

§ 6 An emerging Arab human rights law?

I. The Arab Charter on Human Rights

- prepared by the League of Arab States
- signed 2004, in force since 2008; a former version of 1994 was not ratified by any state
- has not yet played an important role in the effective protection of human rights in Arab states
- essential civil and political rights, some elements of the rule of law anchored as human rights, some social, economic and cultural rights
- treaty body: a - powerless - Arab Human Rights Committee (art. 45)
- control mechanisms: state reporting procedure (art. 48)

II. Compatibility of the Arab Charter on Human Rights with universal human rights standards?

- preamble refers to an important Arab anti-human rights document, the "Cairo Declaration on Human Rights in Islam" of the Organisation of Islamic Cooperation of 1990 that aimed to subject the human rights to the Sharia
- men and women are equal, but only "within the framework of the positive discrimination established in favour of women by the Islamic Shariah, other divine laws..." (art. 3(3))
- art. 7(1) allows death penalty for children
- freedom of expression only if "exercised in conformity with the fundamental values of society" (art. 32(2)) - what about critical views?
- many rights reserved to the national citizens

III. The projected Arab Court of Human Rights

- see the Statute of the Arab Court of Human Rights of 2014 (intern. treaty, not yet in force), which has been strongly criticised by human rights and lawyers associations
- seat shall be in Manama City, Bahrain
- will have 7 to 11 judges, elected for a term of 4 years
- will sit in chambers of at least 3 judges
- complaints can only be filed by states or NGOs accredited in the state (optional) but not by the citizen (art. 19(2) Statute)
- Court cannot take provisorial measures
- no mechanism to enforce the execution of the judgements
 - however, Statute obliges states to enforce them immediately, as if they were final judgments rendered by its national judiciary (art. 26 phrase 2 Statute)