖ Prohibition of medical or scientific experiments without consent.
- ❖ Prohibition of slavery and servitude.
- ❖ Right to fair trial.
- ❖ Right to liberty and security.
- ❖ Principle of legality.
- ❖ Presumption of innocence.
- ❖ Right to protection of minors at risk.
- ❖ Prohibition of imprisonment for debt.
- ❖ Non bis in idem rights.
- ❖ Right to humane treatment in deprivation of liberty.
- ❖ Right to privacy in private life.
- ❖ Legal personality.
- ❖ Right to effective judicial recourse.
- ❖ Right of citizens to political activities, participate in political life and freedom of association and assembly.

- ❖ To enter and leave any country freely.
- ❖ Right to political asylum.
- ❖ Right to nationality.
- ❖ Minority rights to culture, language and religion.
- ❖ Freedom of movement and residence, and prohibition of arbitrary expulsion.
- ❖ To freely enter and leave any country.
- ❖ Right to freedom of thought, conscience and religion.
- ❖ Right to private property.
- ❖ Freedom of information, opinion and expression.
- ❖ Protection of the family.
- ❖ Right of citizens to work under just and favorable conditions.
- ❖ Protection of children against economic exploitation.
- ❖ Prohibition of sex discrimination in work and training, and protection of immigrant workers.
- ❖ Right to form and join trade unions and to strike.
- ❖ Citizens' right to social security.
- ❖ Right to development.
- ❖ Right to a sufficient standard of living and healthy environment.
- ❖ Right to enjoy the best state of mental and physical health.

- ❖ Right of the physically and mentally handicapped to a decent life that guarantees their dignity.
 - ❖ Citizens' right to free education.
 - ❖ Right to participate in cultural life and to benefit from progress.
- c) *Problems with the Charter's compatibility with other international human rights norms and even contradiction with State human rights obligations***
- The Charter refers to "Zionism" among those situations that entail a violation of HR.
 - Such a circumstance has not been endorsed by the UNGA.
 - Many States Parties are ratifiers of other international human rights conventions with contrary provisions in the Charter: Possibility of death penalty for minors under 18 years of age if the legal provision predates the offence.
 - Discrimination with respect to non-citizens: peaceful assembly, social security, work, free medical care, access to basic health services, free basic education.
- d) *Guarantees. The Arab Human Rights Committee.***
- Membership: 7 national members States Parties.
 - Committee as monitoring body. Functions:
 - ❖ Examine reports submitted by States to the SG.

- ❖ Examine periodic reports sent directly to the Committee: these are examined in public with a representative of the State to which observations and/or recommendations are made.
- Limitations of the protection mechanism: Reporting on measures.

2. THE WORK OF THE ASSOCIATION OF SOUTHEAST NATIONS (ASEAN)

2.1. General Ideas

- ASEAN: 8/1967 as a regional forum to promote cooperation and development.
- 2007: OI Regional Charter of the Association of Southeast Asian States (Singapore, 29/9/2007-in force, December 2008).
- Currently: 10 member states.
- ASEAN Charter: Reference to human rights. Creation of a specific institution.



2.2. *The ASEAN Intergovernmental Commission on Human Rights.*

- Meeting July 2009: Statute ASEAN Intergovernmental Commission on Human Rights (in force, 22/10/2009).
- Charge: develop strategies for promotion and protection (quite successful).
- Subsequently: ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (in force, 7/4/2010).
- Both: consultative and intergovernmental bodies.

2.3. *The ASEAN Declaration of Human Rights*

- Mandate to the Commission: Five-Year Plan of Action 2010-2015.
- ASEAN Declaration of Human Rights, Phnom Penh (Cambodia) 18/11/2012 as a framework for cooperation on HR in ASEAN but not legally binding.
 - ❖ General principles: equality and dignity; prohibition of discrimination; equality before the law; right to effective judicial remedy; and universality and indivisibility HRD.
 - ❖ Civil and political rights: life; liberty and security; prohibition of slavery and servitude; prohibition of torture and inhuman or degrading treatment; freedom of internal movement; right to asylum; right to property; right to nationality; right to marriage; presumption of innocence; principle of legality; right to privacy....

- ❖ Economic, social and cultural rights: right to work; right to form and join trade unions; right to an adequate standard of living; right to food, adequate housing, water; right to sanitation; right to a safe and sustainable environment; right to an adequate standard of health; right to social security; right to education and right to association.

2.4. ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)

- Cha-am Hua Hin Declaration on the Roadmap for the Creation of the ASEAN Community (2009-2015) emphasizes the need to establish a specific body to promote and protect the rights of women and children.
- The Commission on Women and Children April 2010: task of promoting and protecting their rights, developing judicial and administrative capacity, and promoting data collection and research.
 - ❖ 1ST meeting February 2011
 - ❖ Priorities: violence and trafficking of women and children, women and children affected by HIV and AIDS, and protection of the rights of women and children with disabilities.
- Each Member State appoints two Commissioners, one for women and one for children. Period of three years (possibility reappointed for a 2nd consecutive term).

➤ Critized for:

- ❖ an alleged lack of independence.
- ❖ It is legally bound not to interfere in the internal affairs of member states, which is a considerable limit to the Commission's protection mandate.
- ❖ Lack of transparency and consultation with NGOs.



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