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Middle East and North Africa

The Arab Human Rights Committee: Elections of Members and Criteria of Membership

1. Introduction

The revised Arab Charter on Human Rights entered into force on 15 March 2008 after it received seven ratifications.¹ The revised Charter provides for the creation of an “Arab Human Rights Committee”, which will consider periodic reports from states parties, discuss the reports, comment on them and make recommendations on the implementation of the provisions of the revised Charter by states parties. The Committee will also submit an annual report containing its comments and recommendations to the Council of the League of Arab States, through the Secretary-General of the League (Article 48 of the revised Charter).

The competence and integrity of individual members in the Committee will have significant impact on the overall quality and effectiveness of the committee in carrying out its entrusted role, which in turn will have a tremendous impact on ensuring the proper implementation of the revised Charter. This point has been emphasized by the UN High Commissioner for Human Rights with regards to UN treaty monitoring bodies:

“The ultimate success of any monitoring system.... depends on the calibre and independence of the experts monitoring implementation of treaty standards.”²

The Committee to be established during the next few months will be the first supervisory mechanism for the revised Charter and the first independent human rights Committee in the system of the League of Arab States to engage in supervising the implementation of a human rights treaty. This Committee will therefore carry substantial responsibility in advancing genuine protection and promotion of human rights within the League of Arab States.

The process of drafting the revised Charter engaged experts and was informed by input from civil society. The inclusion of multiple stakeholders has been widely seen as a success, both

¹ The current states parties to the Revised Charter are: Algeria, Bahrain, Jordan, Palestine, Syria, Libya, and United Arab Emirates. Article 49 (2) of the revised Charter states that “The present Charter shall enter into effect two months from the date on which the seventh instrument of ratification is deposited with the Secretariat of the League of Arab States.”

² Concept paper on the High Commissioner for Human Rights’ proposal for a unified standing treaty body, March 2006.

in respect of the substantive contributions and in enhancing the credibility of the process. The selection of nominees at the national level and the election of the members at the level of the League of Arab States should similarly be transparent and inclusive.

Amnesty International is issuing this document drawing on the organisation's broad experience with international and regional treaty monitoring bodies. Amnesty International's active engagement over the years with these bodies has demonstrated that electing the competent and independent individuals to a supervisory committee is vital to ensuring proper monitoring of states' treaty obligations.

2. Background

The process of conducting the first elections for membership of the Arab Human Rights Committee is set in Article 45 (5) which states that "Six months prior to the date of the election, the Secretary-General of the League of Arab States shall invite the states parties to submit their nominations within the following three months. He shall transmit the list of candidates to the states parties two months prior to the date of the election.... The first election for membership of the Committee shall be held at least six months after the revised Charter enters into force." Article 49 (2) clarifies that the revised Charter shall enter into effect two months from the date of the seventh ratification. The revised Charter therefore entered into force on 15 March 2008, and the elections of the Committee members is due to happen at least six months after that. Nominations will be made within the three months after the revised Charter entered into force on 15 March.

The Committee is to consist of seven members who shall be elected by secret ballot by the states parties (article 45 (1)). The revised Charter establishes the following membership criteria:

- 1) Members must be *nationals of the states parties* to the revised Charter (article 45 (2)), and the Committee shall include among its members *not more than one national of a State party* (article 45 (3)).
- 2) Members must be *highly experienced* and *competent* in the Committee's field of work (article 45 (2)).
- 3) Members shall serve in their *personal capacity* and shall be *fully independent* and *impartial* (article 45 (2)).

Although the revised Arab Charter provides certain criteria for nomination and election of the members of its Committee, it fails to incorporate some important criteria found in other international and regional human rights instruments. The revised Charter also lays down broad standards which need further clarification in order to be successfully attained.

3. Role of the Secretary-General

Amnesty International is calling on the Secretary-General of the League of Arab States to issue guidance in written form to states parties to the revised Charter further explaining further the process of nomination and election as well as criteria of membership of the Arab Human Rights Committee.³

- To facilitate the comparative assessment of the candidates, the Secretary-General should delineate, in the official document, a standardised format in which the nominations must be submitted.

- A Consultative Committee of independent persons with relevant experience should be established to develop criteria of membership, together with the Secretary-General, assess and provide an opinion regarding each list of nominees. The appraisal should judge whether the selection process of candidates was open, transparent and fair, and whether the list of candidates submitted is gender-balanced. The Consultative Committee should provide their opinion on the individual candidates, to be taken into account during the elections.

- The Secretary-General, assisted by the states parties and the Consultative Committee, should develop and publish a document comprising a list of criteria – such as expertise, qualifications and competencies – that the candidates must meet, as well as a summary

³ The Revised Arab Charter on Human Rights provides in Article 45 (5 and 6) that:

“Six months prior to the date of the election, the Secretary-General of the League of Arab States shall invite the States parties to submit their nominations within the following three months. He shall transmit the list of candidates to the States parties two months prior to the date the election. The candidates who obtain the largest number of votes cast shall be elected to membership of the Committee. If, because two or more candidates have an equal number of votes, the number of candidates with the largest number of votes exceeds the number required, a second ballot will be held between the persons with equal numbers of votes. If the votes are again equal, the member or members shall be selected by lottery. The first election for membership of the Committee shall be held at least six months after the Charter enters into force.

The Secretary-General shall invite the States parties to a meeting at the headquarters the League of Arab States in order to elect the member of the Committee. The presence of the majority of the States parties shall constitute a quorum. If there is no quorum, the secretary-General shall call another meeting at which at least two thirds of the States parties must be present. If there is still no quorum, the Secretary-General shall call a third meeting, which will be held regardless of the number of States parties present.”

of the mandate and functions of the Committee. The role of the Committee's members should also be specified in this document.

- The Secretary-General should encourage states to nominate more than one candidate in order to ensure a real choice for election from a broadest number of candidates. States parties could be asked to nominate at least 2 to 4 qualified and experienced candidates, so that the largest possible pool of qualified candidates is made available for the election.
- The Secretary-General could also consider calling for nomination of the broadest number of candidates by authorising states to nominate candidates who are nationals of other states parties. Regional instruments like the Protocol to the African Charter on Human and Peoples' Rights,⁴ as well as the American Convention of Human Rights,⁵ adopt this procedure. The revised Arab Charter is silent in this respect and therefore such a procedure must be presumed permissible.
- The Secretary-General should require and ensure that nomination lists are gender-balanced.
- Besides the criteria set forth in the revised Arab Charter (independence, impartiality, professional experience, and recognised competence), the Secretary-General should provide a clarification on the content of each criteria. For example, it is essential to emphasize that the criteria of "independence and impartiality" include the requisite that the candidates are not currently holding a position in Government or in any other political organisation or any past position that could compromise his/her work in the Committee.
- The Secretary-General may also add some additional criteria found in other international human rights documents which are not mentioned in the revised Arab Charter, as well as any other criteria deemed relevant to the smooth running of the Committee (see Criteria for Membership below).

⁴ Article 12 of the Protocol of the African Charter on Human and Peoples' Rights: "All States parties should nominate three candidates – one of whom may be a national of another AU member state."

⁵ Article 36 (2) of the American Convention on Human Rights: "Each of those governments may propose up to three candidates, who may be nationals of the states proposing them or of any other member state of the Organization of American States. When a slate of three is proposed, at least one of the candidates shall be a national of a state other than the one proposing the slate."

- The Secretary-General should require information on the nominees to be selected at the national level and to be then elected for the membership of the Committee. Such information should include detailed information on the nominee's qualifications; relevant experience; recognized competence; evidence of commitment to the principles of universal human rights; proof of availability to work as a member of the Committee; and written statement explaining how the nominee could contribute to the work of the Committee.

- The Secretary-General should call on the states parties to ensure that they carry out the nomination of candidates under a transparent, open and inclusive process. This should include opening the process of nomination for public consultation and the possibility for the civil society at large to nominate members as well as commenting on certain candidates. States should be requested to establish such a transparent process of selection which is open to all potential candidates who meet the criteria, and which ensures broad consultation.

- The Secretary-General should publish and widely distribute the names of candidates, their curriculum vitae and other information related to their selection at the national level mentioned above as soon as they are received by the secretariat.

4. Selection of nominees at the national level

In order for the Arab Committee to achieve the legitimacy and authority required for the effective monitoring of the implementation of the human rights enshrined in the revised Charter, it will be crucial that states parties follow clear steps during all stages of the selection and election of the Committee's members. At the outset, it is important to ensure that the selection of nominees at the national level is effective and transparent. Amnesty International recommends the following:

- Organisations actively working on the areas covered by the revised Charter can assist the setting up of criteria for nomination, by providing comments and input on the criteria delineated by the states parties. Those from civil society at large that can be involved to participate at all stages of the nomination process could include bar associations, human rights organisations and women's groups, as well as academics and other individuals active in the field of human rights. In the same way, these organisations can help the states parties to identify highly qualified candidates that meet the criteria for nomination. Civil society at large can also be invited to take part in the selection of the nominees to the committee, which should be composed not only by representatives of the states parties, but also by relevant non-governmental organisations, professional associations and other organisations competent in the field

of human rights. After the selection of nominees, states should make public the results. Civil society can continue to provide assessment of nominees from their own country and of other states.

- To ensure transparency, the nomination process must be well and widely publicised. The call for nominations should therefore clearly state:
 - a) the role and function of the Committee;
 - b) the skills, qualifications and competencies required;
 - c) the procedure for applications; and
 - d) the closing date for applications.

The wide dissemination of the call for nominations within a reasonable time before the deadline for submission of application will ensure that the potentially eligible applicants are aware of the nomination process.

- It is important that the future Committee is gender-balanced. To guarantee that women are nominated and take part in the nomination process, it is important that women's professional organisations and women's rights groups are consulted. States should also encourage that women who meet the criteria of membership are also nominated.
- Each state party should consider establishing a selection committee composed of representatives of the states parties, relevant non-governmental organisations, professional associations and other organisations competent in the areas covered by the revised Arab Charter, in order to participate in the review of the applications and in the selection process.
- After the selection of candidates, the states parties should make public the names of the candidates selected and how they meet the criteria that were identified in the call for applications.
- States parties should ensure that the nomination process is open to all potential candidates who meet the requirements set out in the revised Charter, namely personalities of the highest reputation, known for their integrity, impartiality and competence in matters of human rights, with particular consideration being given to persons having legal experience and experience in the areas covered by the revised Charter.

5. Criteria of Membership

Amnesty International is calling on the Secretary-General of the League of Arab States to require states parties to include the following criteria in the process of their selection of nominees and the subsequent elections of the members. Criteria set forth in international human rights instrument which are not mentioned in the revised Charter include:⁶

- importance of the participation of some persons having legal experience (see CAT and ICCPR)
- professional experience and competence in the fields covered by the revised Charter to ensure a good balance of expertise in respect of particular Charter rights (see OPCAT, CEDAW, CRC, CRPD and ICRMW).
- representation of the principal legal systems (see OPCAT, CEDAW, CERD, CRC, ICRMW, ICCPR, CRPD and ICESCR)

6. The process of electing the committee members

- State parties should avoid political ‘trade-offs’ and bargaining during the election process. In electing the members of the Committee, states should take into account the independence and competence of the individual candidates. They also have to appraise whether the candidates are committed and able to undertake their duties such as attending regular meetings, allocating extensive time to preparation for the evaluation of the implementation of the revised Charter by states parties, and any other activity required. Consideration has to be given to gender and geographical balance.

- The election procedure should be carried out in a transparent manner. The results of the election should be made public without delay.

⁶ These criteria are found in International Covenant on Civil and Political Right (ICCPR - article 28); International Convention on Elimination of All Forms of Racial Discrimination (CERD - article 8 (1)); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT - article 17 (1)); Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT - article 5); Convention on the Rights of the Child (CRC - article 43 (2)); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW - article 72); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW - article 17 (1)); International Covenant on Economic, Social and Cultural Rights (ICESCR - ECOSOC Resolution 1985/17), and the Convention on the Rights of Persons with Disability (CRPD - Article 34 (3 and 4))

- Civil society at large should be consulted by states throughout all stages of the nomination and election procedures.
- States parties should encourage election of qualified women who meet the requisites for eligibility to ensure gender balance is reflected in the membership of the committee.
- As the revised Arab Charter contains a wide variety of rights, ranging from civil, political and economic, social and cultural rights, it is important that election take this into account and ensure that individuals with diverse expertises are finally elected so that they together encompass all areas covered by the revised Arab Charter.
- To enable the Committee to reflect the diversity in the region in the best way, it will be important to ensure geographical balance.

In their elections of nominees to the Committee, states members should:

- vote only for candidates who meet the highest standards of independence, impartiality and competence;
- make public the reasons for their voting; and
- finally, elect members to ensure that the Committee's membership is multi-disciplinary, reflect the different legal systems in the region, and reflects the broad range of expertise that is required for the Committee to effectively fulfil its mandate.

