

1-1-2006

The Arab League. A Comparative Examination of Voting Mechanisms: Exploration of the Unanimity Rule of the Arab League's Regulations and How the Rule Affects the Organization's Security Function

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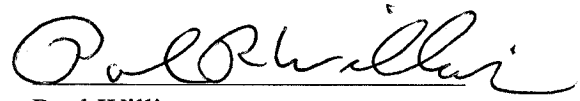
**THE ARAB LEAGUE—A COMPARATIVE EXAMINATION OF VOTING
MECHANISMS: EXPLORATION OF THE UNANIMITY RULE OF THE ARAB
LEAGUE'S REGULATIONS AND HOW THE RULE AFFECTS THE
ORGANIZATION'S SECURITY FUNCTION**

By

Abdulrahman N. Ben Homaid

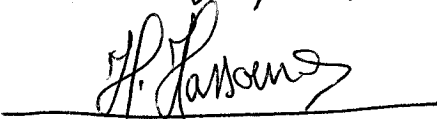
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in Partial Fulfillment of
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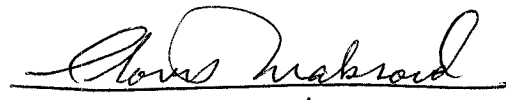
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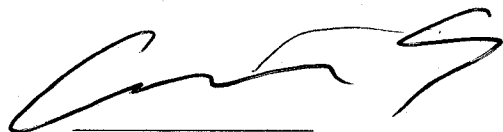

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To my son Naif

and

my parents

for their inspiration and support

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ABSTRACT

This study in International Public Law examines the impact of the League of Arab States (LAS), in the context of the legal norms of the new international order. The study analyzes the weakening influence of the League in the international political system, regarding issues of territorial sovereignty and integrity, human rights, and Arab nationalism and solidarity. It is the argument of this study that the Arab League today lacks a strong role in the implementation and enforcement of international law. This lack of influence is primarily due to its internal divisions and members' disputes regarding the norms and standards of law. While the League has proposed

conventions and issued declarations modeled on the United Nation's international legal forms, it is unable to implement them internally (on issues of human rights and territorial integrity) or externally (the Arab-Israeli conflict, the Occupied Territories, Iraq-Kuwait conflict, and the US invasion of Iraq). The study draws upon published documents related to the Arab League, the UN Security Council and the African Union, to conduct an examination and comparison of the League's voting mechanisms with these other organizations. The research shows that, while the League's unanimity clause in its voting system bears primary responsibility for the League's perceived ineffectiveness in the implementing and enforcing of international law in the Middle East, these international norms of law and diplomacy are ultimately grounded in political, economic and military realities, rather than a strict adherence to statutes, treaties or resolutions. Specifically, an examination of the relevant literature shows that the League's inability to influence international norms on the Palestine question and Iraq is actually part of a larger crisis in international law and

the application of such laws and norms in a way that is not even-handed.

ACKNOWLEDGMENTS

I am grateful to the many people who helped me on this dissertation, and especially to the members of my committee for the encouragement, comments and criticism which enabled me to crystallize many of the ideas found in this study. Special thanks are due to Dr. Paul Williams, head of my committee, and to the director of International Legal Studies program, Professor Daniel Bradlow for his advice, encouragement and support during the many years I spent at WCL and the year at Harvard, which without him would have been impossible.

I would like to express my sincere thanks and gratitude to HRH Prince Bandar Bin Sultan for providing me with the opportunity to study in the United States and for his endless support which have made everything possible. I am also grateful beyond measure to Mr. Fahd Sala'h Almohqni for his kindness, encouragement, and belief in me.

I am as well thankful to all my friends from Washington College of Law, for being a surrogate family during the many years I studied there, and for their continuing moral support. From the staff, Irene A. Moyer,

Rosie L. Edmond and Sally Elshihabi, Executive Assistant to Paul Williams, are appreciated for helping take care of administrative paper work and communications.

Thanks also go to William Ryan, Foreign & International Librarian, and Susan Lewis-Somers, Associate Director for Public Services, for their help and assistance.

Finally, I would like to thank my family who have waited ever-so-patiently for me to graduate. A special word of thanks goes to my wife, Wafa, and my brother in law, Nayef M. Binhumaid, for their steadfast support and patience during the initial research stage and throughout the tedious writing and editing process.

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CHAPTER 1

INTRODUCTION

Background of Regional Organizations and the Arab League

Regional Organizations

Numerous new regional organizations, among which can be numbered the League of Arab States (known more informally as the "Arab League)," emerged in various parts of the world during and after World War II and in the early Cold War era of geopolitical realignment. This formation of new regional organizations was an attempt by various groups of nations, joined on the basis of common geopolitical, economic, ethnic or military interests, to mount a collective front against perceived existing or possible outside threats— whether those threats were military, political or trade-related in nature.

The United Nations, in contrast, provided a forum for dispute resolution and confrontation. Yet there was a realization among many nations that they would be better off grouped with like-minded states than on their own:

Governments acting as the representatives of the states of their countries have increasingly found ...regional organization an advantageous mechanism for coordination. Since WWII the proliferation of multi-lateral decision-making mechanisms indicates the profound transaction cost saving reasons for governments to set up and run international and regional organizations.¹

Definition

Before an examination of the reasons for the setting up of these organizations, however, a defining question needs to be asked: What exactly is a "regional organization"? There are various definitions and often the term is used interchangeably to denote arrangements that range from the sub-regional and regional through to inter-regional and trans-regional.

Former UN Secretary-General Boutros-Ghali indicated that this was done on purpose, and that an exact definition was avoided to provide for "useful flexibility," pointing out that:

Such associations or entities could include treaty-based organizations, whether created before or after the founding of the United Nations, regional organizations for mutual security and defence,

¹ Jan-Erik Lane & Reinert Maeland, *International Organization as Coordination in n-Person Games*, 54 *Political Studies Journal*, 1 (2006) (http://www.nek.lu.se/nekcb/ds/Jan-ErikLane_Sem26May_paper2.pdf) (accessed Sept. 12, 2005).

organizations for general regional development or for cooperation on a particular economic topic of function, and groups created to deal with a specific political, economic or social issue of current concern.²

On the other hand, the Organization of American States (OAS), which has the distinction of being one of the oldest regional organizations in the world, defines such organizations as "based on the principle of proximity. Affinity, which gives rise to a culture of participation, shared historical experience, closeness, and thorough knowledge of the particular circumstances of each region, enables the regional organizations to participate with a better prospect of success in the solution of regional problems."³ For the purpose of this study, the term regional organizations means "any institution, whose members are states, where those members group together and form and/or implement a common policy."⁴

² Boutros Boutros-Ghali, *An Agenda for Peace* 17, U.N. GAOR, 47th Sess., Item 10, U.N. Doc. A/47/277, S/24111 (June 17, 1992).

³ Michael N. Barnett, *Partners in Peace? The UN, Regional Organizations and Peacekeeping*, 21 Rev. Intl. Stud. 411, 418 (No. 4, 1995).

⁴ Davis Brown, *The Role of Regional Organizations in Stopping Civil Wars*, 41 A.F.L. Rev. 235 (1997).

Even this definition might be a bit too ambitious in terms of the forming and/or implementing of common policies. Perhaps the phrase "attempting to form and trying to implement" might be more appropriate as there are many regional organizations that have trouble achieving the simplest common policy practices other than on paper, among them the specific regional organization to be examined in this dissertation.

A regional organization therefore must be confined to a specific sector of the globe, wherein the members have some common local interest, a commonalty which is usually but not always created by proximity. Coalitions of member states formed into these regional organizations include NATO, SEATO, COMECON, the Warsaw Pact, the European Union, the African Union, and the Arab League. Some, such as NATO, have a fairly wide definition of membership; others such as the Arab League are by necessity more restrictive and better defined as to membership.

Regional Organization's Purposes, Principles, and Role in Regional Security

The primary purpose behind any regional organization is to foster cooperation among the member states, in order to craft common solutions to problems

experienced by the states. The collaboration among the member states takes place in a variety of forms, including economic and financial integration, technical and cultural exchanges, or collective defense.⁵ In the post-Second World War context, the earliest alliances were primarily military pacts, where unanimity was a practical necessity, but eventually they gave rise to trade and political pacts where unanimity often proved impossible. In other words, once the immediate perceived danger from external aggression passed, the members of the organization tended to act once again more like separate individual nation-states.

Historically, then, most regional organizations were formed to confront external defense problems. Plagued with instability and insecurity after World War II, groups of countries with similar interests, cultures, and ideals banded together to find some method of enforcing their security. The regional organizations sometimes operated by providing early warning, maintaining a country's territorial integrity and political independence, and deterring unwanted behavior.⁶ Members compelled certain

⁵ *Id.* at 236.

⁶ *Id.*

behaviors by enforcing safety or weapons-free zones, disarming combatants and denying them freedom of travel, and enforcing economic sanctions against perceived enemy states.

From the standpoint of international peace and security, regional organizations were based on three principles:

1. a show of force against one member is considered a show of force against all of the member states;
2. member states relinquish the use of force against fellow member states, except in self-defense, and agree to resolve differences among themselves by peaceful means;
3. interference of one member state in the governance of another state is prohibited.⁷

The role to be played by regional organizations with respect to peacekeeping has been spelled out fairly clearly in the charter of the United Nations. In particular Article 33 calls for parties in a dispute to "resort to regional agencies or arrangements." Article 52 further specifies that UN member states "shall make every

⁷ *Id.* at 237.

effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council."⁸

Furthermore, several UN resolutions make reference to regional organizations and their role. Resolution 46/58 of the UN called on the Special Committee on the Charter of the United Nations Organization and on the Strengthening of the Role of the Organization to "consider the proposal on the enhancement of cooperation between the United Nations and regional organizations."⁹

Resolution 48/42 further specified what needed to be done to ensure that regional organizations were better equipped to handle the peacekeeping role. The resolution requested that the Secretary-General "consider ways to provide advice and assistance, in a variety of forms such as advisory services, seminars and conferences, to regional organizations and arrangements in their respective areas of

⁸ Discussed in Richard Jones & Tamara Duffy, *Sharing the Burden of Peacekeeping: The U.N. & Regional Organizations*, 25 *Peacekeeping & Intl. Rel.* 4 (No. 3, 1996); Charter of the United Nations (June 26, 1945) 59 Stat. 1031, T.S. 993, 3 Bevans 1153, art. 33, ¶ 1; art. 52, ¶ 2.

⁹ Report of the Special Committee on the Charter of the United Nations Organization and on the Strengthening of the Role of the Organization, G.A. Res. 46/58, U.N. GAOR, 46th Sess., Supp. 49, at 289, U.N. Doc. A/46/49 (1991).

competence, so as to enhance their capacity to cooperate with the United Nations in the field of peacekeeping operations."¹⁰

Four principles were laid out to help govern cooperation between the UN and regional organizations: the creation of mechanisms for the purpose of consultation; the respecting of the primacy of the UN; the adoption of a consistent approach to problems they had in common; and the defining of a clear division of labor so that duplication of efforts and manpower could be avoided. As for actual cooperation then occurring between the UN and regional organizations, Boutros-Ghali listed five types: joint operations, diplomatic support, consultation, operational support, and co-deployment.¹¹

Following the end of the Cold War, three main types or conceptions of regional security organizations have emerged:

¹⁰ *Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects*, G.A. Res. 48/42, U.N. GAOR, 48th Sess., Supp. No 49, at 115, U.N. Doc. A/48/49 (1993).

¹¹ Boutros Boutros-Ghali, *Supplement To An Agenda for Peace*, 31-32, U.N. GAOR, 50th Sess., U.N. Doc. A/50/60 , S/1995/1 (1995).

- Those exemplified by multipurpose organizations such as the OAS and the Arab League, based on Chapter VII of the UN Charter and using mostly passive forms of settlement dispute (mediation and arbitration);
- Those typified by traditional alliances and defense pacts (NATO and Western European Union (WEU)), designed more for external than internal threats;
- Those that work mostly in the political arena to secure cooperation and security such as the Association of Southeast Asian Nations (ASEAN).¹²

In general, there has been a movement in the post-Cold War era to shift much of the peacekeeping burden away from the UN and onto the shoulders of regional organizations. According to a report by the UN's Joint Inspection Unit:

[R]egional organizations should be the first "port of call" for the prevention and pacific settlement of local disputes ... Since many conflicts are increasingly local or civil in nature, there is a growing consensus that they could more easily be

¹² Davidson Black, *Widening the Spectrum: Regional Organizations in Peacekeeping Operations*, 25 *Peacekeeping & Intl. Rel.* 7 (No. 3, 1996).

prevented or speedily resolved through regional initiatives and approaches.¹³

Unfortunately, the effectiveness of regional organizations when it comes to peacekeeping roles has yet to be fully demonstrated. If the League of Arab States is any indication, that effectiveness, despite best efforts, has not been on display—at least not up to this point. Although it needs to be stated that there have been some successes which will be examined later..

One interesting area with respect to regional organizations and their effectiveness has to do with the potential effects such organizations can have on the democratization process in their particular sphere of influence. Regional organizations can put pressure on governments to put forward democratic reforms by: (1) reassuring that property rights and other commitments are honored; (2) socializing the military so as not to interfere in democratic processes; and (3) giving extra-national legitimacy to reformers. There is also a strong connection between being a member of a strongly democratic

¹³ Fatih K. Bouayad-Agha and Boris P. Krasulin, U.N. Jt. Inspection Unit, *Report of the Joint Inspection Unit, Sharing Responsibilities in Peacekeeping: The United Nations and Regional Organizations*, 8 ¶ 3, 50th Sess., U.N. Doc A/50/571 (1995).

regional organization and the chances of a successful democratic transition.¹⁴

Again, this is contingent on the members of the regional organization being democratic, active and enlightened. Whether the Arab League fits that description, or can meet that challenge, is still open to debate, one that is somewhat more promising following the latest rounds of reform initiatives.

League of Arab States

From the very start of its existence, unity, in the form of unanimity rather than majority rule, was the main concern and goal of the Arab League. While this might not be the main concern of the League today, it is burdened with this legacy: a history of inaction that, until very recently, was imbedded in the voting rules of the organization. Unity in the case of the Arab League has come to mean unanimity, or the notion that everyone must agree before a decision is made. In today's fast-paced and increasingly globalized world, few organizations have the luxury of striving to achieve absolute unity in decision-making within the timeframe allotted to them. This burden

¹⁴ Jon C. Pevehouse, *Democracy From Above: Regional Organizations and Democratization* 1 (Cambridge U. Press

of unanimity disguised as unity has come to haunt the Arab League and it was only recently that the League started to divest itself of this burden. In fact, the changes took place so recently that it is not yet possible to ascertain their long term effects.

The Birth of the Arab House

The roots of the League can be seen arising out of an attempt by Iraqi's premier Nuri al-Sa'id in 1942 to create a union of Arabic speaking countries around the so-called "Fertile Crescent": Iraq, Transjordan, Syria, Lebanon, and Palestine. Having been left out, Egypt, along with Saudi Arabia and Yemen; instead called for the creation of a larger organization, a League of Arab States.¹⁵ Behind these moves could still be seen the power plays of the ex-colonial powers France and Britain.

In 1942, the British government first began promoting the idea of an Arab League in an attempt to win over the Arabs as allies in the World War II struggle against Germany and Italy.¹⁶ The French, who wished to

2005).

¹⁵ Arthur Goldschmidt, Jr., *A Concise History of the Middle East* 226 (Westview Press 1999).

¹⁶ BBC News, *Timeline: Arab League* ¶ 1, <http://news.bbc.co.uk/>

maintain their influence in Syria and Lebanon, did not like the idea of a union of Fertile Crescent Arab states.

The British then backed Egypt into coming up with their own union. In 1943 the Egyptian government presented the League to the other Arab states, who wanted closer cooperation without the loss of self-rule that would result from a total comprehensive union.¹⁷ A conference was held to consider the political unification of the Arab nations, which consisted then of Egypt, Syria, Lebanon, Transjordan (later Jordan), Iraq, Saudi Arabia, and Yemen, the charter countries:

Iraq, unable to rally enough support for its Fertile Crescent scheme, joined the league ... This Arab League, formally set up in 1945, preserved the sovereignty of each Arab country while coordinating their policies on key Arab issues.¹⁸

On March 22 1945, following the signing of the Pact of the League of Arab States in Cairo, the League was formed in an attempt to given political expression to the Arab nations.

2/hi/middle_east/country_profiles/1550977.stm (last updated July 22, 2005).

¹⁷ Arabic German Consulting Group, *The Arab League - The League of Arab States* ¶ 10, <http://www.arab.de/arabinfo/league.htm> (accessed Sept. 17, 2005).

¹⁸ Goldschmidt, *supra* n. 15, at 226, 260.

The Arab League's Historical Incomplete Authority

The organization was conceived, according to Article II of the Pact of the League of Arab States, to achieve "the strengthening of the relations between the member-states, the coordination of their policies in order to achieve co-operation between them and to safeguard their independence and sovereignty; and a general concern with the affairs and interests of the Arab countries."¹⁹ It was under these optimistic conditions then that the Arab League was born.

At the time the League was set up, it was made clear that this would not be a supranational organization, federation or confederation. In other words, there would be no surrender of sovereignty on the part of any of the signatories:

[T]he Arab League was created somewhat paradoxically as an expression of Arab unity, but one which guaranteed the independence and sovereignty of each of the Arab states. The latter point was crucial at the time, not simply because of the fear that one or other Arab government would try to "hijack" the organization for its own ends, but also to reassure the Lebanese that the departure of the French would not mean the

¹⁹ The Pact of the Arab League of States art. 2, ¶ 1, Mar. 22, 1945, 70 U.N.T.S. 247 (available at <http://www.mideastweb.org/arableague.htm>) [hereinafter Arab League Charter].

immediate disappearance of Lebanon into a Greater Syria.²⁰

Thus, it was from the start a place where various leaders could sound off in discussions about common and/or mutual Arab problems, rather than a place where decisions could be made and upheld. Nor was it a place where one of the stated goals of achieving a single Arab state was ever thought through clearly, given the intransigence of the individual state members to not surrender any part of their internal control. Instead, as one writer puts it, the Arab League has served as the place where the majority of the so-called "Arab cold wars" battles were fought:²¹

The conflicts were at their sharpest in the 1950s and the 1960s, when the League tended to be divided between those governments which styled themselves as "progressive" and those which were seen as "conservative". The fact that both sides tended to justify their activities with reference to their own allegedly uniquely correct understanding of the interests and welfare of the "Arab nation" merely added bitterness to the argument.²²

Nevertheless, it did have one result: it served to heighten the sense of pan-Arabism and raise an Arab

²⁰ Charles Tripp, *Regional Organizations in the Arab Middle East*, in *Regionalism in World Politics: Regional Organization and International Order* 283, 287 (Louise Fawcett & Andrew Hurrell eds., Oxford U. Press 1995).

²¹ Malcolm Kerr, *The Arab Cold War 1958-1967*, 1 (Oxford U. Press 1967).

²² Tripp, *supra* n. 20, at 288.

consciousness.²³ As well, according to writers such as F. Burgat, M. Ben Hammed, and M. Mansouri, the League has achieved much in the areas of educational and cultural cooperation.²⁴ When it comes to economic cooperation, "the degree of agreement has tended to be in inverse proportion to the centrality of the economic issues being debated. This is probably not surprising in an organization which is, after all, a gathering of independent, sovereign states, each with their individual conceptions of national interest. This is the political reality which no amount of appeals to Arab unity or Arab nationalism can dispel."²⁵

Because one of the original reasons for forming the organization was to present a unified front against attempts to displace Palestinians by Jewish settlers intent on their own state, a representative of the Palestinian people was present at the signing and given full status, although he did not sign the Pact as he represented no

²³ Don Peretz, *The Middle East Today* 144 (Praeger 1988).

²⁴ Maurice Flory & Pierre-Sateh Agate, *Le Système Regional Arabe* (The Arab Regional System), in *Le Système Regional Arabe* 199-272 (Maurice Flory & Pierre-Sateh Agate eds., CNRS 1989).

²⁵ Tripp, *supra* n. 20, at 288.

recognized government. As one can see, the emphasis from the very beginning was more towards the rights of governments than of peoples, despite the League's avowed support of the Palestinians in their struggles.

The League eventually expanded to include Algeria, Bahrain, Djibouti, Eritrea, Kuwait, Libya, Mauritania, Morocco, Oman, Qatar, Somalia, Sudan, Tunisia, the United Arab Emirates, and the Palestine Liberation Organization, which gained official status in 1976. The League presently totals 22 countries with a population of about 280 million.

Purposes and Activities

At the time of its formation, the League's stated purposes were to strive "towards the common good of all the Arab countries, the improvement of their status, the security of their future, [and] the realization of their aspirations and hopes," yielding political, economic, and social advantages in the process.²⁶ Article II of "The Charter of the Arab League" states that:

It has also as its purpose the close co-operation of the member-states, with due regard to the Organization and circumstances of each state on the following matters:

²⁶ Joseph A. Kechichian, *Security Efforts in the Arab World: A Brief Examination of Four Regional Organizations* 7 (Rand Corp. 1994).

- A. Economic and financials affairs, including commercial relations, customs, currency and questions of agriculture and industry;
- B. Communications: this includes railroad, roads, aviation, navigation, telegraphs and posts;
- C. Cultural affairs;
- D. Nationality, passports, visas, execution of judgments and extradition of criminals;
- E. Social affairs;
- F. Health affairs.²⁷

Among the most important activities of the League have been its attempts to coordinate Arab economic life, and the fruits of the League's labor include the Arab Telecommunications Union, the Arab Postal Union, and the Arab Development Bank. The member states banded together to form a common market (the Arab Common Market) in 1965, which provides for the eventual eradication of customs duties on natural resources and agricultural products, liberal movement of capital and labor among the member states, and a synchronization of economic development.

As much as talk of Arab unity and rhetoric on closing ranks to protect against mutual enemies sounds good, any successful regional organization needs more than these things to thrive. Not only does the inclusion of non-Arab states like Somalia and Mauritania as full members obscure the League's formal organizational goals of Arab political

²⁷ Arab League Charter, *supra* n. 19, at art. 2.

unity, but the truth is that the goal of Arab unity has, since the inception of the League, consistently been sacrificed to the principles of state sovereignty and the independence of member states. There is also the problem of the legitimacy of government:

None of the Arab heads of state who claim to represent their countries in the councils of the Arab League has been democratically elected and, consequently, there is no particular reason why their views on the "interests of the Arab nation" should be privileged over others. Indeed, it has been their very insecurity on this score which has increased the sharpness of their disputes and added to the depth of divisions within the Arab world.²⁸

While the Alexandria Protocol—the memorandum of understanding among the Arab states that preceded the Pact of the League of Arab States—envisioned a progressive surrender of state sovereignty in favor of formal Arab political union, the Pact itself manifested much less ambitious objectives.²⁹ Though the Pact envisaged close cooperation among members in financial and economic affairs, commercial relations, customs, currency, agriculture and industry, communications, and cultural, health and social affairs, there is no mention in the text of coordinating

²⁸ Tripp, *supra* n. 20, at 289.

²⁹ Hussein A. Hassouna, *The League of Arab States and Regional Disputes: A Study of Middle East Conflicts* 7 (Oceana Publications 1975).

foreign policy—though this was a stated goal of the Alexandria Protocol.³⁰

In the end, the League was organized as a loose confederation—"a Union without executive powers"—that would not threaten the sovereignty and independence of newly created Arab states, "and at the same time would satisfy local and dynastic interests" in Arab states which had not yet gained formal independence.³¹

One of the results has been that, while many social and political objectives were stated and have been implemented via the Pact of the League of Arab States, collective defense of the member states is not one of the declared objectives. While the issue of external conflict was managed by the promulgation of the Joint Defense Treaty in 1950, during the writing of the legislation, the League never envisioned the violence and strife that has come to be associated with the Middle East and the Arab nations in modern times.

Some writers and commentators have been even harsher when it comes to the failures, perceived or

³⁰ *Id.* at 8.

³¹ *Id.* at 6-7.

otherwise, of the Arab League. Some have called it simply a perpetuation of sovereign statehood under the pretense of Arab unity or Arab collective identity:

The main function of the League is, in fact, the legitimization of the status quo and the consolidation of the state system. It is evident from the debates and deliberations which led to the establishment of the League that representatives of all Arab states rejected the idea of a central government and the idea of a federation or confederation with an executive authority and a constituent assembly, or entrusting any supra-state authority in whatever form with substantive security functions not mediated by the member states. Accordingly, the charter repeatedly emphasized the sovereignty and independence of member states within their colonially-drawn boundaries.³²

While the Arab League can be taken to task for its failure to resolve this issue, it can be stated that other organizations can face similar problems in the face of nations who do not want their sovereignty abrogated or curtailed—even if the majority of member states decide to do so. A prime example is that of the relationship between the United States and the United Nations: the United States has effectively ignored UN Resolutions when those resolutions did not suit the sovereign intentions of the

³² Mohamed El Sayed Said, *The Arab League: Between Regime Security and National Liberation*, in *Regional Security in the Third World* 254, 256 (Mohammed Ayooob ed., Croom Helm 1986).

United States. When that happens, as was the case in the invasion of Iraq, there is little the UN can do—just as there has been little the Arab League had been able to do in its efforts to curtail Iraqi militarism in the past.

Statement of the Problem

Although modeled after United Nations legal instruments and the UN's charter principles and procedures (especially the emphasis on defense as the main legitimate use of force), unfortunately the League of Arab States' conventions and declarations have had little if any influence to date, not only in terms of the world outside the League but even among its own membership. This is strictly in terms of security rather than other accomplishments and achievements that the organization has managed to achieve.

Unfortunately, because it has been unable to fully implement and enforce its own legal edicts, the League has consequently failed to effect the changes it wanted in the behavior of member states or to hasten the resolution of regional conflict. This relative inability has served to make less fruitful the main reasons for the League's existence, which theoretically are similar to other regional organizations. According to one commentator:

These regional arrangements, which were often alliances against an external power rather than true cases of collective security, reflected the reality that states are generally willing to commit their forces for serious military action not on a universal basis, but in their own region, or in defense of countries with which there are ties of blood, commerce, religion, common culture, and political system.³³

Among member states, League accords drafted to protect human rights and guarantee the inviolability of territorial boundaries have had some success but it has to be admitted that this success has been limited to very specific areas and cases. Similarly, the League's experience in wielding international legal norms to influence a just resolution of the Israel-Palestine conflict has been deemed a failure by most observers; including those who count themselves among the League's most vociferous and ardent defenders.

Although there have been a multitude of reasons given for this ineffectiveness, including American vested interests in the region, this study argues that the ability to resolve conflicting interpretations of international legal standards and competing national interests among

³³ Adam Roberts, *The United Nations: Variants of Collective Security*, in *Explaining International Relations Since 1945*, 309, 319 (Ngaire Woods ed., Oxford U. Press 1996).

member states has been handicapped by the League's unanimity voting clause, which was in effect from the League's founding until the amendment adopted in the Algeria Summit calling for a two-thirds vote on substantive issues. This, in turn, has caused a decline in the Arab League's capacity to influence, implement, and enforce international legal norms:

These principles were crystallized in the voting system in the League. This system works according to three rules: the equality of states in voting rights (nothing parallel to the UN Security Council was established), the rule of consensus on all important issues and the principle that decisions are only binding on those members who vote affirmatively in respect of a decision.³⁴

Thus, the argument is that the inability to resolve internal conflict among its own member states leads to an inability to have as great an effect as possible on international conflicts that impinge on the League.

Furthermore, statements made at a recent Arab Summit (2002) reflect serious internal divisions in the political outlook of the membership—especially with regard to relations with the United States. This dissertation argues that these differences of opinion have sharpened with the demise of the Soviet Union and the attendant

³⁴ Said, *supra* n. 32, at 257.

dominance of the United States in determining Arab regional affairs, to the benefit of their own interests under the mantle of democratization or the elimination of dictatorships.

While the difference of opinion per se is something to be expected in questions of sovereignty versus collective security, this dissertation argues that post-Cold War US preeminence in the Middle East has been further strengthened in part and for the most part because of the internal arrangement of the League, because of the unwillingness to tread on any single state's sovereignty, and because of the manner in which decisions have thus far been made, once a situation has been debated and put to a vote.

Aside from the inability to deal with external threats, one of the biggest dilemmas facing the League is the question of how to deal with seemingly endless internal conflicts. The League's resistance to changing its now-perceived-to-be-antiquated procedures in the face of a changing world has proved to be its greatest stumbling block. Article 6 of the Pact of the League of Arab Nations has provided for the voting procedures of the League. Until the recent amendments adopted at the Algeria Summit

of March 2005 and already ratified by four of the member states, Article 6 stated that:

In case of aggression or threat of aggression by one state against a member-state, the state which has been attacked or threatened with aggression may demand the immediate convocation of the Council. The Council shall by unanimous decision determine the measures necessary to repulse the aggression. If the aggression is committed by a member state the vote of that state will not be counted in determining unanimity.³⁵

The League of the Arab States remedied (or at least felt at the time it had remedied) the omission of the goal of collective defense by drawing up its own Joint Defense Treaty. This treaty was meant to shore up the League's security, both internal and external.

Article 2 of the Joint Defense Treaty allows members to "immediately adopt, individually and collectively, all steps available, including the use of armed force, to repel the aggression and restore security and peace."³⁶ Article 3 gives any member a standing to request collective action, enabling the League to come to

³⁵ Arab League Charter, *supra* n. 19, at art. 6.

³⁶ Joint Defense And Economic Cooperation Treaty Between The States Of The Arab League (Apr. 13, 1950) Vol. 49, No. 2 AJIL Supp., 51-54 (April. 1955) art. 2, (http://www.arableagueonline.org/arableague/english/details_en.jsp?art_id=736&level_id=272&page_no=1 (accessed Oct. 15, 2005)).

the aid of a state so quickly overrun that the government is unable to request action on its own. Article 5 of the Joint Defense Treaty provides for a Permanent Military Commission to formulate joint defense plans.

The promulgation of the Joint Defense Treaty was a necessity in order for the League to have any forces with regard to external threats against its members. However, the League failed to make preparations for internal dissention and it is questionable how effective the Joint Defense Treaty has proved against external attacks, as well:

[T]he Arab League system of voting is not tied to effective means of control over the implementation of decisions. The League lacks compulsive and punitive means or judicial authority to ensure the implementation of its decisions.³⁷

The "Union without executive powers" structure seems to have had its greatest effect in the procedural rules of the league. For example, until the recent changes, Arab League resolutions were binding only on those members who chose to participate in the vote on the resolution.³⁸ Thus, the ability to abstain from a vote granted member states an effective veto over League resolutions and, in practical effect, made such resolutions "non-binding" on

³⁷ Said, *supra* n. 32, at 257.

³⁸ Kechichian, *supra* n. 26, at 7.

other members unless approved by unanimous consensus among all member states. While this type of institution would safeguard the sovereignty of member states, it also obviated the provision of mandatory procedures for the settlement of disputes between and among members.³⁹ It created a League which was guaranteed to get little done, unless what needed to be done was something so obvious, superficial and symbolic as to have unanimous consent.

Relations among members are likewise governed by a very strong principle of respect for the sovereignty and independence of member states, and non-intervention in the internal governance of other member states—no matter what type of governance is involved in that particular state or even if there is an obvious abuse of civil rights and liberties taking place (as was the case in Iraq, for example). Furthermore, members are obligated to renounce the use of force in solving any disputes among them.⁴⁰

Though the League's Council does serve as mediator in all member disputes posing the threat of war, it specifically disavows jurisdiction over disputes dealing

³⁹ Hassouna, *supra* n. 29, at 6.

⁴⁰ *Id.* at 9.

with "a state's independence, sovereignty, or territorial integrity."⁴¹ This is deemed to be true, according to the charter, no matter what the legitimacy of a particular state government might be. Moreover, most of international disputes are somehow related to "a state's independence, sovereignty, or territorial integrity"; thus, the council's jurisdiction is challenged by exempting the three categories.

It is stated directly in the charter (Article 8) that "every member state in the League must respect the existing system of rule in other states, and considers it one of the rights of those states and commits itself not to undertake any action with the aim of changing the system in them."⁴² It should be noted that the majority of organizations have similar rules. Otherwise, it would be extremely difficult to put these groups together if it was felt other members could interfere with a particular state's sovereignty in this way.

Thus, given these factors, it seems fairly obvious why the Arab League has had, up to this point, not a great deal of influence in enhancing regional security—and would

⁴¹ *Id.*

⁴² Arab League Charter, *supra* n. 19, at art. 2.

have continued to have less and less influence if at least some rudimentary reforms had not been made. This is precarious at a time when the Middle East is in a state of almost constant upheaval and turmoil:

The striking feature of the Arab League is its lack of a comprehensive conception of security in the Arab World. The League has not developed a consistent threat analysis for the region nor did it articulate a security strategy. Even the Israeli threat was not explicitly recognized as a matter of concern for the whole Arab world, and consequently it failed to commit all member states to some role in the security tasks of the whole region.⁴³

It is the argument of this study, then, that the unanimous vote provision in effect until very recently has proved to be the critical stumbling block in the League's attempts to be an effective player upon the world stage—inhibiting effective action at crucial intervals from the original attempts at putting up a common front in the original battles against Jewish settlers and the fledgling Israeli state, to the latest divisions and debates over the invasion/liberation of Iraq by US forces.

Throughout its history, the League has been less than successful in "taking care of its own" within the framework of the organization. This started at the very

⁴³ Said, *supra* n. 32, at 258.

beginning—and for the very reason why the League was formed in the first place: the battle against the formation of an Israeli state. As Peretz points out:

[T]he initial failure of the League to organize its membership effectively to oppose the Zionists during the Palestine war was a setback from which the League never fully recuperated. Since 1948 it has been discredited in the eyes of many Arab nationalists, and the more aggressive moves toward Arab unity have originated outside the League.⁴⁴

Other commentators on the Middle East have said similar things:

- Goldschmidt, who indicates that the internal political divisions of the Arab states were mostly responsible for their failure in defeating Israel—both in 1948 and in the later series of wars;⁴⁵
- Smolowe, who states that “issues of wealth, territory, sovereignty and political influence have splintered the alliance”;⁴⁶

⁴⁴ Peretz, *supra* n. 23, at 145.

⁴⁵ Goldschmidt, *supra* n. 15, at 282.

⁴⁶ Jill Smolowe, *Me and My Brother Against My Cousin*, 136 *Time* 33 (No. 8, Aug. 20, 1990) (available at <http://www.time.com/time/archive/preview/0,10987,970934,00.html>).

- Lambotte, who writes that only one thing can save the League: "Only the revision of its Charter and the remaking of its structures would permit the Arab League to be in keeping with the present international context and play at the same time a more effective role in the realization of the aspiration of the Arab peoples toward unity and progress";⁴⁷
- Said, who argues that "the member states of the Arab League rely only very marginally, in drawing and implementing their security policies, on the principle of collective security ..."⁴⁸

One of the prime examples of the failure of the Arab League mechanisms occurred with the invasion of Kuwait by Iraq, the invasion of one sovereign Arab state by another, both of which were members of the League. The invasion pointed out several weaknesses in the League:

⁴⁷ Richard Lambotte, *Algérie, Naissance d'une Société Nouvelle: Le Texte Intégral de la Charte Nationale Adoptée par le Peuple Algérien* (Algeria, the Birth of a New Society: The Complete Text of the National Charter Adopted by the Algerian People) 225 (Éditions Sociales 1976).

⁴⁸ Said, *supra* n. 32, at 261.

- Its inability to prevent internal strife among its own members;
- Its inability to agree upon a way to solve the problem once the strife has occurred;
- Its further inability to solve problems resulting from the aftermath of that strife without calling external help.

The problems caused by the invasion of Kuwait by Iraq were merely the tip of the iceberg, however, when it comes to League inability to clean up its own backyard. As Tibi writes:

[E]fforts to deal with the conflict on a regional level—that is, within the framework of a *hall'Arabi* (Arab solution)—conclusively established the lack of an Arab institutional framework for conflict resolution. The fact that the Arab state system disposes of a regional organization—the Arab League—only emphasizes the point. That organization lacks the institutions and related mechanisms of collective policymaking needed for regional conflict resolution.⁴⁹

This study argues that, in order to end the type of endless bickering and conflict endemic among the member states and for the protection of the security of the League's members, the League must do exactly what it set in

⁴⁹ Bassam Tibi, *Redefining the Arab and Arabism in the Aftermath of the Gulf Crisis*, in *The Arab World Today* 135, 136 (Dan Tschirgi ed., Lynne Rienner 1994).

motion at the Algeria Summit: eradicate the unanimity rule contained in Article 6. A corollary to this argument is that the rule must be replaced with some mechanism that makes it easier to have a clear decision on issues of importance, a decision that will be adhered to by all the members. Whether the new voting procedures as set out and presently waiting for ratification will prove to be that mechanism waits future testing. Whatever the case, it can be stated unequivocally that these new procedures are a definite improvement.

Purpose of the Study

This study explores the historical unanimity rule of the Arab League's Regulations and how that rule has affected the organization's security function up to the point where the rule was amended. There is a need for a comprehensive study of the unanimity rule as there is a distinct lack of such a study in the present environment. This study investigates the advantages/disadvantages of the unanimity rule with regard to the security of an invaded member of the League of Arab States. It also addresses comparative approaches to the utilization of the unanimity rule and alternative voting mechanisms as shown by regional

organizations such as the African Union, the European Union, and the Organization of the American States.

This study proposes and delves into the three following questions:

- What are the reasons for the promulgation of the unanimity rule for the Arab League?
- What is the Arab League security function—in practice rather than in theory?
- How will the recent changes in the unanimity rule affect the security function of the League—enhance or worsen it?

Finally, it is the purpose of this study to propose that an amendment with respect to the unanimity voting rule within the Pact of the League of Arab Nations was absolutely necessary in order to improve the probability that the League will not only survive but become stronger. Whether that amendment is the one currently being ratified is another question entirely.

Research Questions / Thesis Argument

The thesis argument being made in this dissertation can be stated thus: "As the voting rule within the League of Arab Nations had been constituted up until the recent

amendments accepted during the Algeria Summit and presently being established and ratified by member states, the League has not been able to deal as effectively as it could with intra-League strife and conflict. Further, it is the argument of this dissertation that the rule of unanimity itself is partially responsible for such internal conflict.

"Finally, the dissertation will argue that this rule has been dangerous not only for its inability to help resolve internal conflicts but also for its role in allowing external forces to divide and conquer sovereign states within the Arab League—as witnessed by the Gulf War and the more recent invasion of Iraq. Therefore the rule of unanimity in voting needed to be altered in order for both internal conflict and external attacks to be halted."

A corollary to the thesis stated above lies at the crux of the reluctance shown by members of the League when it came to changing the rule—until external pressures made it no longer possible to maintain the status quo. This corollary belief can be stated thus: "By surrendering the unanimity rule, individual states within the League indicate a surrender of some of their sovereign rights as nations and thus a weakening of the nation state."

The thesis argued in the study is that this is not necessarily the case and, in fact, there can be an overall strengthening of security for both individual states and the League—as has happened with the European Union. That is, strong collective security trumps any security that an individual state can put into motion—and that protecting the borders of a regional organization makes more sense and is more transaction cost effective than trying to protect the borders of individual member states.

Up until the Algeria Summit, one of the problems that needed to be overcome here, of course, was the fact that making changes to the pact would require the agreement of all the members. In other words, the unanimity rule had to be invoked in order to declare an end to it. That had proved to be the major stumbling block in simply getting things done let alone amend the League's Charter. However, that long-awaited crisis of major proportions forced the member states to alter the rule.

If the dissertation's thesis is proved, the dissertation will conclude that:

- The League of Arab States had to change in order to regain control over its members and to be as effective a player as possible in the region.

- The only method of achieving their stated goals was by a revision of the Pact of the League of Arab States. In particular, Article 6, which contained the provision regarding unanimity voting, had to be altered significantly so that a new method of voting could be implemented.
- While the new voting rules call for a two-thirds majority, it is the contention of this paper that, given the member states involved in the League, the best method of voting would actually be some type of majority method, be it simple or qualified. The majority method of voting still allows every member state to be equal, but allows a practical approach to disagreements among the states by allowing the majority to rule, rather than the minority.
- A change in the voting procedures will give enforcement powers to the mandates of the League and lead to a cessation of the internal violence that has plagued the region for the last five decades.
- A change in the voting procedures will allow the league to present a much more unified profile to

the rest of the world and especially to other regional organizations and trading blocs that otherwise might be tempted to "pick off" the individual states one by one.

Methodology

The testing of the research questions/thesis argument above will be done using a strictly qualitative methodology. This methodology consists of an analysis of a comparative literature review. This comparative literature review consists of a set of documents that includes:

- An examination of the various voting procedures used by regional organizations similar to the League, as well as literature related to the League itself—its formation, rules, decisions, etc.;
- An examination of actual voting procedures and patterns within the League as outlined in the public papers issued from League meetings (pre-Algeria Summit amendments);
- An examination of the results of those votes, both in terms of the passing or rejection of specific resolutions, and the effects that the

failure to pass certain resolutions had and continues to have on the League's security;

- A similar examination of the results of the voting procedures used by other similar organizations and how these have affected those organizations.
- A comparative study of the voting procedures of the Arab League versus other regional organizations (with particular emphasis on the European Union and the newly-formed African Union).
- An examination of the resolutions passed by the UN with respect to numerous situations and problems that have had an effect on the Middle East, including the barrier being built by Israel in the Palestinian Territories; the invasion of Iraq by the United States; the situation in the Sudan, Libya, and Lebanon and Syria.
- An examination of international law (International Law Commission and the International Court of Justice) with respect to the legitimacy of various actions taken in the Middle East.

A more complete examination of the methodology used and the rationale behind it can be found in Chapter Two of the paper.

Scope and Limitations of Study

The scope of the study—its delimitation—extends to the 22 countries that are members of the Arab League. Under the umbrella of the Arab League charter, these 22 countries present a technically united face, agreeing to operate under a codified set of rules that should make them distinct. In any case, this is theoretically the case. For the purposes of this study, this is one of the primary assumptions: that an actual functioning entity known as the Arab League does exist and is acknowledged to exist by institutions such as the UN.

The limitations of the study lie in its inability to directly quantify any of the results so that they are generalizable in the sense of scientific repeatability under controlled experimental conditions. In other words, the study of the Arab League for the purposes of coming up with a general theory of how regional organizations operate and why they succeed or fail can only result in speculative conclusions as a result of this type of study. These

limitations are inherent in any literature review and interview method analysis of a problem.

However, it is important to note that the Arab League does encompass the totality of the Arab States and thus presents a sizable block of people with common interests and a common outlook (at some level). These are variables that are taken for granted in this study, underlying assumptions as it were. As well, it should be noted that the voting mechanism that was used by the Arab League until very recently is one that is understood universally, one that has historical precedents upon which comparisons can be made, and one that, while not quantifiable, can at least be defined very clearly within a small spectrum of voting mechanisms possible.

A further limitation of the study is the lack of a formal survey instrument (for a random sample population) or interview set-up (for a small group of carefully chosen respondents). However, it was felt by the researcher that such an instrument would not be useful at this point: opinions as to whether or not the League has been effective have been recorded numerous times in the literature related to the Middle East.

Thus, the researcher felt it appropriate to "mine" that literature rather than to undertake a new questionnaire survey. It is open to other researchers, however, to attempt to undertake such a survey: either in terms of a Likert Scale Questionnaire or as a series of interviews with dignitaries and others who are involved with the Arab League.

As well, it is open to other researchers to perform comparative studies in the future to determine how effective the new voting rules are versus the old ones. Again, the limitation to this kind of study is that no two situations can ever be identical (as they would be in a controlled experiment). Thus any comparisons will always be of a qualitative nature.

Outline of Study Chapters

This study consists of an opening chapter where are presented: introductory and background material for the study (general material on regional organizations and more specifically the Arab League); elaboration of the purpose/aim of the study; brief exposition of the research question; methodology; and overview of remaining chapters.

Chapter Two provides a more thorough examination of the methodology used and the reasoning behind the methodology, as well as data collection and analysis.

Chapter Three provides an examination of the roots and history of the League of Arab Nations—as well as a literature review of the problems faced by the League. The chapter also provides a possible explanation for the relative lack of success the League has had in trying to solve regional conflicts.

Chapter Four includes the examination of documents on the differences/similarities between the Arab League and the European Union, a summary of that literature, and an analysis of the connection of the theoretical literature review to the study at hand. The literature to be analyzed includes material specifically related to voting procedures in the Arab League and European Union and their effects on the two organizations.

Chapter Five consists of a detailed examination and review of documents on the structure, constitution and voting mechanisms of the African Union. Particular attention is paid to the similarities and differences between the voting mechanisms of the African Union and the Arab League (previous to the recent amendments arising from

the Algeria Summit). A problem with this section is the relative newness of the African Union and thus an inability to come to any solid conclusions as to how the organization will fare in future conflict resolution. This is similar to the problem in attempts to come to any conclusions as to how the new voting rules will affect the Arab League. However, the African Union does have a previous pan-African entity against which comparisons can be made.

Chapter Six consists of an examination of the resolutions passed by the UN with respect to numerous situations and problems that have had an effect on the Middle East, including the barrier being built by Israel in the Palestinian Territories; the invasion of Iraq by the United States; and the situation in the Sudan, Libya, and Lebanon and Syria.

Chapter Seven presents an examination of international law (International Law Commission and the International Court of Justice) with respect to the legitimacy of various actions taken in the Middle East, including the UN resolutions examined in the previous chapter.

Chapter Eight presents the results and findings of the literature reviews, as well as commentary on how

satisfactorily the research question was answered within the context of the qualitative methodology chosen.

Chapter Nine presents the summary of the research, conclusions based on the literature review results, the presentation of comments on how effective the new voting mechanism for the Arab League may turn out to be, any limitations with respect to the study, and recommendations for further study. Table 1 below shows the chapter outline and overview in graphic form.

Table 1. Breakdown and Flow (⇓) of the Study Chapters

Chapter	Research Framework Breakdown
One ⇓	Introductory with background on Arab League history, research questions, hypothesis, study rationale, and brief methodology. ⇓
Two ⇓	More extensive methodology chapter providing the rationale behind the chosen research design, data collection and data analysis ⇓
Three ⇓	An examination of the roots and history of the Arab League, as well as literature connected to the League's perceived failures in the solving of regional conflicts. ⇓
Four ⇓	Comparative literature review of voting methods used by the EU, a regional organization, which on the surface appears to be similar in structure and purpose as the Arab League. ⇓
Five ⇓	Examination of the African Union voting procedures, how they differ from those of the Arab League (pre-Algeria Summit), and the Union's effectiveness in the solving of regional conflicts (starting with the Darfur crisis). ⇓
Six ⇓	Examination of the pertinent and significant UN Resolutions with respect to the Middle East and the result of those resolutions, both those that have been implemented and those that have not. ⇓
Seven ⇓	Examination of the literature review with respect to International Law and the situation in the Middle East (International Court of Justice and International Law Commission). ⇓
Eight ⇓	Presentation of the results and findings of the comparative literature reviews, and commentary on how the research question was answered. ⇓
Nine	General conclusions, with potential voting mechanism model, limitations of the study, recommendations and possible future research directions.

CHAPTER 2

METHODOLOGY

As noted in methodology section of the first chapter above, a qualitative methodology was chosen for this thesis. The qualitative methodology is more appropriate for this project than a quantitative one because the study does not intend to perform numerical tests or measurements. Nor does it intend to create a statistical profile requiring means tests, significance levels or standard deviations. Instead, the study is designed to elicit in-depth information and to filter that information through the use of the relevant literature and documents.

The use of qualitative methods implies that truth is available from the examination of things such as states of mind, beliefs, emotions, actions in the real world, things that cannot be quantified—either because we do not possess the methods to do so or because they are intrinsically non-quantifiable. Many researchers find a qualitative approach more useful than a quantitative method for study of complex

processes or sequences of events, where the variables are not clearly defined and numerical data are not present.⁵⁰

These researchers—such as Medawar⁵¹; Remenyi & Williams⁵²; and Remenyi et al⁵³—have turned away from a strictly positivistic, objective, scientific, experimentalist, and traditionalist view of research towards one that they feel is more suited to the complex issues encountered in the social sciences.

Research Designs

Two types of research designs are experimental and non-experimental—or positivist and phenomenological.⁵⁴ The basic intent of an experimental design "is to test the impact of a treatment (or an intervention) on an outcome, controlling for all other factors that might influence that

⁵⁰ Joyce P. Gall, M.D. Gall & Walter R. Borg, *Applying Educational Research: A Practical Guide 1* (Longman 1998).

⁵¹ Peter Medawar, *Memoirs of a Thinking Radish* (Oxford U. Press 1986)

⁵² Dan Remenyi & Brian Williams, *The Nature of Research: Qualitative or Quantitative, Narrative or Paradigmatic?* 6 *Info. Sys. J.* 131 (1996)

⁵³ Dan Remenyi et al., *Doing Research in Business and Management* (Sage 1998).

⁵⁴ Gall et al., *supra* n. 50, at 152.

outcome."⁵⁵ Participants are randomly assigned to control groups and experimental groups, and cause-and-effect relationships are examined. This study will not conduct an experiment, utilize randomly assigned subjects or determine a cause of an effect (at least not in a quantitative way). The main criticisms against positivism and a quantitative methodology are as follows:

- It is impossible to treat people as being separate from their social context and they cannot be understood without examining the perceptions they have of their own activities.
- A highly structured research design imposes certain constraints on the results and may ignore more relevant and interesting findings.
- Researchers are not objective, but part of what they observe. They bring their own interests and values to the research.
- Capturing complex phenomena in a single measure is misleading and simplistic. For example, is it possible to assign a numerical value to a

⁵⁵ *Id.* at 154.

political discussion? Or to the reasons why a delegate will vote one way and not the other?⁵⁶

In contrast, this non-experimental study collects data about a specific phenomenon: the voting mechanisms used by the Arab League, up to the amendments recently agreed upon; the effectiveness of said previous voting mechanisms; the introduction of new mechanisms that may or may not be more effective (but whose effectiveness is beyond the scope of this thesis); and the creation of a model set of voting mechanisms over and above what is presently in place. This is done through a literature review and a set of documents (i.e. acts of incorporation), both provided by the Arab League and by other regional organizations. Thus, the use of a non-experimental research design seems appropriate.

Data Collection

The data collection technique used in this study consists of researching the documents related to the Arab League's pre-Algeria Summit voting mechanism (unanimity) versus that employed by other regional groupings (with

⁵⁶ Jill Hussey & Roger Hussey, *Business Research: A Practical Guide for Undergraduate and Postgraduate Students* (Macmillan 1997).

particular emphasis on the European Union and the African Union) .

Further research has been done on the outcomes of interventions initiated by the various regional organizations and the success or failure of such interventions—or even lack of intervention in some cases. As well, the research indicates whether or not such interventions have increased security or caused a destabilization effect.

The material was gleaned from a variety of sources: (a) the *Infotrac Expanded Academic* database, (b) the *Questia On-Line* database, (c) the Arab League, European Union, African Union and other web sites, (d) academic and scholarly journals, and (e) books dealing with the regional organizations in general, the Arab League in particular, and the issue of regional security as it pertains to those organizations.

There is an advantage to the data collection for this thesis in that the data is readily available and already processed—as opposed to data from questionnaires and/or interviews.

Literature Review Use

The presumed deficiencies of the qualitative analysis and historical review of literature lie mainly in the inability to quantify any variables within the assumptions and hypotheses in order to completely pinpoint where the problems and solutions lie. However, the use of the literature review in qualitative methodology does allow the researcher to create an overall picture which includes assumptions and conclusions from previous examinations of the subject at hand—and an extrapolation of those results for a prediction into the future roles to be played by an organization such as the Arab League.

Thus, while the methodology may not be accepted as completely scientific by some researchers, this is not of consequence in cases such as these where other factors come into play including the attempt to describe political, economic, and social interactions and concepts.

As well, qualitative research has brought about a series of six criteria that operate as an overarching support for the accuracy of the data collection tools and analysis, as well as to ensure that the research has limited basis. These criteria are:

1. The researcher will situate himself and his assumptions⁵⁷;
2. The analysis aims to provide a general or representative understanding of the phenomena⁵⁸;
3. The sample is situated in the culture⁵⁹;
4. The analysis will be set in the context of previous research and study⁶⁰;
5. The account of the analysis will be linear, coherent and structured⁶¹; and
6. The account will be persuasive and can be trusted.

For the most part, the study employs scholarship that comes from those who may not be the most objective observers but who have the most knowledge and personal experience in the region: the Arabic scholars themselves.

⁵⁷ Robert Elliott et al., *Evolving Guidelines for Publication of Qualitative Research Studies in Psychology and Related Fields* 38 *Brit. J. of Clin. Psych.* 215 (1999); William B. Stiles, *Quality Control in Qualitative Research*, 13 *Clinical Psychol. Rev.* 593 (1993).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Graham Turpin et al., *Standards for Research Projects and Theses Involving Qualitative Methods: Suggested Guidelines for Trainees and Courses*, 108 *Clinical Psychol. Forum* 3, 3-7 (1997).

As for the implied "subjectivity" of this methodology, there is admittedly some loss of what some might consider pure scientific objectivity (not inappropriate when considering social science subject-matter such as "political hegemony," "trade effectiveness," "regional security," "democratic versus authoritarian rule," and so forth). The dispassionate and purely objective approach is abandoned in some respects, in the hope of finding a new level of communication with the subject matter.

There is only one area in the study where a more statistical approach is taken—and that is with the various voting mechanisms. In these instances, some "number crunching" is inevitable while trying to determine which voting mechanism is best for a particular regional organization.

The argument is made that the investigator's personal involvement in the process of investigation helps to increase the depth of understanding for any subject matter. This subject matter may include things such as the interpretation of what various documents and papers might

⁶¹ Adrian Coyle, *Discourse Analysis*, in *Research Methods in Psychology*, (Glynis M. Breakwell et al., eds., Sage 1995).

mean by the "effectiveness of regional security measures", for example, or the "effectiveness of the League's voting mechanism", how these regional inefficiencies compare to those of other regional organizations, whether or not the solutions to these problems can be achieved locally or only with the help of the international community, etc.

That, in turn, helps compensate for any perceived investigator biases toward the subject. This strategy is consistent with the broader shift in goals from the absolute "scientific" truth of the statements being made to the relative understanding of those statements within certain contexts and under certain conditions.

Data Analysis

As for data analysis, documents and records are marked and identified; the research questions are laid out; the process of analyzing the content is conducted, and the results interpreted. These documents and records have an official purpose and are not personal letters, drafts of communication or e-mail messages. Instead, material such as reports, newspaper articles, written procedures and official documents are examined. The analyzed material is then checked for comparison with other material to

determine what the majority of commentators and scholars are saying on a particular subject.

It is this balanced consensus (or as balanced as humanly possible, given certain bias) that allows this type of qualitative research to help expand our knowledge—even if that knowledge is not entirely replicable in the same way a scientific lab experiment might be. But the politico-social context is one that operates within the real world rather than within a laboratory. Thus, the researcher feels confident that the performing of such an examination of literature and documents will provide some meaningful results.

This is also in keeping with an inductive approach as opposed to the deductive approach favored by hard science. Given the complexity, levels, numbers, and neuron-like interconnections among variables in the world on a societal level, it seems hardly likely that such a world can be examined in a meaningful way using the same instruments and assumptions used to examine the natural world.

The growing popularity of the induction approach in social sciences is due to the argument that explanations of social phenomena are relatively worthless unless they are

grounded in observation and experience⁶². Moreover, it has also been argued that any theory that emerges out of systematic empirical research is more likely to fit the data and, therefore, is more likely to be useful, plausible and accessible⁶³. In essence, qualitative approaches are based on some type of constructivist or participatory knowledge claims where "the researcher collects open-ended, emerging data with the primary intent of developing themes from the data"⁶⁴.

It seems appropriate at this point that an inductive framework within a qualitative methodology be used to help guide the research and to help determine any emerging themes.

⁶² John Gill and Phil Johnson, *Research Methods for Managers*, 2nd edition, (Paul Chapman Pub. Ltd. 1997).

⁶³ Barney G. Glaser and Anselm L. Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine Publishing Company 1967).

⁶⁴ John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* 18 (Sage Publications 2003).

CHAPTER 3

THE ARAB LEAGUE: BACKGROUND, POLICIES, PROBLEMS

As noted in Chapter 1 above, this chapter contains:

1. Background material having to do with the roots and history of the Arab League;
2. Attempted explanations for its historical failures and limited successes, definitions of regional security, and the limits of national/state power in the Arab World;
3. Contributing factors for the too often seen inability of the Arab League to act as a unit when it really came down to the crunch in terms of security.

This literature review has been taken from several sources including *Questia On-Line*, *InfoTrac Expanded Academic Index*, Arabic web sites, academic and trade journals, and book-length manuscripts.

Roots / History of the League

While formally set up in 1945, the roots of the Arab League go back to a time when the impetus for the creation of such a league arose from new conceptions of what it meant to be an Arab or Arabic. This new concept flowered between the First and Second World Wars. In 1938, a conference of Arab students in Europe held in Brussels was able to be convened because of this new sense of what it meant to be Arabic. No longer strictly by lineage or descent, now, according to Albert Hourani, "it was possible to define as Arabs 'all who are Arab in their language, culture and loyalty,' the latter term being taken to connote 'national feeling'."⁶⁵ Another definition is one that is commonly used by pan-Arabic secular commentators who wish to avoid the religious aspect which often undergirds definitions: "Whoever lives in our country, speaks our language, is reared in our culture, and takes pride in our glory is one of us."⁶⁶

This was in direct contrast to early conceptions of communal identity in the region, which were for the most

⁶⁵ Cited in William Montgomery Watt, *Islamic Political Thought: The Basic Concepts* 118 (Edinburgh U. Press 1980).

⁶⁶ Goldschmidt, *supra* n. 15, at 173.

part religious, as dictated by the Ottoman system. Thus, if a group of Muslims, Christians and Jews lived together in the same town, each would be governed by the laws of his or her religion:

The symbols of group identity were religious—the cross, the Koran, the Torah, some holy site, the tomb of a martyr, a saint, a patriarch, or the scene of some ancient religious event that had become part of folklore ... Sometimes group identification was, as in medieval Europe, with a village, town, or city.⁶⁷

In fact, up until the 20th century, there were few who would call themselves Arab, as the term was most often applied to nomads and was considered a slight, if not an insult. It would have been difficult for those settled people in places such as Egypt and Syria to call themselves Arabs.

The growing nationalist sentiments among Arabs were recognized in Britain and were even commented upon by Great Britain's foreign minister, Anthony Eden, who said:

Many Arab thinkers desire for the Arab peoples a greater degree of unity than they now enjoy. In reaching out towards this unity they hope for our support. No such appeal from our friends should go unanswered. It seems to me both natural and right that the cultural and economic ties between the Arab countries, and the political ties too, should be strengthened. His Majesty's Government for

⁶⁷ Peretz, *supra* n. 23, at 131.

their part will give their full support to any scheme that commands general approval.⁶⁸

As mentioned previously, one of the major roles the League saw itself fulfilling was to provide a united front against the formation of the state of Israel. The League announced that Palestine be made an independent nation. When it became obvious that Israel would be created no matter what, the League voiced its opposition and, when Israel proclaimed statehood on May 14, 1948, the League declared war—the first Arab-Israeli War. Unfortunately, they also showed from the start that they were incapable of working in concert to the point where they could achieve their goals and found themselves defeated by a much smaller military force.

For one thing, Egypt, Syria, Lebanon and Iraq's military resources were already strained, as they were facing internal problems, and could not afford to send the full force of their armies to fight. The only nation ready to send its full military force to Palestine was Jordan.

The Arab League was no more successful in presenting a unified front in the second Arab-Israeli War in 1967. In fact, the war resulted in the annexation by

⁶⁸ Cited in George Kirk, *The Middle East in the War* 334 (Oxford U. Press 1953).

Israel of the West Bank and Gaza Strip, which they still control today—and only recently was the Gaza Strip officially returned to the Palestinians. The third Arab-Israeli War of 1973 was not technically one involving the League. Instead, Egypt and Syria joined forces to attack Israel and regain their lost territories.

While the Arab League had shown at least nominal solidarity up to this point (at least when it came to Israel), even that came to an end with Egyptian President Anwar Sadat's visit to Jerusalem in 1977. This led to the expulsion of Egypt from the League for 10 years and the relocation of the League's headquarters in Tunis. In the 1980s, the League once more fell into disarray as members fell on either side of the Cold War, and took sides during the Iran-Iraq War.

However, as much as these events—the defeats in the various wars, the internal bickering and the political disagreements, and the varying attitudes towards how to approach Israel—may have proved humiliating, they were not as bitter as the events that unfolded in 1990, events that precipitated the Gulf War and the need to bring American troops in to "liberate" Kuwait from another member of the Arab League.

These events changed forever the way members of the Arab League saw each other. Despite the events of the previous 45 years there was still a belief in some type of underlying pan-Arab nation, a belief that one day all Arabs would be once again unified under one government—and many of the problems of the League in particular and the Middle East in general could be blamed on outside forces, external powers, events that could not be controlled. According to Sa'dun Hamaidi, a prominent Baathi politician:

In the Arab homeland there exists no movement that suffers from the hostility of Western imperialism more than Arabism does. The reason ... is that the West is aware of the consequences that may result for its presence in the area if a mighty pan-Arab state could be built up.⁶⁹

Arab League Inactivity: Contributing Factors

When one argues for the contributing factors in terms of the effectiveness or not of an organization, there are always side questions that arise, including just how ineffective (or not) the agency has been, is presently, and is likely to be in the future. In this case, the research, based on a majority of commentators, assumes that the Arab League has not been very effective (at least not in the specific area of regional security and conflict—both

⁶⁹ Cited in Tibi, *supra* n. 49, at 135.

internal and external). In fact, some commentators have shown overt pessimism and cynicism with respect to the Arab League's abilities to perform according to its own Charter:

At this moment, the Arab world stands in complete disarray. The scope of internal instability, e.g. inter-regime conflicts and civil wars, is enormous. Arab states are pulled away from the central concern of Arab societies by involving themselves in marginal but destructive conflicts with other oppressed nations ... Moreover, Arab states, one after the other, are slipping away from an Arab to an American security umbrella. While all this cannot be attributed to the failure of the Arab League, this failure has certainly played a major role in making this outcome possible.⁷⁰

Among the contributing factors for this ineffectiveness and disarray, the research has identified the following:

Article 7 of The Arab League Charter

When plans were first being laid out for an Arab League of some form, two separate options were discussed:

1. The Sub-Regional or Subsidiary Unit: subsumed under Greater Syria or the Fertile Crescent;
2. All independent Arab countries under one of two options:

⁷⁰ Said, *supra* n. 32, at 270.

- a. A federation or other form of federal configuration whereby each state would have to surrender some of its sovereignty;
- b. An intermediate form for co-operation and co-ordination where the sovereignty of individual countries would remain intact.⁷¹

It has been noted that the possibility of some type of federal union was discussed in the original meetings in 1944. But what resulted was simply for some form of co-operation between sovereign states.⁷² While the eventually chosen Option 2b was labeled at the time as an "intermediate form," it has in fact become the governing form as set out first in the Alexandria Protocol and then the Arab League Charter. In fact, the term "League" was chosen specifically over either "Federation" or "Union" because "the first naming [Federation] refers to an accidental relation, whereas the other naming [Union] invalidate(s) the specialization agreed upon to be

⁷¹ League of Arab States, *About The Arab League: History: Historical Background* 3, ¶ 8-9, http://www.arableagueonline.org/arableague/english/details_en.jsp?art_id=1175&level_id=10 (accessed Feb. 21, 2006) [hereinafter *About Arab League*].

⁷² Derek W. Bowett, *The Law of International Institutions* 193 (Praeger 1970).

transferred to the developing Arab Organization."⁷³ The Third Principle of the Alexandria Protocol states quite clearly that: "The resolutions adopted by the Arab League Council are binding to the assenting parties, except for cases implying differences between two League Member States who will thus refer to the Council to settle conflicts between them."⁷⁴

This was followed by the Arab League Charter which was based specifically on the Protocol. It laid out all the formal rules, mechanisms, procedures, provisions, privileges, dispute settlement, withdrawal, expulsion, ratification, etc., among and between the various member states. In asking for an explanation as to why this specific route was chosen, the usual response is that the Charter had to find some way to balance and harmonize nationalistic with regional forces "based on voluntary cooperation between the Member States, to be based on equality and mutual respect so as to realize the major goal of independence."⁷⁵

⁷³ *About Arab League*, *supra* n. 71, at 3, ¶ 11.

⁷⁴ *Id.* at 4, ¶ 1

⁷⁵ *Id.* at 5, ¶ 5.

According to the particular language in the Pact preamble, the agreement was specifically designed not to be a "supra-national organization with control over the actions of its member states,"⁷⁶ but rather:

- To strengthen the relations and ties between the Arab States;
- To cement and reinforce such bonds through mutual respect for their independence and sovereignty;
- To achieve the goal of the welfare of these states as separate and individual entities.

The Arab League "as an interstate body, could not present any threat to the sovereignty of the member states."⁷⁷ This was done primarily through the mechanism of the unanimous or consensual vote. The result has been both positive and negative, the positive factor being the ability to maintain some "adherence to order, and insuring its flexibility, while at the same time impeding all attempts exerted by one country or a limited number of

⁷⁶ Rehab El-Bakry, *The Weakest Link: A Crippled Arab League Mulls New Reforms to Put it Back on its Feet* ¶ 4, 25 Egypt Today Online (Issue 4, Apr. 2004) <http://www.egypttoday.com/article.aspx?ArticleID=4427> (accessed Mar. 02, 2006).

⁷⁷ *Id.* at ¶ 5.

countries, to have a dominant influence over the Arab League."⁷⁸ The negative factor is well-known in that "the base of unanimous voting has sometimes led to a considerable amount of deadlock and formalism in performance, where the League moved steadily and effectively only in case of unanimous voting to its resolutions and vice versa."⁷⁹

Throughout its history, the particular set-up of the League has come back to haunt it, particularly the unanimity clause in Article 7, as well as the section of the clause that allows each state to carry out a Council decision as that particular state sees fit rather than as part of a coordinated effort among the states voting on the decision. As was stated back in 1970: "The overall impression is, therefore, of a useful organization which is of a rather rudimentary form. It may lack the necessary political cohesion to advance very rapidly to a greater degree of co-ordination of even integration at the present stage."⁸⁰

⁷⁸ *About Arab League*, *supra* n. 71, at 5, ¶ 9.

⁷⁹ *Id.* at 5, ¶ 10.

⁸⁰ *Bowett*, *supra* n. 72, at 194.

U.S. Regional Involvement

In offering an explanation of the Arab League's less than optimum ability to prevent regional conflict among members and achieve peace in the Israeli-Palestinian dispute, it would be derelict to ignore the influence of the United States. Many member states of the Arab League have been and still are long-term allies of the United States, a fact of significance given American strategic interests in the Middle East.

The United States has enjoyed a prominent role in the affairs of the Middle East since the end of World War I. The region's abundant oil reserves, far greater than those of the Western hemisphere, were of strategic importance to the US and its burgeoning economy.⁸¹ Its influence in the region grew with the withdrawal of the European colonial powers following World War II, and the collapse of the Soviet Union in the late twentieth century.

In 1956, the U.S.—working through the United Nations Security Council—hastened the end of European hegemony over the Middle East by vigorously opposing the combined French-British-Israeli military response to the

⁸¹ Simon Bromley, *Rethinking Middle East Politics* 76 (U. of Texas Press 1994).

Egyptian government's decision to nationalize the Suez Canal (Great Britain's maritime shortcut to Asia).⁸²

By 1971 the United Kingdom had withdrawn its armed forces from the Persian Gulf. The United States acted quickly to fill the vacuum created by the British in order to secure its interests in the region's vast oil resources, and also to keep the Soviet Union from gaining influence in the Middle East.⁸³ Whereas the Soviet Union had leveraged its superpower status to restrain American ambitions in the Mid-East during the Cold War, the United States was able to exercise a relatively free hand in the region with the demise of the U.S.S.R. in 1991. Thus, the most important results of the new international order are the losses to the Arab people. These losses include: the destruction of Iraq; increasing control by America and the West in general over the Gulf's oil and its prices; unjustifiable economic sanctions against Libya; and the strengthening of Israeli hegemony in the region.⁸⁴

⁸² Gabriel Kolko, *Another Century of War* 22 (New Press 2002).

⁸³ *Id.*

⁸⁴ Mohamed Alatrish, *Ta'taor Alnizam Al-dawliyy* [The Development of the International Order] 16 Arab Future 171 (No. 5, 1993).

Throughout its involvement in the region, the US has espoused a broad array of foreign policy goals in the Arab world—including the Cold War aim of creating an Islamic bulwark against communism, the preservation of the Israeli state, "regime change" in Iraq, and the current "War on Terrorism." However, U.S. foreign policy has remained faithful to its first and foremost long-term strategic objective in the region: preserving the free flow of Middle Eastern oil to the industrialized economies of the West on favorable terms.⁸⁵ Cheap oil provided the energy needs of a rapidly growing U.S. industrial backbone, under-girding domestic prosperity and military capability.⁸⁶

Consequently, American policy-makers have consistently identified aggressively nationalist governments—and their demands for a greater share of the revenues generated by their nation's natural resources—as the chief threat to American strategic interests in the region.⁸⁷

Indeed, the CIA had demonstrated, early on, American disapproval of any schemes to nationalize the

⁸⁵ Kechichian, *supra* n. 26, at 8.

⁸⁶ Kolko, *supra* n. 82.

⁸⁷ *Id.*

region's vast oil reserves when it engineered the coup to overthrow a popular Iranian premier, Mohammed Mossadegh, in 1958.⁸⁸ To preserve the status quo, the United States sought to maintain strong ties to militarily robust, pro-Western and "traditionalist" regimes, whose exercise of police powers at home and armed might throughout their region would serve to protect American oil concessions.⁸⁹

To varying degrees and at different periods, American foreign policy has enthusiastically supported traditional authoritarian regimes in Turkey, Iran, Iraq, Egypt, Saudi Arabia, and the Arab emirates throughout its involvement in the Middle East.

However, its early and continued support of Israel is of special note to our analysis, given the centrality of the Israeli-Arab conflict to Arab politics. American military and financial support became especially pronounced after Israel's victory in the 1967 Arab-Israeli war; the level of American assistance to Israel has grown every year since. Moreover, it has often been stated that U.S. diplomatic support for Israel runs contrary to

⁸⁸ *Id.* at 22-24.

⁸⁹ *Id.* at 25.

international conventions such as the Geneva Convention relative to the Protection of Civilian Persons in Time of War. When 14 Security Council members in Resolution 1544 condemned Israel for killing Palestinians and demolishing homes in Jericho and the Gaza strip, the U.S. abstained from voting.⁹⁰

Despite the military and political aid provided by American governments throughout the history of the Arab-Israeli conflicts, there is a feeling that Israel would not have acted as boldly and baldly as it did if the Arab League had stood united—in more than just rhetoric. As Prince Abdullah said in his address to the Gulf Cooperation Council:

What have we done with regard to the noble principles of the Arab League? What have we done to put the Joint Defense Treaty into effect? What have we done to realize economic unity? And most important of all, would the bloody oppression in Palestine have taken place had Israel found itself confronted by a community acting effectively and strongly through its institutional bodies?⁹¹

⁹⁰ The Situation in The Middle East, Including The Palestinian Question, S.C. Res. 1544, U.N. SCOR, 59th Sess., at 28, U.N. Doc. S/INF/60 (2004).

⁹¹ Abdullah bin Abdulaziz Al Saud, *Address to the Gulf Cooperation Council*, 9 Middle East Policy 29, 29-32 (No. 1, 2002).

The then-Crown Prince Abdullah, now the king of Saudi Arabia went on to say that "rhetorical and emotional statements" were not what was needed. Instead, the Arab nations needed realism and decision-making, including:

- Joint economic projects;
- Unified school curricula;
- The use of Arab and Muslim channels to take care of their own problems.

The prince was also blunt in his criticisms and got right to the heart of the matter when he stated: "I would like you to allow me, at this point, to remind you, and myself, that our adherence to an exaggerated concept of sovereignty is the main obstacle to our endeavors for unity."⁹²

As well, it is not surprising that the majority of the modern-day crises that have rocked the Middle East have featured in one way or another the involvement of the American hand. They have also been characterized by the seeming inability of the Arab League to take a united stand on these crises. According to Ahmad Yousef Ahmad, political science professor at Cairo University:

⁹² *Id.* at 31.

[T]he level of discontent ... has reached the point of explosion ... because of the failure of the League to take strong stands on several crises that hit the region, starting with the rise of the Second Intifada in 2000, the attacks of September 11 and the war on Afghanistan which followed and, most recently, the occupation of Iraq. All these events have changed the perception of the Arab League from the representative body of the region to an ineffective and weak organization.⁹³

At the same time, the problem is not helped by the fact that not all Middle East governments have the same relationship with the U.S. The different relationships of Middle East governments to the United States have been described in general terms as:

- Those oil rich states closely aligned with the U.S. such as the members of the Gulf Cooperation Council; and those at odds with U.S. policy (Iran, Iraq, and until recently Libya);
- Those poor states dependent on U.S. for economic/political survival (Jordan, Egypt, Yemen); or accommodating U.S. policy (Morocco, Tunisia, Algeria, Sudan);
- States with special relationships with the U.S. (Israel and Turkey).⁹⁴

⁹³ Cited in El-Bakry, *supra* n. 76, at ¶ 3.

According to the authors:

The first two groupings generate patterns of functionally localized cooperation ... and patterns of geographically localized isolation in regional politics. The third grouping generates patterns of conflict: Israel's stalling of the peace process; Turnkey's incursions into Iraq and threats to Syria; the overexploitation of shared water resources by both. The common denominator of all these patterns is the relationship with the U.S.⁹⁵

This relationship has come under increasing scrutiny following the "liberation" of Iraq by American forces. More and more, it seems that many Arab States have decided they must come to terms with this new reality. Again, it does not seem as if the Arab League has been able to provide any solution to this. The reasons? As pointed out: "The general-secretariat of the Arab League does not have the right to pressure members to reform their domestic affairs. The League does not possess an army for liberating occupied territories, for resisting the American invasion of Iraq or militarily confronting new challenges in the post-Saddam era."⁹⁶

⁹⁴ Jacqueline S. Ismail & Tareg Y. Ismael, *Globalization and the Arab World in Middle East Politics: Regional Dynamics in Historical Perspective*, 21 Arab Stud. Q. 129, 129-144 (No. 3, 1999).

⁹⁵ *Id.* at 143.

⁹⁶ Gamil Mattar, *A Sustainable Arab League: What Should Arabs Expect from Their League?* Al-Ahram Weekly 13,

This was made most clear when the Arab League accepted the delegation from the U.S.-occupied Iraq's Governing Council after having insisted only months previously that no representative would be recognized from Iraq while it was under U.S. military occupation. To quote an eminent Arab scholar: "The US will decide and shape the economics and politics of the region for many years to come. In a very revealing manner, the US might be reviving and reliving the British colonial experience in the Gulf."⁹⁷

Sovereignty Versus Regional Thinking

While no single explanatory factor can explain the political failures of the Arab League, some can be ruled out. In this spirit, the influence of Islamic law (*sharia* or *shari'ah*) in governing relations between and among the overwhelmingly majority-Muslim Arab states needs to be briefly examined.

While the structure and processes of the League clearly favor the interests of sovereign states over the goal of Arab political unity, the role of Islam is nowhere

¶ 1 (No. 646, July 10-16, 2003)
<http://weekly.ahram.org.eg/2003/646/op13.htm>.

⁹⁷ Abdulkhaleq Abdulla, *Gulf War: The Socio-Political Background*, 16 Arab Stud. Q. 1 (No. 3, 1994).

mentioned. Though it would seem from our earlier discussion that the mandates of *realpolitik* clearly trump any loftier organizational goals of the League, the same cannot necessarily be said about the relationship between the ruthless pursuit of state interests and the tenets of Islamic jurisprudence. Rather, the relationship is much more complex—in fact, more often than not, Islamic jurists served the interests of their particular state sponsors.⁹⁸ As one scholar notes: "The traditional jurists had forged a link between politics and religion by giving a religious legitimacy to political power."⁹⁹ Furthermore, *sharia* law makes no mention of the concept of modern nation-states, and thus does not address relations between separately-governed Muslim countries.¹⁰⁰

It is, however, in the relations between separately-governed countries that the institutions created by the Arab League collapse. These relations have taken many forms down through the years. During the Cold War

⁹⁸ Bromley, *supra* n. 81, at 91.

⁹⁹ Nazih N. M. Ayubi, *Political Islam: Religion and Politics in the Arab World* 3 (Routledge 1991).

¹⁰⁰ *Id.* at 14.

period, the League was split between pro-Western, Pro-Soviet, and nominally neutral ones.

Afterwards, there is the division between countries controlled by militant Islamic fundamentalists and Arab moderates. But even here, it has been argued that not even those states with similar ideologies could get together or come to agreement for very long:

[T]he fundamental similarity of ... conservative ideologies could have led the regimes which adopted them into orchestrated actions. This has been minimal because of the isolationist policies pursued by these regimes in the Arab arena, and because of competing claims for the historical representation of the religious ideal. The outcome of the struggle between these ideological trends was a great magnitude of ideological incohesiveness, mixed with mobile alliance formation and propensity to hold to the minimum degree of unity.¹⁰¹

When it comes to the conducting of foreign policy, a latent tension exists between the stated goals of pan-Arabism and how each state conducts itself, i.e., between how a state sees itself in relation to other Arab states and how it performs its role as a sovereign state and member of the Arab League. It has already been seen that the Arab League was split during the Cold War period. But there are other splits as well: one of the key ones is the unquestionable fact that some states have more power and

¹⁰¹ Said, *supra* n. 32, at 265.

influence than others; some states are relatively poor and some very wealthy; some have no military to speak of and others have some of the most powerful in the region. It is this sort of tension that the Arab League was supposed to dissipate. Why did it not achieve that to the extent that it could have and what can be done to rectify the situation?

The answer to those questions becomes even more important in the aftermath of the ongoing Iraqi situation— and the presence of a very powerful foreign power in the region. According to Korany & Dessouki, writing after the invasion of Kuwait by Iraq:

[T]he very normative basis of Arab togetherness could be seriously undermined, and the whole Arab system could become increasingly a satellite to non-Arab regional and international forces. After all, the Arab League is in limbo at the time this is written, with only part of it returning to its original headquarters in Cairo...¹⁰²

In his study of the problems faced by Middle Eastern States, Sahliyah lists four variables, with the key one being Democracy versus Authoritarianism.¹⁰³ His argument is that either the total absence or very weakly exhibited

¹⁰² Bahgat Korany & Ali E. Hillal Dessouki, *The Foreign Policies of Arab States: The Challenge of Change* 5 (Westview Press 1991).

¹⁰³ Emile Sahliyah, *The Limits of State Power in the Middle East*, 22 Arab Stud. Q. 1 (No. 4, 2000).

presence of some type of democratic institutions makes the attempt to secure long-lasting legitimacy and power for Middle Eastern states a very problematic one.

In a breakdown of the types of political authority present in the Middle East from the years 1970-1994, Sahliyah and colleagues determined that 66% of a total of 520 country-years (24 countries for 25 years) were oligarchic in nature; 25% autocratic; and a mere 9% democratic.¹⁰⁴ At the same time, the prospect for making changes (from oligarchy to democracy) was considered to be very low. According to Sahliyah:

[T]he predominance of autocracy and oligarchy ... perpetuated in the past the sentiments of uncertainty, fear, and suspicions at the expense of the norms of democracy, interstate cooperation, and trust. If this pessimistic outlook were to persist well in the 21st century, it is likely to preserve the autocratic power of the state and reduce prospects for economic development and democratic governance.¹⁰⁵

Other commentators such as Amrawi, Hassouna, Durgham and Said have remarked on a similar set of problems that is stalling attempted reforms on the part of the Arab League. Amrawi pointed out that the original Arab League

¹⁰⁴ Emile Sahliyah, Paper Presentation, *Measuring Procedural Democracy in the Middle East* (Middle East Stud. Assn. Conf., Chicago, Ill., Dec. 5, 1998).

¹⁰⁵ Sahliyah, *supra* n. 103, at 17.

summit set for March of 2004 had to be scuttled and re-scheduled because of public disagreements with respect to the American "Greater Middle East" plan.¹⁰⁶ At the same time, a pertinent question remains: "What kind of road map can Arab leaders provide for their people while they are presiding over stagnant economies and when there are no guarantees of human rights, women's rights, and the rights of religious minorities?"¹⁰⁷

Hassouna, the ambassador of the League of Arab States, though not quite as pessimistic about the possibility for change, does point out "its internal divisions, its outdated structures and mechanisms, its failure to ensure implementation of its resolutions, its bureaucracy and financial crises and its inability to deal successfully with the issues of deep concern to the Arab people."¹⁰⁸

¹⁰⁶ Ahmad Amrawi, *In Pursuit of Arab Reform: Arab Political Reform in Disarray*, <http://english.aljazeera.net/NR/exeres/CCE95D8D-1F4C-4F7C-A172-083B474EE245.htm> (May 19, 2004).

¹⁰⁷ *Id.*

¹⁰⁸ Hussein Hassouna, *Looking Ahead*, Washington Times, Op-Ed, ¶ 2, (Mar. 26, 2004) <http://www.washingtontimes.com/op-ed/20040325-091449-9938r.htm>.

Said argues from a more theoretical framework with respect to the split between the concept of the state and that of religion in the Arab world. His argument is that the Arab League has failed to reconcile this—especially when it comes to security in the region: "The cornerstone of their security is almost complete reliance on the West, and the US in particular, for protection. In return for organically linking the economy and military of these societies to the West, the latter provides a system of protection that is culturally filtered to ensure correspondence with regime needs and images."¹⁰⁹

Harshest of the criticism comes from Raghida Durgham, *Al-Hayat's* political analyst and correspondent working out of New York:

Arab leaders must understand that they must cease issuing international political communiqués whose sole purpose is to neutralize domestic criticism ... Arab Summits have the tendency to adopt evasive positions ... They unload the burden on Arab ambassadors to the UN and demand that they carry out a policy that is totally detached from the political reality.¹¹⁰

¹⁰⁹ Said, *supra* n. 32, at 266.

¹¹⁰ Raghida Durgham, *Criticism of PLO and Arab Policy in the UN* ¶ 2, MEMRI Special Dispatch Series No. 176 (Jan. 12, 2001) (available at <http://www.memri.org/bin/articles.cgi?Page=subjects&Area=relations&ID=SP17601>).

Similar comments and remarks were made at one of the most recent Arab League Summits, in 2004 in Tunisia. Among them, there were the comments of Lebanese President Emile Lahoud, who indicated that unprecedented solidarity was absolutely needed. Otherwise, "we shall be doing a service to the enemies of the Arab nation and all those who seek to impose on us schemes contrary to our aspirations."¹¹¹

Studies in the question of security and how these matters are partitioned between what governments consider internal matters and what are considered international concerns are also of value when it comes to examining the poor record of the Arab League in this area. Krasner; Trachtenberg; and Burley and Kaysen all present cases where there has been intervention in the domestic affairs of a specific country for the sake of achieving a common security purpose.¹¹²

¹¹¹ Emile Lahoud, *At The Arab Summit In Tunisia* ¶ 20, <http://www.ain-al-yaqeen.com/issues/20040528/feat5en.htm> (May 28, 2004).

¹¹² Stephen D. Krasner, *Compromising Westphalia*, 20 *Intl. Sec.* 115 (Winter 1995-96); Marc Trachtenberg, *Intervention in Historical Perspective*, in *Emerging Norms of Justified Intervention* 16, 16-40 (Laura W. Reed & Carl Kaysen eds., Am. Acad. Arts & Sci. 1993); Anne-Marie Slaughter Burley & Carl Kaysen, *Introductory Note*, in

According to Morgan, there are increasingly common events where a state's security concerns can be supplanted by those of the region: "For instance, other states may insist that domestic developments in A are a grave concern if they cripple A's ability to carry out its responsibilities in a regional security arrangement."¹¹³

Because of the increasing importance of regional security, efforts have been made to define what regional security and regional security complexes mean. Among the definitions: ..

- Buzan: a "group of states whose primary security concerns link together sufficiently closely that their national securities cannot realistically be considered apart from one another."¹¹⁴
- Hurrell: "a set of policies by one or more states designed to promote the emergence of a

Emerging Norms of Justified Intervention 1, 1-15 (Laura W. Reed & Carl Kaysen eds., Am. Acad. Arts & Sci. 1993).

¹¹³ Patrick M. Morgan, *Regional Security Complexes and Regional Orders*, in *Regional Orders: Building Security in a New World* 20, 23 (David A. Lake & Patrick M. Morgan eds., Pa. U. Press 1997).

¹¹⁴ Barry Buzan, *People, States, and Fear: An Agenda for International Security Studies in the Post-Cold War Era* 190 (2d ed., Lynne Rienner 1991).

cohesive regional unit, which dominates the pattern of relations between the states of that region and the rest of the world, and which forms the organizing basis for policy within the region across a range of issues."¹¹⁵

- Lake: regional security concerns and complexes are created from outside forces that impinge on a particular region and that cause that region to establish permanent or semi-permanent agreements to act in concert.¹¹⁶

No matter what definition is ultimately chosen to identify a regional security complex, problems arise when attempts are made by the members of such a grouping to establish themselves as some type of collective. This is commendable in that theoretically it allows for security to be managed by the entire group rather than one or more powerful state. However, it is not usually very effective—and the Arab League is a prime example of this. These

¹¹⁵ Andrew Hurrell, *Explaining the Resurgence of Regionalism in World Politics*, 21 *Rev. Intl. Stud.* 331, 331-358 (No. 4, 1995).

¹¹⁶ David A. Lake, *Regional Security Complexes: A Systems Approach*, in *Regional Orders: Building Security in a New World*, 45-67 (David A. Lake & Patrick M. Morgan eds., Pa. U. Press 1997).

efforts are, in fact, not the primary one, and it usually turns out that some form of power balancing is the active mode.

There is also the question of a region's strategic importance and how that affects the ability of the regional organization to control what one would define as its internal affairs, but which an external force (i.e. a nation with strategic interests) might consider part of its own internal affairs. Said argues that the more strategic significance possessed by a region the less true self-rule and control the member states of that region are likely to have—and the more likely that individual members of the region will side-step the regional organization and deal directly with the global power instead:

There is no question that the Arab world possesses intrinsic strategic significance, and that it has been passing through a process of substantial change in both its internal socio-economic character and in its political regional structure. The existence of the state of Israel as a violent and expansive intruder has added a great burden and source of conflict. Accordingly, the connection between the Arab regional system on the one hand and the global system on the other has been very strong since the inception of the former.¹¹⁷

¹¹⁷ Said, *supra* n. 32, at 267.

The Palestinian Issue and the Israeli Challenge

The Arab League membership has featured a Palestinian Parties representative from the very beginning and the issue of Palestinian statehood has dominated much of the Arab League's time and energy. In fact, the original Alexandria Protocol called for the League to "consider Palestine as an important element in the Arab countries set up, without prejudice to the Arab rights and without causing any damage to peace and independence of Arab countries. They have to support the cause of Arab Palestinians by realizing their legitimate rights and maintaining their just rights."¹¹⁸

As well, the League's Charter features a special "Annex on Palestine" that briefly outlines Palestine's history and legal standing as an independent state and the fact Palestine was recognized as such through article 22 of the Covenant of the League of Nations:¹¹⁹

Her existence and her independence among the nations can, therefore, no more be questioned *de jure* than the independence of any other Arab States. Even though the outward signs of this independence

¹¹⁸ *About Arab League, supra n. 71, at 4, ¶ 3.*

¹¹⁹ U.S. Department of State, *Papers Relating to the Foreign Relations of the United States: The Paris Peace Conference, 1919*, vol. 8, 217 (U.S. Govt. Printing Off. 1946).

have remained veiled as a result of force majeure, it is not fitting that this should be an obstacle to the participation of Palestine in the work of the League. Therefore, the States signatory to the Pact of the Arab League consider that in view of Palestine's special circumstances, the Council of the League should designate an Arab delegate from Palestine to participate in its work until this country enjoys actual independence.¹²⁰

However, despite everything that the Arab League has put into the Palestine independence project, it can be stated fairly unequivocally that the League does not have much to show for these efforts. In a short time after the Arab League was formed, it witnessed: the loss of a large portion of Palestine to Jewish occupation; the partition of Palestine in 1948; the forced Diaspora of millions of Palestinians following the 1948 war; and the further loss of territory and sovereignty following the series of Arab-Israeli wars.

An historian studying the Palestine-Israel conflict must come to the conclusion that this was one political nexus where all of the Arab nations would stand together. In other words, this was supposed to be one conflict where the unanimity voting clause of the Arab League would not be a problem. The conflict directly affected:

¹²⁰ Arab League Charter, *supra* n. 19, at "Annex on Palestine."

- The Palestinians themselves in the form of the struggle between the Palestine Liberation Organization and other resistance groups versus the Israeli occupation;
- Arab States bordering Israel (both in the sense of territory lost in the various wars and in the numbers of Palestinian refugees;
- The entire Arab world in a more symbolic sense.

As pointed out by various scholars, while it was obvious why Israel, the Palestinians and the surrounding states would have such a huge stake in the struggle, for the rest of the Arab world "historical, cultural, religious and political factors rendered the Palestine question important through the 1948 and 1956 wars. The 1967 Arab-Israeli War and the Israeli occupation of the West Bank, Gaza Strip, Sinai, and Golan Heights raised the confrontation from strategic to national importance."¹²¹

In fact, there was a time during the early 1970s when it seemed as if the combination of Arab world cohesion and a re-arranging of the world oil map (through the dominant role of the Arab oil producers in the OPEC cartel)

¹²¹ Ismael & Ismael, *supra* n. 94, at 137.

would finally help to secure universal recognition for the Palestinian State.

However, due to the tension between regionalism and nationalism and a lack of a united front, the Palestinian cause started to lose ground as the 1970s went forward. This was especially true in the Arab states that had large numbers of Palestinian refugees—with Jordan ordering the PLO out and the Gulf oil states clamping down on the political activities of Palestinians within their borders.

Adding to this was dissension within the organization itself as well as Arab state interference and conflicts with various Arab states such as Syria, Egypt and Iraq. The situation remains just as precarious, if not more so, today—and the Arab League seems to have been reduced very much to a sideline role in the affairs of its own region.

According to one scholar, at least, this conflict, among others, may well determine whether the League survives or not: "The future of Iraq and of the Palestinian-Israeli peace process is inextricably linked to the future of the Arab League, which depends to a great

extent on its ability to reform itself and overcome the state of paralysis."¹²²

According to Said, in general, three factors provide an overriding rationale to explain the effectiveness of a regional organization. These three factors consist of: (a) the scope of the perceived threat; (b) the amount of extra-regional support sources; and (c) the system's own power structure.¹²³ In terms of the threat perceived from Israel one would have thought that all three of these factors would come into effect. However, as Said points out: "In the Arab world, where the greatest source of threat is represented by the state of Israel, geographical distance from this source makes for illusions of natural immunity from aggression in a majority of Arab States. Consequently the level of real participation of these states in the League's security arrangement is very low."¹²⁴

Lack of Sanctions/Enforcement

¹²² Mohamed Sid-Ahmed, *Reforming the Arab League* ¶ 4, *Al-Ahram Weekly* (<http://weekly.ahram.org.eg/2003/651/op3.htm>) (No 651. Aug. 14-20, 2003).

¹²³ Said, *supra* n. 32, at 268.

¹²⁴ *Id.*

Until the recent amendments to the charter dated March 23, 2005, there had been no mechanism within the Arab League that allowed either the introduction of sanctions against a member state that has been singled out, or the use of force to make the state comply. In other words, there was no way to punish a transgressor member state—at least not one written into the Pact itself.

This has led to further examples of paralysis on the part of the League—this time with respect to solving internal problems without interference from external forces. At the same time, the leaders of the states in the Arab League are all too well aware of the numerous and often bitter internecine conflicts that have torn the region apart in the past: "The states of the region have nearly always been in a state of conflict with each other. Throughout their modern history, these states have been engaged in all sorts of conflicts which have taken many different forms: tribal wars, border wars, oil wars and even political and ideological wars."¹²⁵

One of the attempts made to add some teeth to Arab League resolutions came with the signing of the Treaty of Joint Defense in 1950— in particular Article 2 of the

¹²⁵ Abdulla, *supra* n. 97, at 1.

Treaty. However, that too does not seem to have had much effect. Witness the debacle following Iraq's invasion of Kuwait and the inability of the Arab states to resolve the problem on their own.

As one commentator has pointed out:

In spite of the theoretical significance of this treaty, it amounts in practice to very little. First, the treaty is not considered a part of the charter, and membership of it was left optional. Second, it failed to grant the League an independent armed force under its command. In fact, the goals of the treaty were thus aborted even at the moment of its signing, since it shared with all the League's decisions the lack of effective means of implementation, other than the free will of the member states.¹²⁶

A more recent attempt at providing a mechanism whereby the League can effectively "interfere" came with efforts to create an Arab Court of Justice. Back in 1982, a committee laid down the rules for just such a court, including:

- Consisting of seven elected judges for a three-year period with possible extensions, except that three must be changed every three years (by lot);
- Responsible for conflict resolution;

¹²⁶ Said, *supra* n. 32, at 259.

- Judgment passed according to Arab League Charter principles and international law.

Finally, at the Tunis meeting of 1995, a call was made for the establishment of a central body for the containment, management and settling of any conflicts, the body consisting of five representatives of member states, the Arab League Secretary General, and with the Foreign Affairs Minister of the country heading the Arab League Council Ordinary Session presiding: "This machinery will assume the responsibility of quick intervention for the prevention of any disputes or conflicts between Arab countries. In a further stage, it will manage and settle these conflicts by using peaceful means."¹²⁷

To this day, none of these attempts to introduce either a sanctioning method or an enforcement capability have proved very successful. This includes "a series of decisions made by the summit conferences since 1964 which established a joint command of Arab armed forces. While this command exists in theory, it does not possess any independent power."¹²⁸

¹²⁷ *About Arab League*, *supra* n. 71, at 8, ¶ 15.

¹²⁸ *Said*, *supra* n. 32, at 259.

The latest effort to add some teeth to the resolutions of the Arab League came with the "Resolutions and Commitments" amendments of March 23, 2005, in particular the "Founding Law for the Organization Following Upon the Execution of Resolutions and Commitments" [For the complete law, see Appendix A]. However, while, the amendments look promising with Article 5 listing the responsibilities and Article 6 listing when a State is in breach, not enough time has passed to determine how effective these amendments will be.

The League Collective Security in Trouble

The Treaty Of Joint Defense And Economic Cooperation Among The States Of The Arab League, approved April 13, 1950, by the Council of the League and consisting of 13 articles, was designed to complement the 1945 Pact—and to strengthen ties among the member states.

Specifically, Article 2 of the treaty reads:

The Contracting States shall consider that an armed aggression committed against any one or more of them, or against their forces, to be an aggression against them all. For this reason, and in accordance with the right of legitimate self-defense, both individual and collective, they undertake to hasten to the aid of the State or States against whom an aggression is committed, and to take immediately, individually and collectively,

all measures and to utilize all means available, including the use of armed force, to repulse the aggression and to restore security and peace.¹²⁹

The original idea for a joint defense treaty arose following the 1945 French aggression against Syria and Lebanon. It was then brought up again by Syria following the creation of Israel in 1948. At that point, the Collective Solidarity Committee was created and a treaty ratified two years later. The treaty called for the creation of several bodies for the purpose of collective security:

- **Joint Defense Council:** The Ministers of Foreign Affairs and Defense from each of the member states;
- **Military Committee:** Representatives and general staff from respective countries' military to coordinate joint defense programs;
- **Military Consultative Board:** Chief of Staff of respective countries to supervise Military Committee.¹³⁰

¹²⁹ Alan R. Taylor, *The Arab Balance of Power* 125 (Syracuse U. Press 1982).

¹³⁰ *About Arab League*, supra n. 71, at 7, ¶ 12.

While the treaty seems to lay out the mechanisms for collective security, the implementation of the treaty has not been successful—especially with respect to what the Arab League members at the time considered their biggest threat: Israel. As noted:

The supreme body of the Arab League, the Council, has no enforcement powers ... Arab League measures to maintain peace and security have in recent times been dismal. The Iran-Iraq war, for example, may have dominated the agenda at the 1987 Arab League summit meeting, but the resulting Resolution merely expressed support for Security Council Resolution 598 calling for an end to the war, and condemned Iranian occupation of Iraqi territory ... During the Gulf War, in which by invading Kuwait Iraq violated a number of provisions in both the Pact and Joint Defense Treaty, league action was limited to condemning Iraqi aggression, demanding withdrawal, and reaffirming Kuwait's sovereignty.¹³¹

While the Joint Defense Treaty was designed to help improve the regional security of the Arab League states, it does not seem to have solved this problem in any substantial way. In fact, many scholars believe that, since the Gulf War, there has been a reversal in the trend towards so-called "pan-Arab" solutions to the region's problems and more emphasis placed on the sovereignty of individual states:

¹³¹ Brown, *supra* n. 4, at 240.

A systematic assessment of the League's security system must take as a starting point its basic function, namely, consolidating the state system, and judge this function according to changing needs. In this perspective one can assert with confidence that the Arab League did not promote the idea of Arab liberation from internal and external oppression and constraints. In fact, the League's charter did not mention independence as one of its goals at a time when the majority of Arab societies were effectively under occupation.¹³²

Similar conclusions were drawn by Ali Mohafaza who stated that: "The Arab League was not in reality a step towards a specific unification goal."¹³³ According to K.S. Hossary, the League "was established to diffuse increasing Arab national consciousness which threatened the interests of neocolonialism."¹³⁴

While sovereignty of this type may lead to better relations between individual Arab states and a state such as Israel and "can provide the broad ground rules for interstate interactions, but it permits wars, aggression, conflict, hostility, and so on ... Although there have been some modest experiments and movements toward cooperative

¹³² Said, *supra* n. 32, at 259-260.

¹³³ Ali Mohafaza, *Historical Genesis of the Arab League*, in *The League of Arab States: The Reality and Ambition* 66 (Ghassan Salama ed., Ctr. Arab Unity Stud. 1983).

¹³⁴ Cited in Said, *supra* n. 32, at 260.

security, by and large the region exhibits greater confidence in competitive security arrangements."¹³⁵

Finally, it must be said that these problems and limited ability to deal with regional security in a committed way can be traced back to the actual leadership in the region. The leaders have a tendency to be backward-looking rather than looking towards the future. This manifests itself in an "inclination to let others take the risk, to hedge one's bets, to seek outside patrons even while deploring outside interference, and a tendency to go along with less-than-successful past policies lest change bring even worse."¹³⁶ When coupled with the way nation-states were formed in the region, one gets a picture where there seems to be constant movement and change while no real change is actually taking place:

The Arab world is characterized by a structure of power that is neither highly concentrated nor highly diffuse. Polarization tends to be high in various issue-areas, but alliance formation is closer to fluidity rather than fixity because of rapidity of regime change and multiplicity of sources of threat for different Arab states. Under

¹³⁵ Michael N. Barnett, *Regional Security After the Gulf War*, 111 *Political Sci. Q.* 597, 613 (No. 4, 1996-97).

¹³⁶ L. Carl Brown, *The Middle East after the Cold War and the Gulf War: Change or More of the Same?* in *Collective Security Beyond the Cold War* 213 (George E. Downs ed., U. Mich. Press 1994).

these conditions the Arab system tends to be formed into sets of states which group and de-group at various points in time and over varying issues of concern. This prevents the system from constructing stable security institutions and deprives it of the advantages from accumulated experience and mutual trust.¹³⁷

It is in the area of regional peacekeeping that the failure of the Joint Defense Treaty comes across most obviously. It can be argued that the League was somewhat successful during the first Iraq-Kuwait crisis of 1961, although how successful will be discussed in more detail in a later section. However, in its other Cold War peacekeeping missions—twice in Lebanon during 1975-76—the League saw its efforts "marred ... by political conflicts between its member states as well as lack of clear procedures for the settlement of regional disputes."¹³⁸

Many writers and scholars, while not being as harsh in their criticism of the Arab League per se and its failures in this area as has been someone such as Said, have nevertheless pointed out that this type of military

¹³⁷ Said, *supra* n. 32, at 269.

¹³⁸ Arnitav Acharya, *Regional Organizations and UN Peacekeeping*, in *A Crisis Of Expectations: UN Peacekeeping in the 1990s*, 207, 210 (Ramesh Thakur & Carlyle A. Thayer eds., Westview Press 1995).

collective security is just not something that regional organizations can do very well in general:

Further, it may be the case that far from being best placed to resolve a problem within the region, they are perceived by one of the protagonists as irretrievably committed to the other side ... The theoretical advantages of the regional approach—that is to say, familiarity with the parties and the issues—are offset by the practical disadvantages of partisanship and local rivalries.¹³⁹

Another problem that arose for regional organizations was that, for the longest time during the Cold War, they were not really allowed to carry out this role—as most of the conflicts were the result of proxy fights between the two superpowers. While that is no longer true today, regional organizations still must meet a number of conditions before they can play strong conflict resolution roles:

- **Legitimacy:** "Actions and behaviors of a third party intervening to resolve a conflict must be

¹³⁹ Rosalyn Higgins, *Peace and Security: Achievements and Failures*, 6 *European J. Intl. L.* 317, 451 (No. 3, 1995) (available at <http://www.ejil.org/journal/Vol6/No3/art8-02.html#TopOfPage>).

in accordance with the UN Charter, international law and norms, and diplomatic conventions."¹⁴⁰

- **Enforcement Power:** This is probably the single more difficult condition for a regional organization to put into effect. There are two reasons for this: the fact that the UN frowns on regional organizations using force on individual states unless the organization is acting under the auspices of the Security Council; and fear that a strong or dominant state could use the regional organization to force decisions on smaller, weaker states: "As a result, in most existing regional organizations, decisions either are made by consensus or are not binding upon member states."¹⁴¹
- **Resources:** From the initial conflict resolution to the bearing of costs for famine relief, refugees, reconstruction, the overseeing of elections, and so on, a regional organization

¹⁴⁰ Thi Hai Yen Nguyen, *Beyond Good Offices? The Role of Regional Organizations in Conflict Resolution*, 55 J. Intl. Affairs 463, 464 (No. 2, 2002).

¹⁴¹ *Id.* at 465.

will quickly find its resources diminishing in an extended action.

- **Cooperation:** This is most important in terms of cooperating with the UN and major power brokers. Otherwise, regional organizations will quickly find themselves on the sidelines: "Although most regional organizations are willing, able and motivated to participate in conflict resolution, they are often constrained by the small size of their member states, the non-exclusive nature of their membership and the partiality of their coverage."¹⁴²

Limited Peaceful Dispute Resolution Mechanisms

Article 5 in the Arab League Charter implicitly suggests the notion of peaceful means as the main principle of Arab relations, by not allowing recourse to force. It is clearly a disappointment that Article 5 - the only article that deals with the issue of use of force - does not plainly express the prohibition, as does Article 2.4 of the UN charter. Moreover, it does not clearly state the requirement for resolving conflicts by peaceful means among

¹⁴² *Id.*

Arab nations, nor does it list methods like negotiation, conciliation, mandatory arbitration, inquiry, or judicial means as means of settlement of dispute.

Article 5 only approves two methods of dispute settlement: mediation and optional arbitration. The Charter not only limits the flexibility of the Arab Council by allowing recourse to only those two methods, but it even strips their effectiveness. First, in regard to the mediation, the article limits it to the council itself. So, if an Arab country exercises attempts to settle a conflict between two other Arab states, it would fall outside of the Arab League's mediation process. Second, the Arab League's mediation process does not cover many forms of conflict that might occur among Arab states. The article states that the council's mediation is for "a dispute which may lead to war between two member States or between a member State and another State..." Thus, if the conflicts or differences are not going to lead to an armed conflict, the council's mediation is not needed.¹⁴³

¹⁴³ Jamil Mattar et al., *Jamiat al-Duwal al-Arabiyyah: al-khbrahiyyah wa-mashruat al-tatwir* [The Arab League: The Experience and The Improvement's Projects] 135, Arab Ctr. Dev. & Future Research (1993).

Furthermore, the arbitration method that the Arab League is using is optional. Even though the charter follows what was acceptable in international law at the time by rejecting mandatory arbitration, it fails to follow the International Court of Justice in regard to its application of the "Optional Clause." Arbitration in the League covers only conflicts unrelated to "the independence of a State, its sovereignty or its territorial integrity." Because these three categories cover nearly all serious political or legal disputes, the article undermines the arbitration method completely.

Regional Dispute Factors

The Arab League nations have been involved in a number of disputes in the region since the organization was first created. The region is one of the most volatile in the world, having to do with numerous factors such as the presence of tremendous quantities of oil and the presence of Israel. The League has experienced a few successes in its efforts at dispute resolution, but for the most part, these efforts have not resulted in overly successful outcomes.

Not all the blame for these failures can be laid directly at the League's feet, especially considering the

nature of regional organizations and their lack in general of being able to maintain a high peacekeeping profile: "In general, peacekeeping operations by regional organizations are likely to suffer as much from their lack of resources and experience and inadequate institutional mechanisms as from the more obvious problems in overcoming intra-regional political differences in perspective and approach, the ever-present threat of external meddling and the problems of coordination between the UN and regional organizations."¹⁴⁴ Nevertheless, the argument here is that the Arab League would have been more successful had it had a better, more efficient voting mechanism. Among the disputes encountered:

Kuwait-Iraq Dispute

The history of the Kuwait-Iraq dispute stems back to the late 1930s when Iraq laid claim to Kuwait and fought pressure to have it recognized as an independent state. When Kuwait did become an independent state in 1961, the Iraqi prime minister immediately called for union with his country. Both Britain and the Arab League opposed this. Subsequently, British troops were sent to Kuwait—and then

¹⁴⁴ Acharya, *supra* n. 138, at 209.

replaced by troops from the Arab League.¹⁴⁵ This followed the Arab League's laying out a series of resolutions with respect to the Kuwait-Iraq dispute that included:

- Replacement of British troops with an Arab security force (made up of troops from Saudi Arabia, Egypt, Jordan and Sudan);
- A commitment by Iraq not to use force in its dispute with Kuwait;
- Kuwait should freely decide whether or not to join with any other member of the Arab League;
- Kuwait welcomed as member of the League.

This first crisis came to an end when the regime in Iraq was overthrown in 1963 and the Baath party took over—and officially recognized Kuwait's independence.¹⁴⁶ However, this did not end border matters and troubles between the two countries. Throughout the 1970s and 1980s, there were numerous Iraqi provocations, attacks and forays into

¹⁴⁵ Omar Ali, *Crisis in the Arabian Gulf: An Independent Iraqi View* 142 (Praeger 1993).

¹⁴⁶ Al Diwan Al-Amiri, *Background Behind The Iraqi Will to Seize Kuwait* ¶ 37, The Official Website of the State of Kuwait, http://www.kuwait.kw/diwan/emain/Story_Of_Kuwait/Occupation/Occupation_historical_backgrou/occupation_historical_backgrou.html (accessed Feb. 20, 2006).

recognized Kuwaiti territory (especially during the Iraq-Iran war), and claims with respect to that territory. These culminated in the invasion of Kuwait in August of 1990 and the subsequent Gulf War.¹⁴⁷ Aside from British and American troops, 12 Arab countries voted to send forces to Saudi Arabia—and this led to some serious divisions within the Arab League, despite the fact that the League condemned the invasion. According to *The Economist*:

The League seemed incapable of serving an Arab world which the Gulf War had so bitterly divided. In the year since the wear Arab states have stopped talking about Arab solidarity and organized their relations on a country to country basis, or through loose alliance of victors (Saudi Arabia and its five smaller Gulf brethren, plus Egypt and Syria) that clubbed together to issue a statement known as the Damascus Declaration in March 1991.¹⁴⁸

In fact, this was considered a double blow for the Arab League: first in not being able to prevent the invasion of Kuwait by Iraq and secondly by the inability to prevent an attack on Iraq from a power from outside the region, indicating to the rest of the world that the region could not take care of its own problems. The aftermath of the Gulf War has left the Arab League caught in the middle amid a series of events including: unpredictable military

¹⁴⁷ *Id.*

build-ups; bilateral agreements between Western and Gulf States; and discussions among Gulf Cooperation Council states. The problem continued right up to the Arab League summit in 2001 where "Arab leaders failed to reach an agreement to begin normalizing relations between Iraq and Kuwait."¹⁴⁹

For many, the inability of the Arab League to mount a successful campaign against the U.S. invasion of Iraq under trumped-up charges of possessing weapons of mass destruction is the final straw. Not only that but the League could not keep a unified front on the subject: "An Arab League summit in February [2003] agreed Arab states would not 'participate' in a war on Iraq. That has not stopped Kuwait, Bahrain, Qatar, the United Arab Emirates, Oman, Jordan and Saudi Arabia aiding the United States in various ways despite denials."¹⁵⁰ Even more shameful for many Arab citizens was the acceptance by the League of a

¹⁴⁸ *Libya, Lockerbie and the Revival of Arabism*, *Economist* 35 (Mar. 28, 1992).

¹⁴⁹ Roula Khalaf, *Iraq-Kuwait Impasse Defeats Arab Summit*, *Fin. Times* 2 (Mar. 12, 2001).

¹⁵⁰ Sami Aboudi, *Arab League Hangs in Balance After Iraq War* ¶ 17, *Reuters News* (<http://reuters.com/newsArticle.jhtml?type=focusIraqNews&storyID=2508435>) (Apr. 4, 2003).

delegation from the Iraqi Governing Council—and not just as observers but with voting rights.

The Darfur Crisis and the Arab League

According to its critics, the Darfur humanitarian crisis in the Sudan is the latest example of the inability of the Arab League to solve its own problems. In this case, this is reflected as paralysis in the face of what has been called the worst humanitarian crisis in the world today, with upwards of 180,000 dead and more than two million displaced by Arabic Janjaweed militias. According to the secretary-general of the Egyptian Organization for Human Rights: "Arab governments must take serious steps to stop the militias which are targeting civilians in Darfur. This is a crisis that calls for real intervention and if they [Arabs] don't have the ability to stop it then they must accept foreign help ... The Arab League works in favor of Arab governments and not their people. We saw this happen once before in Iraq, and we're seeing it again in Sudan."¹⁵¹

The Arab League has been accused of employing double standards for refusing to accept UN Security Council

¹⁵¹ Cited in Cam McGrath, *Arab League Failing Over Darfur* ¶ 2, <http://www.ipsnews.net/interna.asp?idnews=25171> (Aug. 21, 2004).

Resolution 1556 which called for diplomatic and economic sanctions against Sudan if it did not act to disarm the militias. According to Gehad Auda: "Arabs always condemn Israel because it rejects UN resolutions and its army collaborates with settlers who want to take lands from their lawful owners. Yet that is exactly what is going on in Sudan right now."¹⁵²

Other analysts point to the fact that many Arab governments face similar problems at home and are thus afraid to stir up trouble. But others believe that the League's failure to take action under the circumstances will spell even more trouble: "If the Arab League is absent from this issue it will only make matters worse."¹⁵³ While Arab League Secretary-General Amr Moussa spoke of giving the Sudan government more time to work towards a peaceful solution,¹⁵⁴ there are those who feel the Arab

¹⁵² Gehad Auda cited in McGrath, *supra* n. 151, at 9.

¹⁵³ Hassan Abu Taleb cited in McGrath, *supra* n. 151, at ¶ 16.

¹⁵⁴ Ahmad Shaheen, *Arab League Calls for More Time to Resolve Darfur Crisis* ¶ 3, Arab News Online <http://www.arabnews.com/?page=1§ion=0&article=49573&d=9&m=8&y=2004> (Aug. 9, 2004).

League is shirking its responsibilities. According to an editorial on *The Daily Star* website:

[W]hy did Egypt and other Arab states not move earlier to work with Sudan to achieve a breakthrough? ... The rapid pace of international intervention in Darfur has not been welcomed by many Arab officials and observers ... This is perplexing to the point of absurdity, and collective Arab shame. The Arab League and its officials have been inexplicably silent during the past 18 months ... Those who have brandished only silence in the recent past have no credibility when they express outrage or concern today, or caution prudence ... Foreign troops are coming to Darfur for humanitarian reasons, because the Arab neighbors who should have acted faster remain docile and indifferent.¹⁵⁵

Abu Khawla, a Tunisian human rights activist, blames the idea of pan-Arabism as the main culprit when it comes to the Arab League's silence on the Darfur crisis.¹⁵⁶ According to Khawla:

The chief culprit in this particular case seems to be pan-Arabism, the fascist movement that rose to power half a century ago through military coups. Nasserism took over Egypt, Sudan, Algeria, Northern Yemen, and Libya, while Baathism took care of Syria and Iraq. In all these countries, the previous reformist modernist attempts of the first part of

¹⁵⁵ *Those Who Ignored Darfur Cannot Be Credibly Outraged* ¶ 4-5, http://www.dailystar.com.lb/article.asp?edition_id=10&article_id=6824&categ_id=17 (Aug. 2, 2004).

¹⁵⁶ Abu Khawla, *The Arab Silence on Darfur Revisited*, MEMRI Special Dispatch No. 835 (Dec. 22, 2004) (available at http://www.mettransparent.com/texts/abu_khawla_darfur.htm).

the 20th century came to an end. The whole social strata of people of liberal leaning was decimated. Through intimidation and terror, its members were either silenced at home or forced to emigrate abroad.¹⁵⁷

It can be stated, however, that the Arab League has been measured in its response to the crisis and that it has not allowed itself to be pushed into precipitous action by one side or the other in this affair. A resolution on Darfur from the most recent Arab League Summit in Khartoum called for support for the Sudanese government:

[I]n a coup for the Sudanese president, Omar al-Bashir, the leaders pledged financial backing for the African Union peacekeeping mission in Sudan's Darfur region and rejected the imposition of a UN-led force without Khartoum's permission¹⁵⁸.

The Arab League response showed that it was still capable of initiating action and that it has a say in the region despite its recent problems.

Sub-Regional Organizations within the League

Do sub-regional organizations within the Arab League—the Gulf Cooperation Council, Arab Maghreb Union,

¹⁵⁷ *Id.* at ¶ 9.

¹⁵⁸ Aljazeera.net, *Arab Summit Ends On Note Of Apathy* ¶15 (March 29, 2006) (available at <http://english.aljazeera.net/NR/exeres/B6DF53F9-0BA4-41C3-942A-F6958576D66D.htm>).

and Arab Cooperation Council—help or hinder the League? It is the contention of most scholars that, the stronger a sub-regional organization is (such as the Gulf Cooperation Council), the more likely it is to place barriers before the workings of the League itself and full cooperation among states.

For example, the Gulf Cooperation Council (known formally as the Cooperation Council for the Arab States of the Gulf), founded in 1981 and which includes Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, was created originally as an alliance for regional cooperation. However, by 1991, the Council seemed prepared to provide regional collective security along military lines. At the suggestion of the Bush administration, the Council agreed to joint exercises with the U.S. in 1991 and called for "a strengthened, permanent American naval presence in the Persian Gulf."¹⁵⁹

Not only did this go completely against the goals of the Arab League itself, but it served to formally invite an outside power to take up permanent residence in the

¹⁵⁹ Gholam Mainuddin et al., *From Alliance to Collective Security: Rethinking the Gulf Cooperation Council*, 4 Middle East Policy 39 (No. 3, 1996).

region. As well, the taking on of a security capacity on the part of the Council brought it into competition with the League itself (aside from pointing out the weakness of the League in setting up regional security). The problems persist to this day—with the Council states for the most part if not openly at least tacitly siding with the U.S. in its invasion of Iraq (to the point of providing logistical help).

Ironically, when the council was originally formed, despite the fact that it was meant to serve more state-specific or region-specific concerns, it was stressed that "this would not harm the greater 'Arab nation's' interest, nor was it intended to create further divisions among the people of the Arab world."¹⁶⁰ But that is exactly what has taken place.

As to why the Gulf Cooperation Council has proved more effective than the other two sub-regional organizations (the Arab Maghreb Union and the Arab Cooperation Council), the answer could very well lie in the alliance the Council has formed with Western powers, thus skirting pan-Arab security completely. As voiced by several scholars: "[T]he aforementioned post-Desert-Storm

¹⁶⁰ Tripp, *supra* n. 20, at 285.

plan for regional security more closely resembles an alliance of pro-Western governments than a regional collective security arrangement in the Middle East."¹⁶¹

In essence, it is not because the GCC happens to be stronger militarily than the other Arab League countries that it has real political and military weight. In fact, most of the Gulf States lack the military ability to police effectively—and even the most powerful among them, Saudi Arabia, does not possess the capacity to provide security all by itself. This is true even after the GCC nations spent billions on new weapons systems following Iraq's invasion of Kuwait and Desert Storm: "In spite of the weapons purchases, the GCC's RDF [Regional Defense Force] is essentially symbolic. It is not an effective instrument for either deterrence or defense."¹⁶² What it has served to do, however, is drive a wedge between the GCC countries and the other members of the Arab League. But perhaps this was inevitable, given the tensions and ongoing inability of the Arab League members to form a cohesive whole:

As far as regionalism in the Middle East is concerned, the prospects for grandiose, region-wide

¹⁶¹ Mainuddin et al, *supra* n. 159, at 39.

¹⁶² *Id.* at 42.

organizations which assume incremental growth of the institutional basis for co-operation would appear to be meager. Not only will the purposes of the organization become vaguer the larger the number of states included within it, but also the fierce mistrust of institutions as repositories of real power would deprive any such organization of effective command. In the Middle East, as in other regions of the world, there are many sub-regions, based on socio-economic links, geographical proximity, common security concerns, and similar political-cultural formations.¹⁶³

What the GCC seems to have that the Arab League does not is a combination of the features mentioned with respect to sub-regions. As to the further question of what exactly the GCC has achieved within the region, it seems more has been done bilaterally than by any multilateral action. The GCC's tacit alliance with the West and with U.S. military projects in the Gulf region gives it credible authority regarding the direction of that alliance.

Arab League Achievements

Although the Arab League has not fared all that well in the promotion of security within the region, it has been responsible for spear-heading numerous efforts in the area, including several political, economic, cultural and social programs to both promote the varied interests of the

¹⁶³ Tripp, *supra* n. 20, at 307.

member states and to help promote the visibility of the League among ordinary Arabs.

According to the Arabji.com web site:

The Arab League has served as a platform for the drafting and conclusion of almost all landmark documents promoting economic integration among member states, such as the creation of the Joint Arab Economic Action Charter, which set out the principles for economic activities of the league. It has played an important role in shaping school curricula, and preserving manuscripts and Arab cultural heritage. The Arab League has launched literacy campaigns, and reproduced intellectual works, and translated modern technical terminology for the use of member states. It encourages measures against crime and drug abuse and deals with labor issues (particularly among the emigrant Arab workforce).¹⁶⁴

As well, a series of specialized committees have been formed to deal with specific problems with the League.

Among those committees are:

- The Permanent Committee for Administrative and Financial Affairs
- The Committee of Arab Experts on Co-operation
- Arab Oil Experts Committee
- Arab Women's Committee
- Communications Committee
- Cultural Committee

¹⁶⁴ Arabji.com, *The Arab League*, ¶2 (n.d.) (available at <http://www.arabji.com/ArabGovt/ArabLeague.htm>).

- Economic Committee
- Health Committee
- Human Rights Committee
- Information Committee
- Legal Committee
- Permanent Committee for Meteorology
- Political Committee
- Social Committee
- Organization of Youth Welfare.

In the important areas of telecommunications, the Arab League signed a memorandum of understanding with the International Telecommunication Union (ITU). The memorandum served to increase "ties between the two organizations in the fields of telecommunications, information and communication technologies and informatics" and to create "a mechanism to ensure the coordination, implementation, monitoring and evaluation of a wide range of projects and activities in these fields."¹⁶⁵

As well, the United Nations recognized the work being done by the Arab League in a resolution where it:

¹⁶⁵ ITU, *ITU and League of Arab States Sign Cooperation Agreement*, ¶ 1 (February 13, 2003) (http://www.itu.int/newsarchive/press_releases/2003/07.html)

"Commends the continued efforts of the League of Arab States to promote multilateral cooperation among Arab States, and requests the United Nations system to continue to lend its support."¹⁶⁶

The resolution also called for other programs within the United Nations to: "To step up cooperation and coordination with the specialized organizations of the League of Arab States in the organization of seminars and training courses and in the preparation of studies" and "to participate whenever possible with organizations and institutions of the League of Arab States in the execution and implementation of development projects in the Arab region."¹⁶⁷

Summary

This chapter has presented a brief review of the Arab League's roots and history, as well as an examination of the problems the League has faced—both internal and external. As well, the literature review has examined the

¹⁶⁶ *Cooperation Between The United Nations And The League of Arab States Resolution Adopted By The General Assembly*, G.A. Res. 57/46, U.N. GAOR, 57 Sess., Supp. No. 49, at 37. U.N. Doc. A/57/49 (2002).

¹⁶⁷ *Ibid.* at ¶17, 19.

limits of state power versus regional power and the tensions between the two. Finally, the chapter has examined some of the factors that may have led to the League's virtual paralysis in the face of the overwhelming political problems of the region—and laid the groundwork for a comparison to other regional organizations that seem to have fared relatively better in their efforts to intervene in regional conflicts.

In particular, the relevant pre-Algeria Summit Charter articles were outlined and a determination attempted as to why the League chose the specific structure with which it has been burdened until very recently. Also, the involvement of the U.S. in the post-Cold War period was examined as a factor in the ineffectiveness of the League to solve or resolve regional conflicts. As part of the causes for the League's poor showing in these areas, the state of governance in the region was examined—and found wanting for the most part.

A special section was devoted to the Palestinian Issue—and the fact that reference to Palestine is made directly in the League Charter. Again, the effectiveness of the League in trying to resolve this problem has not been very high—despite numerous wars having been fought

over it. Even the notion of Israel as the implacable common enemy has not been enough to stir all the League member states to rise up in unison. In fact, historically, several of the states signed bilateral agreements with Israel, including Egypt.

While a Joint Defense Treaty was signed in 1950 in an effort to off-set the lack of enforcement powers within the League, this too has been bogged down under similar structural problems—and similar voting mechanisms that to this date have been unwieldy and have seldom produced the unity in unanimity the rules call for.

It is hoped that the amendments adopted at the Algeria Summit of 2005 and already ratified by a number of League members will eventually open the way for a breaking of the logjam that has caused many of these problems of paralysis when it comes to solving the region's problems. In particular, the amending of the charter so that a two-thirds vote is in place rather than unanimity, and the creation of the new Arab Parliament, if followed through and put into action, should go a long way to improving the structural situation within the Arab League.

In fact, the first session of the Arab Parliament was held in Cairo in December, 2005, with all 22 members of

the League in attendance. According to President Mubarak of Egypt:

This parliament adds a national and democratic tributary to the tributaries of our joint work. A tributary that expresses the visions and the ambitions of our Arab countries and opens the door in front of its parliament members to propose their opinions of different Arab causes towards our collective work under the umbrella of the Arab League.¹⁶⁸

According to Dr. Gamal Sultan, senior research fellow at the Al-Ahram Center for Political and Strategic Studies, the parliament is in response to calls for Arab League reform that could no longer be ignored—arising from the terrorist attacks in 2001 and the invasion of Iraq in 2003: "It indicates the need to reform. It's an attempt by the Arab governments and the Arab League to respond to those demands. They realize that they got to the point where they cannot ignore it anymore."¹⁶⁹

When it comes to dispute resolution success, the literature indicates that, up to this point, there have been many more failures than successes on the part of the League. Part of the reason has to do with the nature of

¹⁶⁸ Cited in Karem Said, *First Arab Parliament Meeting Held in Cairo* ¶4 (December 27, 2005) (available at <http://voanews.com/english/archive/2005-12/2005-12-27-voa32.cfm?CFID=3788709&CFTOKEN=85203417>).

the region and its extreme strategic importance as the world's major oil producer. This has led to the type of volatility that any regional organization would be hard-pressed to contain, even one without the structural problems faced by the League.

The chapter also presented two "case studies" in which the League was involved—the Kuwait-Iraq dispute and the crisis in Sudan. In both cases, the consensus by scholars and commentators is that the League did not shine: unable to stop one of its members from invading another in the first case, and unable to stop genocide in the other.

It can be stated, however, that the League was positively involved during the early stages of the Kuwait-Iraq dispute and that some of the problems and seeming paralysis may be due more to the actions of states outside the region than to the Arab League itself. At the very least, it is a combination of both and, in many cases; the League was simply overwhelmed by the circumstances of global power politics.

As to Sudan, there is an argument to be made that the Arab League is caught in the middle, with little working space in which to maneuver. The resolution issued

¹⁶⁹ *Id.* ¶6.

at its last summit in March of 2006, backed by its resolution dating back to the Algeria Summit of 2005 (see Appendix C), indicates that it is the middle road that it is trying to take, showing both support for the Sudanese government and for peacekeeping efforts on the part of the African Union.

In the second to last section, the literature examined various sub-regional organizations in the Middle East and how they affect the League. In particular, the Gulf Cooperation Council was examined to attempt to determine why it has managed to achieve some relative success while others have not done as well. Why this is so is not entirely clear but may have something to do with the somewhat homogeneous nature of the six states involved. For example, the preamble to the security agreement draft for the GCC states that the agreement "seeks to preserve security and stability, and protect Islamic Shari'a and supreme values from atheist and destructive ideas and military activities."¹⁷⁰ This is a fairly specific statement and one that refers to a limited number of states.

¹⁷⁰ Osama Al Ghazaly Harb, *The Gulf Co-Operation Council and Regional Security in the Gulf*, in *Regional Security in the Third World: Case Studies from Southeast Asia and the Middle East* 235, 238 (Mohammed Ayoob ed., Westview Press 1986).

Finally in the last section, some of the Arab League's more notable achievements and accomplishments were noted. The bulk of these achievements were outside the security field and concentrated on cultural and social issues, indicative of the fact that the League has achieved more in these areas than in the area in which it has its original mandate. They are nevertheless significant achievements that have served to bring the region more closely together and have helped it realize the many connections enjoyed by League members.

In the next chapter, an examination is conducted comparing pre-amendment Arab League voting procedures with European Union voting mechanisms and procedures.

CHAPTER 4

ARAB LEAGUE VERSUS EUROPEAN UNION

VOTING PROCEDURES

This Chapter of the dissertation includes:

- (a) A comparative study and analysis of pre-amendment League Rules and Regulations versus those of the European Union, with special emphasis on the specific voting mechanisms.
- (b) Literature related to proposed reforms suggested for the improvement of the League.

League Pre-Amendment Voting Rules

The Arab League's governing structure places the Council of the League as the organization's supreme body. However, the council's scope of authority is limited. First, all member states are members of this Council and each member of the Council has one vote. Up until the recent amendments, the only decisions that were binding on all members were those which are decided in a unanimous fashion; decisions that were only made through majority vote were only binding to those members who had voted for

the decision. However, matters pertaining to finance or administration only need a two-thirds majority to be binding to all. Finally, if a debate is taking place due to hostilities between two member states, the aggressor state does not have a vote on the final resolution.¹⁷¹

Table 2 below outlines the Arab League Council Parliamentary Rules with respect to resolutions or amendments.

While the Substantive Rules indicate that resolutions can be carried by majority vote, it should be noted that, for such resolutions to be binding on all members, all members must have voted in favor. Otherwise, only those who had voted in favor were bound by any substantive resolutions that did not deal with internal financial or administrative situations. Also, while the provision whereby an aggressor state does not have a vote on any resolution pertaining to that particular situation might seem like a good one on the surface, the question always arises as to who makes the determination of "aggressor state". As well, why should a member state designated as an "aggressor state" accept such a

¹⁷¹ Arab League Charter, *supra* n. 19, art. 6.

designation? Such a state would naturally argue justification or extenuating circumstances for its aggression.

Table 2. Substantive Rules Pertaining to Resolutions or Amendments (from Arab League Council Parliamentary Rules)

Rule	Comment	Vote Required	Speakers	Interrupt Speaker	Second Required
Resolution	Requires 3 co-sponsors; reviewed by chair	Majority	List	No	No
Amendment	Requires 3 co-sponsors; adds to, deletes from, or clarifies a resolution; must be presented to the Chair in writing	Majority	List	No	No
Friendly Amendment	Informal means of amending a resolution; agreed upon by all sponsors and co-sponsors	By Consent	No	No	No

With reference to the actual Pact of the League of Arab States, the key article was #7: "The decisions of the Council taken by a unanimous vote shall be binding on all member States of the League; those that are reached by a majority vote shall bind only those that accept them. In both cases the decisions of the Council shall be executed in each State in accordance with the fundamental structure of that State."¹⁷²

This undermines Article 5 which calls for a dispute resolution mechanism, stating that the "decision of the Council shall then be effective and obligatory ... The decisions relating to arbitration and mediation shall be taken by a majority vote."¹⁷³ However, if majority vote decisions are only binding on those who have voted to accept them, how can that decision be made binding on the states involved in the dispute if they do not vote for the resolution?

Article 6 calls for action to be taken when there is "aggression or threat of aggression by a State against a member State ... The Council shall determine the necessary measures to repel this aggression. Its decision shall be

¹⁷² *Id.* at art. 7.

¹⁷³ *Id.* at art. 5.

taken unanimously. If the aggression is committed by a member State, the vote of that State will not be counted in determining unanimity."¹⁷⁴

A similar clause is included in Article 18: "The Council of the League may consider any State that is not fulfilling the obligations resulting from this Pact as excluded from the League, by a decision taken by a unanimous vote of all the States except the State referred to."¹⁷⁵ Despite these concessions, the fact that every other state in the League had to vote for action made it almost impossible in any practical sense for the League to take any action against even intra-League aggression. The aggressor state could always find another state to agree with its position—or another state could be threatened or coerced into agreeing, thus scuttling the vote. Furthermore, Art. 6 was unable to expand the council's jurisdiction to investigate any dispute or any situation that might have led to friction among members.¹⁷⁶

¹⁷⁴ *Id.* at art. 6.

¹⁷⁵ *Id.* at art. 8.

¹⁷⁶ U.N. Charter art. 34, para. 1.

The Arab League's previous unanimity provisions are nothing new in international diplomacy. An argument can be made that similar provisions led to the undoing of the original League of Nations. According to Coarte et al:

Voting mechanisms reflected the traditional practices of multilateral diplomacy. Although majority voting existed in principle for some issues, a sovereign state could not be compelled to submit to the will of the majority when, in its own interpretation, its national interests were threatened. Hence, unanimity came to be the standard operating procedure except for inconsequential issues ... Unanimity among all members was required for action, but members could refuse to take part in League-sponsored activities and leave it if they chose.¹⁷⁷

In the creation of the United Nations, a new approach was tried. The Security Council, consisting of five permanent members and 10 nonpermanent members elected to two-year terms; works on a combination majority vote and a veto system. The permanent members possess the veto. However, theoretically, a resolution could pass even if all the permanent members were to abstain: "The permanent members' veto powers ensure that on important questions they agree, or at least abstain. It was recognized that no enforcement action could take place against one of the

¹⁷⁷ Roger A. Coarte et al., *The United Nations and Changing World Politics* 25 (Westview Press 1997).

great powers of the international system without creating a major war."¹⁷⁸

Thus, in defense of the Arab League's pre-amendment unanimity voting mechanism, it should be stated that the UN itself, despite its majority vote system, has not been able to stem the actions of a superpower if that superpower decides to take action. This was very clearly seen in the actions of the United States and its "Coalition of the Willing" in skirting UN wishes in its invasion of Iraq. It can also be argued persuasively that, during the Cold War period, the UN was effectively a captive of the two superpowers facing off.

The European Union Voting Mechanisms

One voting model that has attracted attention is that used by the European Union (EU). The Union has two decision-making bodies: the European Council and the European Parliament. In the Council, the voting process is such that, the bigger a country's population, the more votes it gets out of the total. This amount is not completely proportional, however, with less populous countries getting a larger number percentage-wise. Because

¹⁷⁸ *Id.* at 29.

the EU recently expanded, the number of votes per country has changed. As of November 1 2004, the vote numbers were as follows (Table 3):

Table 3. European Council Votes Per Country¹⁷⁹

Countries	Number of Votes
Germany, France, Italy, the UK	29
Spain and Poland	27
Netherlands	13
Belgium, Czech Republic, Greece, Hungary, Portugal	12
Austria, Sweden	10
Denmark, Ireland, Lithuania, Slovakia, Finland	7
Cyprus, Estonia, Latvia, Luxembourg, Slovenia	4
Malta	3
TOTAL	321

The voting system for the Council is "qualified majority voting" (QMV): a specified minimum number of votes are needed for a proposal to pass. The exceptions are in areas such as Common Foreign and Security Policy, taxation, asylum and immigration policy where each member has veto power. While unanimous agreement rules were more common when the EU only had 15 members, now QMV has become

¹⁷⁹ The European Union, *The Council of the European Union*, "How Many Votes Per Country?" http://europa.eu.int/institutions/council/index_en.htm (accessed Feb. 8, 2006).

the norm in a large number of areas. Specifically, as of November 1, 2004, QMV is deemed reached if:

- A majority of member states (sometimes two-thirds) approve AND
- A minimum of votes is cast in favor (72.3% of the total).
- Additionally, any member state can ask for confirmation that the votes in favor make up at least 62% of the total population.¹⁸⁰

The actual decision-making procedures adopted by the European Union can be very complex and require several layers before any proposals are put into practice. For example, there are three kinds of law:

- **Primary Legislation:** basically, the various treaties negotiated directly between member states
- **Secondary Legislation:** various regulations, directives, decisions and recommendations
- **Case Law:** judgements from the European Court of Justice and Court of First Instance.¹⁸¹

¹⁸⁰ *Id.* at "Qualified Majority Voting."

Institutionally, the EU consists of:

- **European Council:** Member heads of state meet to help provide overall direction. No legislative powers.
- **Council of Ministers:** the ministerial representatives considered the main legislative authority with decisions taken unanimously, by simple majority, by QMV.
- **European Commission:** commissioners appointed for five-year terms by member states with right of initiative (draw up proposals).
- **European Parliament:** elected directly and consulted on legislation upon which it can suggest amendments. As well, it "has to give its assent to any trade, co-operation, association or membership agreement concluded between the Union and a non-member country."¹⁸²

There are three ways for legislation to be adopted, depending on the basis chosen by the Commission for the proposal: Consultation, Co-operation or Co-Decision:

¹⁸¹ Bryan Cassidy, *Decision-Making in the European Union* § 1, <http://www.eurim.org/EURGUIDE.html> (accessed Feb. 8, 2006).

¹⁸² *Id.* at § 2.

- **Consultation** "requires the Council to obtain the opinion of the European Parliament before adopting legislation."¹⁸³ But the Council and Commission do not have to accept any amendments.
- **Co-operation** starts the same way with Parliament proposing amendments. Then the Commission indicates which it wants to accept and forwards them to the Council. At the Council stage, an effort at a "common position" is made and sent back to Parliament which can then approve, reject or adopt more amendments. At this point the Council may adopt the revised proposal. The Council must vote unanimously if wishes to:
 - change a proposal on its own;
 - offer amendments that have been made by Parliament but rejected by the Commission;
 - adopt a common position rejected by parliament;

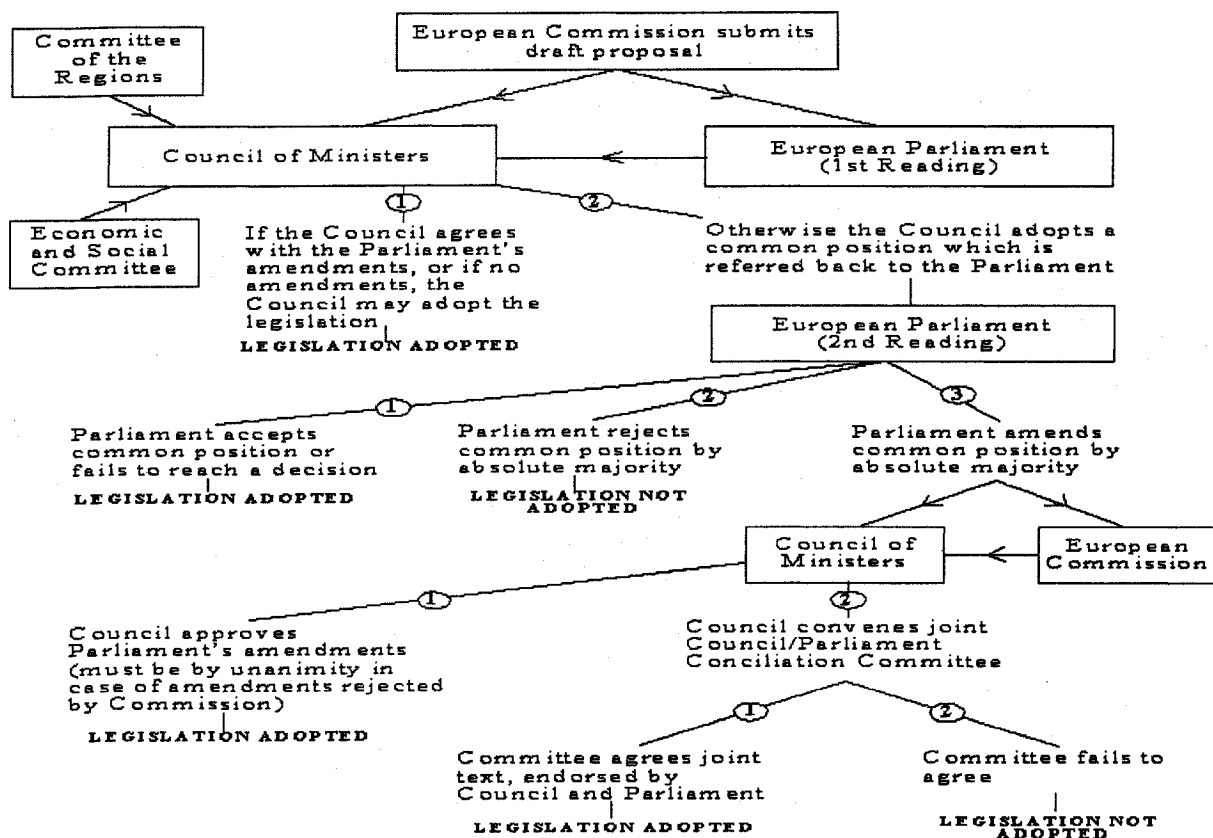
¹⁸³ *Id.* at § 3.

- override amendments adopted by absolute majority by Parliament and backed by the Commission.¹⁸⁴
- **Co-Decision:** The third form of procedure, the Co-Decision, gives a greater voice to Parliament in that it calls for a "Conciliation Committee" where the Council and Parliament can attempt to resolve their differences; and allows Parliament to reject any proposal through an absolute majority. Figure 1 below outlines the Co-Decision Procedure:

¹⁸⁴ *Id.*

Fig. 1. European Union Co-Decision Procedure Flow Chart¹⁸⁵

8. CO-DECISION PROCEDURE (Article 251)

Dispute Resolution Mechanism in The EU

At first glance, the EU appears to have a more successful record regarding dispute resolution. Unlike the Arab League, where it can be argued that its last successful peacekeeping intervention occurred in the original 1961 Iraq-Kuwait dispute, the EU has a fairly

¹⁸⁵ *Id.* at § 8.

enviable post-Cold War peacekeeping record. Among its supposed achievements:

- a military monitoring mission in Macedonia
- policing in Bosnia
- preventing tribal bloodshed in eastern Congo

the recent takeover from NATO in its peacekeeping operation in Bosnia.

This most recent peacekeeping effort by the EU is being called its most important by some analysts: "If the Union's 7,000 troops succeed in keeping the peace, tackling organized crime and helping the war-torn country stand on its own two feet, the hour of Europe may finally have arrived ... if it fails, the 25-member bloc is likely to remain a political and economic giant but a military dwarf for many years to come."¹⁸⁶

Most observers believe that the EU will be able to perform the task. According to High Representative Paddy Ashdown, leader of the British Liberal Party: "Not only am I completely confident the EU will do as good a job as NATO,

¹⁸⁶ Gareth Harding, *Analysis: EU Assumes Peace Role in Bosnia* ¶ 13, *World Peace Herald*
<http://www.wpherald.com/print.php?StoryID=20041202-105612-9075r> (Dec. 2, 2004).

I think it will develop a force more attuned to the current circumstances."¹⁸⁷

This stage of the EU's activities in Bosnia does not arise without a price. In this case, it comes as a direct result of the tragic circumstances of what took place in the early 1990s in the region—and how the EU was unable to prevent the conflict that tore the area to shreds—in particular, the failure to protect Muslims in the Balkans from suffering ethnic cleansing and genocide following the collapse of Yugoslavia. The EU's entry into the Balkans, in fact, only came about after the U.S. and Britain led NATO into the conflict.

That failure on the part of the EU to prevent genocide led directly to the use of NATO forces and the bombing of Serbia. This, in turn, led to a subsequent weakening of EU power in the region and the strengthening of U.S. and NATO control. According to some scholars, the bombing in the region was as great a debacle as the future failure of the Arab League in preventing the invasion of Iraq by the U.S.:

Analyzing NATO's Balkans debacle is important to prevent the alliance from making a similar mistake

¹⁸⁷ *Id.* at ¶ 12.

in the future. Until March, NATO adopted the sensible policy of nonintervention in the region. All of the major powers erected firebreaks to war, limiting the Bosnian civil war to Bosnia. In contrast, the allied decision to intervene in Kosovo spread conflict to surrounding states and confronted Russia. Indeed, as in World War I, alliances have acted as transmission belts of war from the Balkans outward to the rest of Europe.¹⁸⁸

As well, this stage represents a long-awaited moment on the part of the EU to develop its own military arm, one separate from NATO. The idea was to have the peacekeeping force in Bosnia under EU auspices because Bosnia was to be granted EU membership, with Borislav Paravac, chairman of the Bosnian presidency, calling it "a major step towards sustainable peace and European integration."¹⁸⁹

The renewed emphasis on peacekeeping and military missions by the EU also signals a change in the way the bloc perceives itself and the world. It was not long ago when the EU was content to play second fiddle to NATO when it came to the types of missions it chose. In 2000, for

¹⁸⁸ Doug Bandow, *NATO's Balkans Disaster And Wilsonian Warmongering, Part I*, ¶3 (July 1999) (available at <http://www.fff.org/freedom/0799e.asp>).

¹⁸⁹ Samir Krilic, *EU Takes Over Bosnia Peacekeeping From NATO*, <http://sfgate.com/cgi-bin/article.cgi?f=/news/archive/2004/12/02/international1036EST0514.DTL> (Dec. 2, 2004).

example, Javier Solana, the EU's foreign policy chief, said: "The EU only envisages applying a military response to a crisis if the NATO alliance as a whole is not engaged ... But if the US does not engage ... someone else may need to, and it is better for our overall security if we can do so effectively."¹⁹⁰

Today, the EU is heading towards becoming the rapid-response capability that the UN has always lacked (when the Americans were occupied elsewhere or were simply not interested because of geo-political reasons). That would make EU troops—scheduled to be in the 60,000 range—capable of intervening during the fighting rather than after all the damage is done. Up to this point, however, the EU has in fact been toothless.

There is also talk of the EU developing the organization and ability to help out in fighting threats such as terrorism or the deployment of weapons of mass destruction.¹⁹¹ At that point, it could be argued that the

¹⁹⁰ Javier Solana, *Why Europe Needs The Military Option*, *Fin. Times*, ¶ 8 (Sept. 29, 2000). Retrieved Feb. 10, 2006 at <http://www.unmikonline.org/press/wire/im290900.html>

¹⁹¹ Daniel Keohane, *EU Defense Policy: Beyond the Balkans, Beyond Peacekeeping?* http://www.cer.org.uk/articles/keohane_weltpolitik_jul03.html (July 1, 2003).

EU is no longer simply a regional organization but one that should "develop a strategic culture that fosters early, rapid, and when necessary, robust intervention."¹⁹²

Unfortunately, the EU's leadership in this area also lacks substance, whether regarding terrorism, weapons proliferation, or intervention.

No matter what route the EU takes, whether it sticks to monitoring and peacekeeping or it moves forward to full-scale military interventions (and in a sense competes with NATO and the US), the bottom line is that the EU has managed to create these opportunities and possibilities partially because it was not hamstrung with the kinds of voting mechanisms that face the Arab League. Of course, it is naïve to believe that voting mechanisms, per se, are simply formal objects. Behind them lie the political weaknesses and strengths of an organization.

In the case of the EU, what that meant was the will on the part of individual members to move forward from a purely economic union pre-1993 to a political union with

¹⁹² Javier Solana, Speech, *A Secure Europe In A Better World* 13 (European Council Meeting, Thessaloniki, Greece, June 20, 2003) (available at http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/EN/reports/76255.pdf).

the signing of the Treaty on the European Union. The process had been a long one, consisting of:

- An aborted attempt in 1954 to create the European Defense Community to deal with European security concerns
- The creation of the European Political Cooperation (EPC) in 1970 to provide "a system of mutual information, consultation, coordination, and concerted diplomacy among the EC member states, directed towards the goal of a common European foreign policy."¹⁹³
- The London Report of 1981, which improved upon the EPC structures, defined joint action and moved the EPC closer to the EC.
- The incorporation of the EPC in the Single European Act of 1987.

During the period following the Single European Act, events on the world stage started to overtake these carefully laid plans. These events included the

¹⁹³ Reinhardt Rummel, *The European Union's Politico-Diplomatic Contribution to the Prevention of Ethno-National Conflict*, in *Preventing Conflict in the Post-Communist World: Mobilizing International and Regional Organizations* [p. 197], 198 (Abram Chayes & Antonia Hanler Chayes eds., Brookings Instn. 1996).

reunification of the two Germanys and the collapse of the Soviet Union. While these were hailed mostly in positive terms, they also constituted a huge challenge for the EU. Among the problems were the newly-opened borders in the East causing a flow of refugees and asylum seekers: "Most important was the rise of ethno-national tension in the sense of ethnic groups, living together in one country or in neighboring countries, beginning to assert their interests and seeking to change their status."¹⁹⁴

That the EC was able to handle such changes and conflicts as well as it did is a tribute to those who helped design the various agreements and treaties that would eventually lead to 1993 and the EU. That this spells the end of the reform road for the EU would be a grave mistake. As would be the notion that the EU has reached the limits of perfection and that its actions cannot be improved.

Arab League Voting Reform

The amendments accepted at the 2005 Algeria Arab League Summit (see Appendices A and B) and in the process of being ratified by the League members were the

¹⁹⁴ *Id.* at 199.

culmination of years of attempts to change the way the League did business. While occasional attempts had been made in the past to bring the League's voting rules in line with other regional organizations, those rules themselves helped block potential reforms.

However, over the last few years and following the terrorist attacks of September 2001 and the invasion of Iraq, the situation in the Middle East became much more urgent—to the point where the Arab League could no longer exist in a state of paralysis. Thus, several key proposals were put forward by various governments and organizations pertaining to possible reforms of the Arab League in general and its voting procedures in particular. Among those proposals:

- The setting up of some type of preemptive mechanisms to prevent and settle inter-Arab disputes—or at the very least to keep such disputes from escalating into the sort of thing the led to the invasion of Kuwait by Iraq
- An Arab court of justice as a legal way to solve disputes

- Creation of a parliament to monitor Arab organization activities and draw up League policies
- Setting up of an Arab security order or a national security forum
- The abolishing of the rule of the unanimous vote and replacement by something like a simple majority, consensus, or a succession of votes on one issue
- Establishing some form of collective diplomacy for preventing crises.¹⁹⁵

With respect to the unanimous vote criterion, the Egyptian initiative labeled it as "essential" when the League was first set up but "an obstacle to taking vital decisions ... resulting in paralysis" today.¹⁹⁶ Other proposals from countries such as Libya, Qatar, Sudan and

¹⁹⁵ Arabic News, *Mubarak Submits a 6-point Program of Action for Reactivating Arab League, Reform and Establishing Arab Common Market*, <http://www.arabicnews.com/ansub/Daily/Day/050323/2005032336.html> (Mar. 23, 2005); Ashra Khalil, *Egypt Urges Arab League Reform*, Middle East Times ¶ 6 <http://www.metimes.com/articles/normal.php?StoryID=20030801-043251-7140r> (Aug. 1, 2003).

¹⁹⁶ Al-Jazeera, *Egypt Calls for Stronger Arab League*, <http://english.aljazeera.net/NR/exeres/DC189B6F-CCC3-4040-A122-5F8CF04ECB9A.htm> (July 28, 2003).

Saudi Arabia all focused on changing the voting system—as well as “reactivating the long-ignored Joint Arab Defense Pact, which requires Arab states to come to the aid of each other against any foreign attack.”¹⁹⁷

Commenting on the Egyptian initiative, Sid-Ahmed stated that, above all, the voting system needed reform:

The system of unanimity applied in the Arab League allows a country like Djibouti to block the passage of a resolution that involves the fate of states such as Egypt, Saudi Arabia or Iraq. Sticking to unanimity means giving veto powers to the weakest Arab countries and enabling them to prevent the Arab League from taking initiatives, even if strongly supported by a wide majority of Arab states ... Moving from unanimity to majority rule is a fundamental change in the understanding of Arab unity and its philosophy.¹⁹⁸

Carmichael & ben Salah, reporting on the Arab League summit in Tunis, wrote that the various leaders came to an agreement on the amending of the Arab League charter so that voting and other kinds of reforms could be ready for discussion at the next summit in Algiers in 2005.

Among the reforms discussed were:

- The setting up of three kinds of voting procedures: a simple majority for regular issues;

¹⁹⁷ Aboudi, *supra* n. 150.

¹⁹⁸ Sid-Ahmed, *supra* n. 122, at ¶ 15.

two-thirds for more important issues; and unanimous for strategic questions

- The carrying forward of the Egyptian proposals including an Arab parliament, National Arab Security Council, and Supreme Arab Council for Culture
- The imposition of sanctions for member states failing to adhere to summit decisions.¹⁹⁹

In fact, the two-day summit that took place in Algiers in March of 2005 did advance the cause of reform in the Arab League through the acceptance of the two-thirds rule vote—at least on a provisional basis with a 30-day postponement for non-unanimous votes: (See Appendix B: "Third Amendment: Agreement to replace the text of Article (7) of the Charter"). As per regular procedure, none of the amendments have yet gone into force, as they await ratification by a two-thirds majority of the member states.

Another outcome of the summit was one surprise announcement that may bode well for the future of the Arab League: this was the decision to proceed with the

¹⁹⁹ Lachlan Carmichael & Hamid Ben Salah, *Stage Set for Arab League Overhaul*, <http://www.middle-east-online.com/english/?id=10056> (May 24, 2004).

formation of an Arab parliament, elected on a regional basis. In fact, as stated above, this parliament has already met in Cairo. However, as presently constituted, this parliamentary body would only have an advisory capacity with respect to the Arab League and no law-making abilities (as opposed to the European Parliament).²⁰⁰

Despite what some feel is the first step towards effective reform on the part of the Arab League, the advent of the Arab Parliament has also led to some fairly negative comments among Arab editorialists, including:

- Mursi Ata Allah: That there was not enough focus on reform within the Arab world and those democratization discussions were on hold, despite the fact the slow movement towards democratization and in some cases steps back towards further authoritarianism is "one of the most important causes for social, cultural and developmental backwardness."²⁰¹

²⁰⁰ Peter C. Valenti, *Giving Voice to the Arab League: Who Failed?* 24 Washington Rpt. on Middle East Affairs 34 (No. 4, 2005).

²⁰¹ Cited in *id.* at 34.

- Jawad al-Bashiti: That the proposal for an "Arab parliament" was a hypocritical stance on the part of most Arab Leaders in that these governments "have decided to grant their peoples 'the conditional right' to choose their parliamentary representatives, in other words the representatives of the governments of these peoples, yet they themselves—the Arab leaders—are free from playing this 'democratic electoral game' ." ²⁰²

Until the passing of a resolution on "Founding Law for The Organization Following Upon the Execution of Resolutions and Commitments" (Appendix A), the subject of punishment or imposition of sanctions on rogue states was one that had not been previously discussed within the Arab League. That, according to scholars, reflected the nature of the original protocol agreement signed in 1945. According to Ahmad Yousef Ahmad, political science professor at Cairo University:

There is no measure of punishment built into the constitution of the Arab League, which renders the body helpless. Compare this to an organization like the EU, where their constitution outlines steps that member states can use to force other

²⁰² *Id.*

members to comply with resolutions. And if states continue to refuse to comply, there are clearly identified steps that the EU General Assembly can take against these states.²⁰³

Articles Five and Six, in particular, of this amendment lay out the conditions for taking action against a member state for non-fulfillment of their commitments. Articles Nine and Ten describe the type of punishment that can be meted out, including: depriving the state of privileges and programs, of the right to vote, and of the right to attend meetings; suspension of membership; and removal of the state from the League.

If the League can actually follow through on these measures in the future, it will have an effective means of punishing states that do not comply with the rules and regulations adopted. The rules and regulations themselves can be adopted much more easily as well, once the new voting amendments are ratified.

One further attempt at reforming the League is ironically to break it up into smaller more manageable trading blocs. These would then be brought together at a future date when it would be more propitious to do so. In a sense, this would be considered similar to the building

²⁰³ Cited in El-Bakry, *supra* n. 76, at ¶ 7.

up of the EU to its present state. The EU started with only six members and grew alongside the European Free Trade Association (EFTA). Eventually members of the EFTA merged with the EU to create a larger trading bloc. Reformers suggest the GCC could be used as the nucleus for such a proposal.

Another proposal for reform—economic reform, at the very least—was made in early 2004: that is the so-called AFTA or Arab Free Trade Area plan, put together by a group of prominent Arab economists. The idea was to bring together Arab countries from the Middle East and North Africa to form a unified economic free trade bloc similar to NAFTA:

It was an elegant combination of old and new: The Arab League would be revived and given the prestigious role of overseeing the trade bloc, while technical experts would create the legal framework of a modern economic union. The proposal would eliminate trade and investment barriers among member countries, and facilitate economic relations with key trade and investment partners in America, Europe and the Far East.²⁰⁴

But, while such a proposal sounds very good on paper and in theory, it does not quite meet the test of practicality in the real world. Two of the major problems

²⁰⁴ Josh Martin, *Arab League Collapse Carries Steep Economic Price*, *The Middle East* 28 (Issue 345, May 1, 2004).

are a lack of shared infrastructure among these countries and trade relations that are miniscule for some and non-existent for others: "A recent report by UNCTAD found that while trade within the EU and North American Free Trade Agreement (NAFTA) trade blocs represents as much as 70% of member-countries' exports, comparable figures within the Arab Maghreb Union (AMU) and the GCC are only 2.6 and 4.5% respectively."²⁰⁵

However, perhaps the most difficult part of the proposed reform—and what may have caused it to founder—was the provision whereby each and every member state would have to surrender a degree of sovereignty to the Arab League as the League would be the overseeing and supervising body for AFTA.

According to Anas Faisal Alhajji, a Saudi economist, for a proposal such as AFTA to work, reformers would need to "establish the right legal framework ... To work, they [member countries] need to agree on some sort of higher authority, to provide effective court arbitration and rulings on trade disputes ... You need to establish credibility."²⁰⁶

²⁰⁵ *Id.* at 29.

²⁰⁶ *Id.* at 31.

Even if such a trade bloc could be set up and put into place, it would face some very tough competition from trading blocs that are already in place, as well as the proposed trading bloc known as the Middle East Free Trade Agreement (MEFTA), which is being pushed by the American administration. Table 4 below provides a comparison of the trade bloc competition.

Table 4. Comparison of Trade Bloc Competition

Trading Bloc	Member Countries	Total GNP (US\$bn)	GNP per capita (US\$)	External Trade (US\$bn)
Arab Free Trade Area (AFTA)*	22	662.2	2178.5	409.1
Arab Maghreb Union (AMU)	3	108.9	1551.2	67.1
Association of Southeast Asian Nations (ASEAN)	10	593.1	1125.4	749.0
European Union (EU)	25	8249.9	18227.7	1871.1
Gulf Cooperation Council (GCC)	6	314.5	10015.9	237.2
Middle East Free Trade Agreement (MEFTA)**	24	922.2	2426.8	539.7
MERCOSUR	4	797.0	3607.9	175.8
North American Free Trade Agreement (NAFTA)	3	11377.0	27126.8	2542.3
OPEC	11	836.3	1659.3	505.8

(Sources: UN Development Program, UN Statistics Division, World Bank; JAM Research.)

*Proposed members: the 22 Arab League countries.

**Proposed members: 22 Arab League States plus Israel and Turkey.

Summing Up

The sections above offered a brief comparison of the voting rules and regulations between the Arab League (specifically the pre-amendment rules) and the European Union, as well as providing a listing of the voting amendments as accepted at the Algeria Summit of 2005 but as yet not ratified by a majority of the League members (as of the writing of this thesis). It is hoped that, with ratification, the voting reforms will provide a needed portion of potential reform in the Arab League.

However, it can be seen from the review of the literature that the solution to the League's problems is not going to come about solely because of some changes in voting mechanisms. Or rather, the attempt to change the voting mechanisms themselves is going to be met with some stiff resistance from many of the members—because they have not yet decided to form a true pan-Arab state and because they are not willing to give up any sovereignty for the sake of establishing regional security. The effort needed to actually create the amendments to the voting procedures was the result of some extreme outside pressure being placed on the League to reform. Whether the same pressure

can be placed on individual members to ratify those amendments has yet to be seen. Quite often the ratification process can be quite lengthy and some states never ratify an agreement even though they are signatories.

Unfortunately, once one gets past the voting mechanism structures, the literature seems to indicate that the historical conditions that have hampered and hindered efforts by the Arab League to become more effective are still there. In summing up, Nafie said:

The Arab League can only become what Arab leaderships resolve to make of it. The efficacy of its structures, procedures and subsidiary bodies can be no more than the sum product of their composite decisions and actions. The public should bear this in mind so as not to be deluded by the attempts of some leaders to use the Arab League as a scapegoat to cover their own failings.²⁰⁷

In essence this is similar to Sid-Ahmed's comments in summing up the Egyptian proposals for reforming the League (many of which were indeed incorporated into the amendments passed in Algeria), indicating that just as important is "the need to introduce changes to the Arab political discourse, which is rife with criticism of others and utterly devoid of self-criticism ... There is no doubt

²⁰⁷ Ibrahim Nafie, *Make or Break*, Al-Ahram Weekly, Opinion, ¶ 10, <http://weekly.ahram.org.eg/2004/679/op1.htm> (No. 679, Feb. 26 - Mar. 3, 2004).

that all Arab parties have committed mistakes which merit serious soul-searching, otherwise the situation would have not deteriorated to the extent it has, and the time has come to acknowledge and accept responsibility for those mistakes."²⁰⁸

There is also the argument put forward that efforts to use the EU as a model for future Arab League reform may be well-intentioned but in the end not applicable. According to this argument, Europe is a special case rather than an exemplar for other regions, defined by its history and in particular the events of the Second World War and the Cold War:

Looking back from the perspective of the post-Cold War era, ... the peculiar circumstances which favored the creation of formal structures for regional integration in the western half of this half-continent after the Second World War, and which allowed and encouraged the informal economic and social integration which followed, are evident. West European integration was the product not only of a common culture and history, and of a particular geographical density, but also of a common disaster and predicament: the war and its aftermath, American hegemony and the Soviet threat. With all of Eastern Europe, and much of Central Europe, under Soviet domination, 'Europe' as an entity shrank to its western core.²⁰⁹

²⁰⁸ Sid-Ahmed, *supra* n. 122, at ¶ 8.

²⁰⁹ William Wallace, *Regionalism in Europe: Model or Exception in Regionalism in World Politics: Regional Organization and International Order*, 201 (Louise Fawcett & Andrew Hurrell eds., Oxford U. Press 1995).

According to this argument, it is still too early to tell if the European Union experiment of the post-Cold War period is going to be successful or not. In fact, we have already witnessed some setbacks to this vision—in particular the negative vote from the recent French and Dutch referendums that rejected the newest draft of the European constitution. Part of the reason some commentators have given for these defeats is exactly what is haunting the Arab League: the new European constitution called for a speeded-up decision-making procedure, especially with the introduction of 10 new members:

Decision-making in the EU has always been rather cumbersome. When negotiations got underway in the late 1990s to admit the 10 countries that ultimately became EU members in May 2004, European leaders recognized that decision making would need to be streamlined in an expanded union. New rules already govern the decision-making process, but the constitution streamlined the process further. In addition, the constitution would establish a stronger presidency as well as foreign minister, who would speak for all EU countries.²¹⁰

As well, when examined closely, one can see that the EU feels some of the same pressures as the Arab League in the face of NATO and the U.S. It too failed in its

²¹⁰ Jay H. Bryson, *Wachovia Economic Commentary Special Report: Implication of the French Referendum on the EU Constitution* ¶ 3, <http://www.wachovia.com/ws/econ/view/0,,2489,00.pdf> (May 31, 2005).

efforts to deter the U.S. from invading Iraq. It too showed cracks within its structure, with several European nations joining the "Coalition of the Willing," thus allowing the U.S. to successfully circumvent the UN. The one advantage that the EU has over the Arab League lies in its tremendous trading bloc strength. It is presently struggling to build up a military force that is pan-European in nature and that could be used in the resolution of conflicts—be they internal to the EU or outside its boundaries. Thus, it is not entirely fair under the circumstances to single out the Arab League for its failures while only pointing out the EU's successes. Both regional organizations suffer from similar problems. It has yet to be seen if the amendments to the voting procedures for the Arab League Charter will ease some of the problems—and, in fact, allows the Arab League to leapfrog the EU in its problem-solving capabilities. After all, with a stream-lined voting procedure, the Arab League may indeed find it easier than the EU to (a) make important decisions; and (b) implement those decisions.

In the next section the dissertation examines in more detail the African Union voting mechanism, and its role in dispute resolution in the region.

CHAPTER 5

AFRICAN UNION VOTING PROCEDURES

Arising from the ashes of the ill-fated and mostly ineffective Organization of African Unity (OAU), the African Union (AU) was first mentioned as part of the 1999 Sirte Declaration calling for its establishment. The AU Constitutive Act was adopted in 2000 and the AU was launched officially in 2002 with the convening of the First Assembly of the AU Heads of States in Durban. In all, the organization has 53 countries. Its founders were quick to point out the differences between the OAU, established in 1963 in the midst of the independence wars in Africa, and the AU:

Unlike the OAU, which was designed for ... eradicating colonialism and apartheid in Africa, AU focuses on integrated continental participation in globalization. Union strategists envision an Africa that is prosperous and peaceful, a dynamic force in the global arena driven by its citizens.²¹¹

One of the problems that critics had with the OAU was similar to criticism related to the Arab League: it

²¹¹ Fayth A. Ruffin, *The New African Union* ¶ 2, Vol. XLI UN Chronicle, 71 (<http://www.un.org/Pubs/chronicle/2004/issue2/0204p71.asp>) (No. 2, May 2, 2004).

did not have the power, authority, or formal mechanisms to solve the most serious problems facing Africa: "Because of the OAU's tradition of non-interference in the internal affairs of its member states, it has proved of limited use across a continent of constant conflict and widespread government corruption."²¹²

On the other hand, while it is too early yet to determine how effective the new AU is going to be, the objectives of the new organization indicate a change in this tradition of non-interference. The AU "will have a stronger charter than the OAU, will be better funded, and will have the 'teeth' that the OAU lacked, including the power to create a common African Parliament, a Central Bank, a common African currency and an international Court of Justice."²¹³

AU Charter and Institutions

The Charter of the African Union calls for:

- **The General Assembly:** Made up of the African

²¹² Natalie Steinberg, *Background Paper on African Union 1*, http://www.wfm.org/Xaraya_16Jan06/index.php/documents/526 (Oct. 4, 2001).

²¹³ *Id.* at 2.

heads of state with the ability to pass any resolutions using a 50% plus one vote;

- **The General Secretariat:** Headed by the UN Delegate for Africa (elected by UN member African states);
- **The Security Council:** Made up of seven permanent members including the Secretary General and six members from various regions of Africa.

The voting procedures for the AU Security Council resolutions consist of each member having one vote which he/she may use for/against/abstain. There is no veto power. If there is a tie, the vote is then put to the General Assembly. Article X specifically states:

- Each Member State shall have one vote
 - All resolutions shall be determined by a two-thirds majority of the Members of the Organization
 - Questions of procedure shall require a simple majority. Whether or not a question is one of procedure shall be determined by a simple majority of all Member States of the Organization
-

- Two-thirds of the total membership of the Organization shall form a quorum at any meeting of the Assembly.²¹⁴

Other institutions within the AU include:

- **Executive Council:** Consisting of the foreign ministers of member states for the coordination of policies in common interest areas;
- **Pan-African Parliament:** Initially made up of five MPs from each of the parliaments of member states with only consultative and advisory powers to start—with the hope eventually of creating a truly Pan-African legislative institution;
- **Court of Justice:** Advisory at first but destined to become the top court in the AU;
- **Permanent Representative Committee:** Made up of permanent representatives from member states with the task of preparing the detail work for the Executive Council;

²¹⁴ Organization of African Unity Charter art. 10, May 25, 1963, 476 U.N.T.S. 39 (available at http://www1.umn.edu/humanrts/africa/OAU_Charter_1993.html) [hereinafter OAU Charter].

- **Peace and Security Committee:** Made up of five semi-permanent members, one from each of the five African regions, plus 10 elected members serving a two-year term.²¹⁵

This last committee is what most distinguishes the AU from its predecessor (and also from other regional organizations such as the Arab League). This committee will have several tasks and one of the keys to the eventual success of the AU depends on how well these tasks are carried out. Among its key tasks are:

- Peace-keeping where conflicts have taken place;
- Authorizing peace support missions;
- Recommending intervention when a member state is undergoing war crimes, genocide or crimes against humanity.²¹⁶

In addition to the adoption of the objectives of the OAU Charter, the AU has added important articles such as:

²¹⁵ Pusch Commey, *The Union Takes Shape*, New African 1 (Issue 307, June 2003).

²¹⁶ Chen Chimutengwende, *Making the African Union Succeed*, New African 3 (Issue 307, June 2003).

Article g: To promote democratic principles and institutions, as well as good governance;

Article h: To promote and protect human rights in accordance with the African Charter on Human and Peoples' rights.

As for the basic principles of the AU, key new ones include:

Article d: Creation of an African-wide common defense policy;

Article p: Refusal to accept unconstitutional changes in government.

In terms of limitations on the rule of non-interference in the internal affairs of member states, the AU charter adds:

Article h: The Union has the right to interfere (following an Assembly decision) where war crimes, genocide and crimes against humanity have been committed;

Article j: Member states have the right to ask for intervention from the AU to help restore peace and order.

Other important additions that did not appear in the OAU charter are:

Articles 17, 18: Pan-African Parliament; Court of Justice; Peace and Security Council;

Article 23 (2): Ability to impose sanctions on members failing to comply with AU decisions

Article 30: Ability to suspend governments that come to power through unconstitutional means.²¹⁷

AU and Darfur

While it is very early yet to tell whether or not the African Union turns out to be an effective regional organization, it has already been tested with respect to the ongoing genocide in the Darfur region of the Sudan. Unlike the Arab League (which also has Sudan as a member but which is in a far more difficult position), the AU acted comparatively more quickly in the region. It was announced in late 2004 that the AU would be sending several

²¹⁷ Steinberg, *supra* n. 212.

thousand peacekeeping troops to the region in an effort to put an end to the genocide there.²¹⁸

The problem, of course, is that the AU is ill-equipped in terms of people and materials: "The AU is much like the UN in 1945—there are high ideals but no functioning mechanisms to realize them."²¹⁹ Despite these physical shortcomings, the AU is showing good progress already: "Today [beginning of February, 2005], about 1,400 AU personnel are on the ground in Darfur ... It is also making progress in creating its standby force of five 3,000-5,000-person brigades—one from each of Africa's five regions—by 2010."²²⁰

In fact, a recent report from the EU special representative to Darfur, praised highly the African Union Mission in Sudan (AMIS). The envoy reported to journalists that he was impressed with the job being done—both by the

²¹⁸ *Can the African Union Bring Peace to Darfur?* Economist (Oct. 25, 2004) (available at <http://individual.utoronto.ca/swee/083.pdf>).

²¹⁹ Nancy Soderberg, *The African Union Moves A Quiet Revolution* ¶ 8, Christian Sci. Monitor, Opinion (Feb. 7, 2005) (available at <http://www.csmonitor.com/2005/0207/p09s02-coop.html>).

²²⁰ *Id.* at ¶ 7.

military and civilian police components of the force. He reserved special praise for the way the AU force was protecting the camps of internally displaced persons.²²¹

As of the beginning of 2006, AMIS or the African Union in the Sudan continued to operate in Darfur, with some 6,000 troops with a mandate to monitor the ceasefire and protect civilians. As well, the AU is mediating negotiations for some type of agreement between the Sudanese government and the rebels. These negotiations have been taking place in Abuja, Nigeria. According to Human Rights Watch, however:

The most urgent need is for a much more powerful, well-equipped international force in Darfur. The African Union force (AMIS) has managed to improve security in certain places where they deployed, but none of the warring parties are respecting the ceasefire and the Sudanese government continues to support the abusive Janjaweed, rather than disarming them. AMIS lacks the numbers of troops and the kind of equipment needed to effectively operate in such a difficult environment.²²²

At the same time, it was recently announced by Nigeria's Olusegun Obasanjo, current AU Chairman, that "the

²²¹ Xinhua News Agency, *EU Envoy Praises AU's Efforts in Darfur*, http://news.xinhuanet.com/english/2005-09/06/content_3452042.htm (Sept. 6, 2005).

framework is on the ground" for a Standby Force and that the AU has "earmarked two battalions for the Standby Force or brigade."²²³ This is an important first step towards a multilateral permanent force that can be used to step in when conflicts threaten to erupt into bloodshed.

Conclusions

This is in sharp contrast to the Arab League and the criticism it has sustained by its lack of initiative in this area—both in its slow reaction to the Darfur crisis and in the creation of some sort of peacekeeping force. The Au seems to have achieved in a very brief period of time many things that the Arab League has not been able to do since its inception 60 years ago.

Again, some of the criticism aimed at the Arab League is somewhat unfair. For one thing, the AU represents a continent-wide organization and the power and resources that represents versus simply a regional one on the part of the Arab League; for another, at the present

²²² Human Rights News, 'Q & A: Crisis in Darfur,' ¶6, <http://hrw.org/english/docs/2004/05/05/darfur8536.htm> (2006).

²²³ Quoted in Josephine Lohor, *Obasanjo: Africa to Get Standby Force Soon*, Africa News Services,

time, there is not the interference in Africa on the same level as in the Middle East from outside forces. As well, as indicated above, because the AU is such a young organization, it is much too early to tell exactly how effective it will be. The same sort of euphoria accompanied the creation of the Arab League.

At the same time, in a way similar to the ongoing discussions as to the nature of the Arab League, a battle is going on within the African Union to determine whether it is a supranational organization or simply a collection of sovereign states. Unlike the Arab League Charter previous to the recent amendments, the Constitutive Act that created the AU seems to indicate it does have some supranational powers, while many of the governments that have signed up clearly do not believe that is the case (or they have signed on under pressure from fellow nations—not wanting to be left out, in other words—without really examining what it was they were signing up for). This leads to numerous questions such as:

What ... is the ultimate authority of the Peace and Security Council? Can it authorize intervention when crimes against humanity arise?

<http://www.thisdayonline.com/nview.php?id=27578> (Sept. 7, 2005).

What legislative powers will the Pan-African Parliament possess? What will be the enforcement capacity of the African Court of Human Rights? According to a strong interpretation of the [Constitutive] Act, the AU will have extensive powers of intervention and enforcement. According to a weaker interpretation, the powers of the AU organs will be more akin to a process of "peer review," including evaluation, exposure, recommendation and limited sanctions against non-compliance (e.g. debarring a state from participating in AU institutions).²²⁴

As well, it would seem that the AU's Constitutive Act is not quite what someone like Kwame Nkrumah, who can be called the spiritual father of the ideal of African unity, would have liked to have seen enacted:

Nkrumah argued that Africa should work on a common economic planning for Africa, comprising an African common market and currency, a unified military and defense strategy and a common foreign policy and diplomacy. To develop and implement such policies and strategies, he called for a continental government that would be free from foreign involvement. Nkrumah was inspired by the governmental models of the U.S. and the Soviet Union.²²⁵

²²⁴ Abdul Mohammed, *Towards An Effective African Union: Participation, Institutions and Leadership*, http://www.justiceafrica.org/towards%20an%20effective%20au_may03.htm (Feb. 3, 2003).

²²⁵ A.P. Van Der Mei, *Africa Must Unite, But How? "Commitment,"* <http://www.thisweekghana.com/ThisWeek/Commentary.nkrumah.072705.htm> (Aug. 14, 2005).

Nkrumah did not believe that the EU was a good model for Africa as he felt, like some other commentators at the time, that the EU was based on a particular set of historical facts that Africa did not share: in particular, a pair of world wars, economic depression, and the ever-present fear that Germany would once again rise from the ashes. For all that, today's AU resembles the EU much more closely than any model of government stemming from the US or the Soviet Union:

The objectives of the AU and EU are quite similar. Both seek to achieve economic growth, solidarity among the peoples, social justice, and a stronger role in world politics. Further, the resemblance between the institutional architecture of the two organizations is, at least on paper, striking. For example, like the EU, the AU comprises an organ composed of Heads of State and Government, a Commission, a continental Parliament, a Court of Justice, and, in time, it will encompass a Central Bank.²²⁶

However, despite all the problems that the AU will face—including financial turmoil, the immensity of the challenges in bringing Africa together, the natural jealousy of governments when it comes to protecting their sovereignty, the overlapping mandates of various African regional institutions, a lack of human resources, and the

²²⁶ *Id.* at "Objectives."

continued interference from former colonizers and present-day superpowers, one thing lies in its favor. That advantage lies in the voting system the AU has set up. This is especially true in its denial of a veto to any of the member states, making it more difficult for one member state to paralyze the organization.

Thus states that do not agree with a majority ruling within the Assembly or various Councils have but two options: accept the voice of the majority, or withdraw from the organization. As the AU becomes stronger, this latter option will become more and more difficult as individual nations that opt to drop out will find themselves isolated and not able to benefit from the political and economical advantages of regional organizations. They will find themselves going against the will of the majority of Africans: "[A]cross the continent there is a strong subjective sense of African-ness, and a powerful appreciation of the benefits that will follow from unification. As a single polity, Africa can play a role on the world stage. Many social, economic and political gains

will follow from a common African citizenship, a single economic space, and a continental democracy."²²⁷

There is one area where the AU has drawn criticism—and that's in its "peer review mechanism" which was supposedly to deal with authoritarian governments that resist democratization and giving their citizen proper rights. According to South Africa-based rights activist Louis Livingston:

The problem with the peer review mechanism is that it is voluntary. Nations have to sign a declaration supporting democracy and throw themselves open to annual inspections by AU monitors. Dictators and unelected governments will not gladly volunteer and invite criticism of themselves.²²⁸

The stakes are quite high. Can the African Union succeed where other regional organizations have failed? Can it achieve its objectives when the Arab League is still fighting the demons from its past and only recently emerged from its antiquated voting mechanism? Commentators have placed an incredible burden on the AU. Among them:

²²⁷ Mohammed, *supra* n. 224 at ¶ 1.

²²⁸ Quoted in James Hall, *African Union Struggles to Achieve Concrete Results*, 25 New York Amsterdam News 1, 2 (No. 94, 2003).

- Chimutengwende: "The existence of a strong, independent, self-reliant and democratic AU leading to a United New Africa, which is referred to as the United States of Africa, will make it impossible for the Western and developed countries to continue to divide, manipulate, marginalize and exploit Africa. Only a United New Africa can bring about stability and ensure that the vast resources of Africa are primarily used for the benefit of the people of Africa."²²⁹
- Muchie: "The AU must not be the OAU with a different name just as the EU is not the EEC by another name. There must be a qualitative difference in the tasks, aims, structures and directions. It must, at the minimum, bring the deepest possible integration of the continent socially, economically, militarily, culturally and politically."²³⁰

²²⁹ Chimutengwende, *supra* n. 216, at 12.

²³⁰ Mammo Muchie, *African Union - Forward Ever, Backward Never* ¶ 1, *New African* (Sept. 2001) (available at <http://www.geocities.com/ethiopia67/africanmamo.html>).

- Yedder: "Forget the unflattering editorials in the Western media about the African Union (AU) becoming a 'union of despots.' Africa is finally on the march. The AU is taking shape four years after the historic Syrte Summit in Libya that gave birth to what Kwame Nkrumah and other leaders had fought for but did not achieve way back in 1963—a union of African states."²³¹
- Commey: "Rapid efforts have been made to put the foundations of the African Union in place since its inauguration in Durban, South Africa, in 2002. NEPAD (the New partnership for African Development) is in place. The Peace and Security Council is in place. The Pan-African Parliament is in place. And the Peer Review Mechanism on governance is also in place."²³²
- Soderberg: "Over the past few years, there has been a quiet revolution occurring in Africa. For

²³¹ Omar Ben Yedder, *African Union: So Far, So Good*, *New African* 1, 12 (No. 308, Aug. 2003).

²³² Pusch Commey, *African Union: So Far So Good*, *New African* 1 (No. 407, July 2004).

the first time, Africans are beginning to take responsibility for the continent's many conflicts. With the right international assistance, the effort can tip the balance from war to peace ... Africa's leaders now recognize that the era of non-intervention in internal conflicts is over - that the myriad conflicts on the continent drag the whole region down and that the world will not solve their problems for them."²³³

From these comments, it seems that the African Union is better poised than the Arab League had ever been to achieve its goals prior to its recent charter amendments. Of course, only time will tell if the AU actually has all the mechanisms in place to achieve its loftiest goal of uniting all of Africa. As one commentator has said: "The greatest issue in Africa from now to 2010 will be the African Union's consolidation and development or its failure to do so."²³⁴

If the main assumption arising from this thesis (that the unanimity voting mechanism has held back the Arab

²³³ Soderberg, *supra* n. 219, at 9.

²³⁴ Chimutengwende, *supra* n. 216, at 12.

League's progress and effectiveness) is correct, then it must also be assumed that the Arab League can achieve some measure of success (as much as if not more than the AU) once it implements the amendments to its charter). Otherwise, another variable must be examined as the main cause of the Arab League's perceived lack of success in terms of enabling security in the region.

Another scenario, and an entirely possible one, is that the AU will also fail in its efforts, once again triggering an examination of the "real" causes for such limited success. But, no matter what the consequences, quick and decisive action must always be one part of any organization's ability to maintain its own security perimeter—and the ability to act quickly and decisively arises as a direct result of the voting mechanisms selected by that organization. It may not be the only reason but it is definitely the catalyst that allows everything else to fall into place.

CHAPTER 6

UN SECURITY COUNCIL RESOLUTIONS

This chapter conducts an examination of the pertinent and significant UN Resolutions with respect to the Middle East and the result of those resolutions, both those that have been implemented and those that have not. The chapter examines specifically UN resolutions with respect to Israel and the Occupied Territories versus resolutions against the Iraqi attack on Kuwait and other Middle East confrontations to determine if there is a significant difference between them as well as their relative effectiveness. Other UN Security Council resolutions examined are:

- The Darfur situation in the Sudan
- The withdrawal of Syrian forces from Lebanon
- The lifting of sanctions against Libya
- Israel's attacks on Lebanon
- The withdrawal of Israeli troops following 1967 war

The argument here is that, while the UN Security Council has vigorously pursued the enactment of resolutions against Arabic Middle Eastern states throughout its history, it has not done the same when it comes to resolutions related the Israel and its conduct during that time period. Thus, it may well be that there is more of a convergence between UN Security Council methods and Arab League methods than first meets the eye: while the UN Security Council may have been able to pass resolutions with much greater ease than the Arab League has done to this point, there is a question as to how effective those resolutions really are—not to mention how the problems of enactment and punishment are treated within the UN. There may not be as level a playing field as first perceived, in other words.

UN Security Council Resolutions and Israel

Following the 1967 Arab-Israeli War ceasefire, the UN Security Council issued a number of resolutions calling on Israel to withdraw from occupied territories. The first one was Resolution 242 (November 22 1967). In part, the resolution called for:

- (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

- (ii) Termination of all claims or states of belligerence and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;²³⁵

This was followed by Resolution 248 (March 24, 1968) in which Israel's actions against Jordan were condemned as being "in flagrant violation of the United Nations Charter and the cease-fire resolutions." As well, the resolution also declares "that such actions of military reprisal and other grave violations of the cease-fire cannot be tolerated and that the Security Council would have to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such acts."²³⁶

Again, in 1986, Resolution 592 (December 8) the UN Security Council accuses Israel of violating the Geneva Conventions with respect to the protection of civilians

²³⁵ S.C. Res. 242, ¶ 4, U.N. SCOR, 22nd Sess., at 8, U.N. Doc. S/INF/22/REV.2 (1967).

²³⁶ S.C. Res. 248, U.N. SCOR, 23rd Sess., at 8, U.N. Doc. S/INF/23/Rev.1 (1968).

during war and "strongly deplores the opening of fire by the Israeli army resulting in the death and the wounding of defenseless students."²³⁷ This followed previous resolutions 446 (1979), 465 (1980), and 497 (1981). In Resolution 605 (December 22, 1987), the Security Council "calls once again upon Israel, the occupying Power, to abide immediately and scrupulously by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and to desist forthwith from its policies and practices that are in violation of the provisions of the Convention."²³⁸

Following a series of resolutions (607-1988, 608-1988, 636-1989, 641-1989, 681-1990, 694-1991, and 726-1992) having to do with the illegal deportation of Palestinians from the Occupied territories, the Security Council issues resolution 799 (1992) and "strongly condemns the action taken by Israel, the occupying power, to deport hundreds of Palestinian civilians, and expresses its firm opposition to any such deportation by Israel" and "demands that Israel,

²³⁷ S.C. Res. 592, ¶ 6, U.N. SCOR, 41st Sess., at 7, U.N. Doc. S/INF/42 (1986).

²³⁸ S.C. Res. 605, ¶ 10, U.N. SCOR, 42nd Sess., at 4, U.N. Doc. S/INF/43 (1987).

the occupying Power, ensure the safe and immediate return to the occupied territories of all those deported."²³⁹

In Resolution 1322 (October 7, 2000), the Security Council asserted that "a just and lasting solution to the Arab and Israeli conflict must be based on its resolutions 242 (1967) and 338 (1973)" and once again called on "Israel, the occupying Power, to abide scrupulously by its legal obligations and its responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War."²⁴⁰

In Resolution 1435 (September 24, 2002), the Security Council calls for "the complete cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction," "demands the expeditious withdrawal of the Israeli occupying forces from Palestinian cities" and "calls on the Palestinian Authority to meet its expressed commitment to ensure that those responsible for terrorist acts are brought to justice."²⁴¹

²³⁹ S.C. Res. 799, ¶ 7, U.N. SCOR, 47th Sess., at 6, U.N. Doc. S/INF/48 (1992).

²⁴⁰ S.C. Res. 1322, ¶ 8, U.N. SCOR, 55th Sess., at 174, U.N. Doc. S/INF/56 (2000).

²⁴¹ S.C. Res. 1435, ¶ 7, 9-10, U.N. SCOR, 57th Sess., at 104, U.N. Doc. S/INF/58 (2002).

A second set of resolutions against Israel has been issued with respect to the occupation of Lebanon by Israeli forces from 1968 to 1981. Again, the effect of these resolutions seems not to have been overly powerful. For example, in Resolution 262 (December 31, 1968), the Security Council "condemns Israel for its premeditated military action in violation of its obligations under the Charter and the cease-fire resolutions" and "issues a solemn warning to Israel that if such acts were to be repeated, the Council would have to consider further steps to give effect to its decision."²⁴²

Four years later, in Resolution 313 (February 28, 1972), the Security Council "demands that Israel immediately desist and refrain from any ground and air military action against Lebanon and forthwith withdraw all its military forces from Lebanese territory."²⁴³ Again, in 1973, Resolution 332 (April 21) "condemns the repeated military attacks conducted by Israel against Lebanon and Israel's violation of Lebanon's territorial integrity and sovereignty in contravention of the Charter of the United

²⁴² S.C. Res. 262, ¶ 9, U.N. SCOR, 23rd Sess., at 12, U.N. Doc. S/INF/23/Rev.1 (1968).

²⁴³ S.C. Res. 313, ¶ 1, U.N. SCOR, 27rd Sess., at 13, U.N. Doc. S/INF/28 (1972).

Nations, of the Armistice Agreement between Israel and Lebanon and of the Council's cease-fire resolutions."²⁴⁴

Five years later, Resolution 425 (March 19, 1978) again "calls upon Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory."²⁴⁵ At the time, after 10 years, there was a partial withdrawal of Israeli troops. However, Resolution 498 (December 18, 1981) once more "calls upon Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory."²⁴⁶

UN Middle East Resolutions Other Than Israel

A comparison to how effective Middle East Resolutions from the UN Security Council when aimed at other Middle Eastern states other than Israel may help indicate whether it is solely the Arab League that is ineffective when it comes to dealing with Israel or also

²⁴⁴ S.C. Res. 332, ¶ 10, U.N. SCOR, 28th Sess., at 8, U.N. Doc. S/INF/29 (1973).

²⁴⁵ S.C. Res. 425, ¶ 6, U.N. SCOR, 33rd Sess., at 5, U.N. Doc. S/INF/34 (1978).

²⁴⁶ S.C. Res. 498, ¶ 7, U.N. SCOR, 36th Sess., at 6, U.N. Doc. S/INF/37 (1981).

the UN, which is supposed to represent international law and justice.

Syria-Lebanon UN Resolutions

As an example of how different UN resolutions might be handled differently, the study can use the situation in Lebanon and the presence of Syrian troops there. Only one resolution was needed, 1559 (September 2, 2004), to effectively drive Syrian troops out of Lebanon. This was followed by Resolution 1636 (October 31, 2005) that "takes note with extreme concern also of the Commission's conclusion that, while the Syrian authorities have cooperated in form but not in substance with the Commission, several Syrian officials tried to mislead the Commission by giving false or inaccurate information, and determines that Syria's continued lack of cooperation to the inquiry would constitute a serious violation of its obligations under relevant resolutions" and "insists that Syria not interfere in Lebanese domestic affairs, either directly or indirectly, refrain from any attempt at destabilizing Lebanon, and respect scrupulously the sovereignty, territorial integrity, unity and political independence of this country."²⁴⁷

²⁴⁷ S.C. Res. 1636, § 12, U.N. SCOR, 60th Sess., U.N. Doc. S/INF/61 (2005).

Finally, Resolution 1644 (December 15, 2005)

"underscores Syria's obligation and commitment to cooperate fully and unconditionally with the Commission, and specifically demands that Syria responds unambiguously and immediately in those areas adduced by the Commissioner and also that it implements without delay any future request of the Commission."²⁴⁸

As can be seen, there was little time between the original resolution and action being taken unless Syria complied. As well, following the assassination of Rafik Hariri, little time was wasted in calling for Syria's full cooperation in the matter—or risk sanctions or worse, under the guise of international law and conventions.

Kuwait- Iraq UN Resolutions

Even more swift UN action occurred following the invasion of Kuwait by Iraq in 1990. One day after the invasion, Resolution 660 (August 2, 1990) demanded "that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on

²⁴⁸ S.C. Res. 1644, § 4, U.N. SCOR, 60th Sess., U.N. Doc. S/INF/61 (2005).

August 1, 1990."²⁴⁹ When this resolution was not heeded by Iraq, Resolution 661 (August 6, 1990) called for an embargo of all goods coming out of Iraq or Kuwait, and Resolution 662 (August 9, 1990) "calls upon all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation."²⁵⁰

Less than four months later, Resolution 678 (November 29, 1990) "authorizes Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements ... the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area" and "requests all States to provide appropriate support for the actions undertaken."²⁵¹

²⁴⁹ S.C. Res. 660, § 2, U.N. SCOR, 45th Sess., at 19, U.N. Doc. S/INF/46 (1990).

²⁵⁰ S.C. Res. 662, § 2, U.N. SCOR, 45th Sess., at 20, U.N. Doc. S/INF/46 (1990).

²⁵¹ S.C. Res. 678, § 2-3, U.N. SCOR, 45th Sess., at 27, U.N. Doc. S/INF/46 (1990).

Sudan-Darfur UN Resolutions

A third set of examples having to do with UN Security Council resolutions and their effectiveness has to do with the situation in Sudan, especially in the Darfur area. In this case, the Security Council was able to authorize "the deployment of international monitors" and "demands that the Government of Sudan fulfil its commitments to disarm the Janjaweed militias and apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out human rights and international humanitarian law violations and other atrocities."²⁵²

This was followed by Resolution 1564 (September 18, 2004) where the council "declares its grave concern that the Government of Sudan has not fully met its obligations noted in resolution 1556 (2004)," "demands that the Government of Sudan submit to the African Union Mission for verification documentation, particularly the names of Janjaweed militiamen disarmed and names of those arrested for human rights abuses and violations of international law" and "declares that the Council, in the event the

²⁵² S.C. Res. 1556, § 6, U.N. SCOR, 59th Sess., at 110, U.N. Doc. S/INF/60 (2004).

Government of Sudan fails to comply fully with resolution 1556 (2004) ... shall consider taking additional measures ... such as actions to affect Sudan's petroleum sector."²⁵³

Resolution 1574 (November 19, 2004) commends "the vital and wide-ranging role being played by the African Union," "demands that Government and rebel forces and all other armed groups immediately cease all violence and attacks," and "decides to monitor compliance by the parties with their obligations in that regard and subject to a further decision of the Council, to take appropriate action against any party failing to fulfil its commitments."²⁵⁴ This led to Resolution 1590 (March 24, 2005) which establishes "the United Nations Mission in Sudan (UNMIS)."²⁵⁵

Analysis of UN Security Council Resolutions

An examination of the treatment of UN Security Council resolutions having to do with Israel and its

²⁵³ S.C. Res. 1564, § 14, U.N. SCOR, 59th Sess., at 110, U.N. Doc. S/INF/60 (2004).

²⁵⁴ S.C. Res. 1574, § 12, U.N. SCOR, 59th Sess., at 115, U.N. Doc. S/INF/60 (2004).

²⁵⁵ S.C. Res. 1590, § 1, U.N. SCOR, 60th Sess., U.N. Doc. S/INF/61 (2005).

actions in the Middle East versus resolutions that pertain to the Middle East or Arab League states but which do not include Israel indicates a marked difference. While the UN resolutions having to do with Israel (in the Occupied Territories or in Lebanon, for example) make the same condemnations and disapprovals as those not having to do with Israel, it appears that only those that do not have to do with Israel actually come to fruition within what most observers would consider a reasonable length of time.

In the case of the Iraqi invasion of Kuwait, the resolutions were followed by swift action. In the case of resolutions calling for the withdrawal of Syrian troops, those too resulted in swift action and efforts to bring to international justice any Syrians who may have been involved in the assassination of Hariri. In the case of the Sudanese civil war and the Darfur genocide allegations, the United Nations had peacekeeping troops in place within a year.

However, the situation on the Occupied Territories when it comes to observing UN resolutions is very much different. In fact, it is non-existent. In Resolution 1544 (May 19, 2004), the preamble reads: "Reaffirming its previous resolutions 242 (1967), 338 (1973), 446 (1979),

1322 (2000), 1397 (2002), 1402 (2002), 1403 (2002), 1435 (2002), and 1515 (2003)."²⁵⁶ Interestingly enough, unlike the resolutions aimed at Iraq in 1990, and Syria and Sudan today, no threats are made in these resolutions. No boycotts, calls for sanctions or hints of military action if they are not adhered to.

Similarly, the invasion of Southern Lebanon by Israeli forces resulted in the issuing of many resolutions with much condemnation, but with only one veiled threat: "Issues a solemn warning to Israel that if such acts were to be repeated, the Council would have to consider further steps to give effect to its decisions."²⁵⁷ Ironically, that was in 1968 and another ten years would pass before a United Nations force was established there.

Thus, it seems that the use of International law to curb the aggression of one state towards another is not fully integrated and the playing field is indeed not as level as one is made to believe on the surface. As well, attempts to have all UN member states adhere to international conventions and agreements have been asymmetrical.

²⁵⁶ *Supra* n. 90, ¶ 1.

²⁵⁷ *Supra* n. 236.

In this way, much of the UN's perceived strength and ability to pass resolutions through its Security Council as opposed to the Arab league's inability to get meaningful resolutions passed is negated. In certain situations and with certain players on the world stage, the UN is as ineffective in practice as the Arab League has been perceived to be. Resolutions may be passed (as they have not been in the Arab League), but then they are only selectively enforced (a situation that did not arise with the Arab League).

Again, speculation for the future arises out of the Arab League's refining its voting mechanisms so that they are more in line with the UN and other organizations: will this make a big difference? From having studied how UN resolutions are so readily passed and then only selectively implemented, this may perhaps be the fate of Arab League resolutions as well. At the present time, the bottleneck lies in the actual passage of any resolutions, blocked as it were by even the least powerful of the League members; later, it may well turn out that the implementation of passed resolutions will also face a bottleneck—only this time from the more powerful members.

CHAPTER 7

INTERNATIONAL LEGAL ISSUES & THE ARAB

LEAGUE RESPONSES

In this chapter, the researcher conducts an examination of international law (through the International Law Commission and the International Court of Justice) with respect to the legitimacy of various actions taken in the Middle East. Again, the question is whether or not rulings from these two bodies can be effective in all cases or only in certain cases. As well, is there a specific pattern here as there was with the UN Security Council resolutions? If so, what does that mean (a) for the ability to implement the statutes of international law in an even-handed way; and (b) how does this affect the ability of the Arab League to be more effective than it has been in the past?

The chapter looks specifically at:

- The International Court of Justice's ruling on the fence/wall being built by Israel inside the Occupied Territories;

- International law and the case against Iraq (or the case for going to war against Iraq) including UN Security Council Resolution 1441; International law and the US attack on Afghanistan.

The Wall: An International Law Perspective

Requested in a UN General Assembly resolution of December 8, 2003, the International Court of Justice (ICJ) agreed to issue an advisory opinion as to the legality of Israel's building of a barrier inside the Occupied Territories. The official request was: "What are the legal consequences arising from the construction of the Barrier being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?"²⁵⁸

²⁵⁸ G.A. ES-10/PV.23, U.N. GAOR, 10th Emergency Special Sess., 23rd mtg. at 3, U.N. Doc. A/ES-10/PV.23 (Dec. 8, 2003).

The decision to ask the ICJ for an opinion was controversial and countries who opposed the hearing included members of the European Union, the United States, Canada, Australia, Russia and Senegal. Yet, even before the hearings started, Amnesty International had already concluded that "the construction by Israel of the fence/wall inside the Occupied Territories violates international law and is contributing to grave human rights violations."²⁵⁹ Amnesty's argument relies on the fact the wall is not being built between Israel and the West Bank but rather on Palestinian land, thus cutting off many Palestinians and violating international human rights law. According to Amnesty:

As a party to the International Covenant on Civil and Political Rights (ICCPR), Israel has agreed and is obligated to respect, protect and ensure the rights set out in the treaties to all persons within its territory or subject to its jurisdiction.²⁶⁰

In the ICJ's decision, rendered at The Hague on July 9, 2004, the Court ruled that "the construction by Israel of a wall in the Occupied Palestinian Territory and

²⁵⁹ Amnesty International, *Israel and the Occupied Territories: The Place of the Fence/Wall in International Law 1*, <http://web.amnesty.org/library/Index/ENGMDE150162004> (Feb. 19, 2004).

²⁶⁰ *Id.* at 7.

its associated regime are contrary to international law."²⁶¹

The court cited several rules and principles of international law which it felt were relevant, including:

- Article 2, paragraph 4 of the UN Charter
- General Assembly resolution 2625 (XXV)
- Principles of the prohibition of the threat or use of force
- The illegality of territorial acquisition by such means
- The principle of self-determination of peoples
- The provisions of The Hague Regulation of 1907
- The 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War
- The International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- The UN Convention on the Rights of the Child.

²⁶¹ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Op.) at A (July 9, 2004), available at <http://www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm> (accessed Feb. 9, 2006).

The court's opinion was that Israel should dismantle the wall and make reparations. As to what punishment Israel should face if it failed to follow the principles of international law, the court found itself in the same position as the UN General Assembly and Security Council did with previous Resolutions. The Court stated "that the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and its associated regime, taking due account of the present Advisory Opinion."²⁶² In essence, that means that the UN is once again helpless when facing Israel, placing it in the same boat as the Arab League.

International Law: US Invasion of Iraq

According to Stevens *et al.*, a case was made in international law for the US invasion of Iraq. The basis for their decision in favor of such action is primarily that the UN forces attacked Iraq in 1990-1991 for its invasion of Kuwait and that the conditions have not since been altered. In other words, the previous resolutions

²⁶² *Id.*

issued by the UN Security Council were still in effect and Iraq had not complied:

In the widening international and domestic debate over Iraq, some insist that U.S. or coalition military action against Iraq today would be unlawful unless once again explicitly authorized by the Security Council. As a matter of international law, this clearly is not the case. A renewed Security Council mandate may be useful or desirable, but it is not necessary. The Security Council previously has authorized the use of force against Iraq, the Council has not rescinded but rather reaffirmed its position on numerous occasions since, and the circumstances justifying the Council's conclusion that Iraq is a threat to international peace and the security of the Middle East region remain unchanged. The UN Charter contemplates that the Security Council may – as it has with respect to Iraq – authorize the use of force to remove threats to international peace and security. The Charter also recognizes that, in response to acts of aggression, states – such as the US and its coalition partners – have an inherent right to act individually and collectively in their defense. Further military action against Iraq may, we believe, be justified on either or both grounds.²⁶³

The authors go on to cite the series of UN resolutions aimed Iraq and how it was perceived that Iraq did not comply with those resolutions. The authors further use the resolutions framed during Iraq's invasion of Kuwait, followed by another close to 60 over the next dozen

²⁶³ Paul S. Stevens, Andru E. Wall & Ata Dinlene, *The Just Demands of Peace and Security: International Law and the Case Against Iraq*, Federalist Socy. L. & Pub. Policy 1, 2 (Jan. 2003) (available at <http://www.fed-soc.org/>)

years. At the same time, the authors argue that the US did not need UN support at the time of the invasion. They quote National Security Adviser Brent Scowcroft:

While we had sought United Nations support from the outset of the crisis, it had been as part of our efforts to forge an international consensus, not because we thought we required its mandate. The UN provided an added cloak of political cover. Never did we think that without its blessing we could not or would not intervene.²⁶⁴

It should be noted, however, that these scholars seem to have placed the Iraq situation in a political vacuum. Nowhere, for example, is there any mention of the support Iraq received from the United States and other Western powers prior to the invasion of Kuwait. As well, the scholars fail to mention that, normally, in international law, it should be what is good for the goose is also good for the gander. If one wishes to use the number of Security Council and General Assembly resolutions as a measure for the legality of certain actions to be taken to rectify a matter, then Israel would have been invaded long ago by UN forces driving its military out of the Occupied Territories. But that has obviously not happened. The exact same arguments Stevens *et al.* use for

War%20on%20Terror/iraqfinal--web.pdf).

²⁶⁴ Cited in *id.* at 5.

Iraq can just as easily be used for Israel. Why they have not been used is another question entirely.

In a discussion on the issue of the legality of war against Iraq dating to just before the war, Dr. Chaloka Beyani, Senior Lecturer in Law, Department of Law and Centre for the Study of Human Rights, London School of Economics and Political Science, argued that Article 2.4 of the UN charter prohibits the unilateral use of force. It was also pointed out that the prohibition stems back to the signing of the Kellogg-Briand Pact of 1928 and that the prohibition quickly became part of customary international law.²⁶⁵

Beyani listed three reasons where the Security Council can invoke Chapter 7 of the charter, thus making Article 2.4 inoperative:

- If the Council makes a determination to the effect that there is a major threat to international peace and security
- In the event of a breach of the peace

²⁶⁵ Chaloka Beyani, George Joffe & Emanuela-Chiara Gillard, Panel Discussion, *Iraq: War, Law and Humanitarian Protection* (Overseas Dev. Inst., Jan. 22, 2003) (transcript available at <http://www.odi.org.uk/hpg/papers/events/iraqreport.pdf>).

- In the event aggression takes place against another state in contravention of Article 2.4, or in a way that hasn't been authorized by international law and the UN.²⁶⁶

There is an argument to be made that the US invasion of Iraq fits under all three of these conditions:

Following the establishment of the UN charter, it has been argued that, unless an armed attack has occurred, there is a risk that a responding state may itself be committing an act of aggression, or may be acting in a way that threatens international peace and security.²⁶⁷

Mandel and Davidson (2003) argue that there is a fine distinction but an important one between Security Council Resolution 678 authorizing the forcible re-taking of Kuwait in 1991 and Resolution 1441, warning Iraq to comply. In simple terms, Resolution 678 states that the Security Council "authorizes Member States co-operating with the government of Kuwait, unless Iraq on or before 15 January fully implements the above-mentioned resolution, (660) to use all necessary means to uphold and implements

²⁶⁶ *Id.* at 2.

²⁶⁷ *Id.*

it and all subsequent resolutions and to restore international peace and security in the area."²⁶⁸

Hassan (2004) takes it a step further and argues that the US violated international law when it invaded Afghanistan following the September 11th attacks, citing again Article 2-4. As well, "the International Court of Justice (IJC) has clarified that a general ban on the use of force exists even in customary law running parallel to the charter."²⁶⁹

Hassan makes the distinction between what took place on September 11, and an ongoing or imminent threat to authorize the use of force for the purposes of self-defense. As well, it is not up to the individual state to retaliate under these conditions but rather up to the Security Council to take any measures needed. A further argument from customary law states that use of force for self-

²⁶⁸ Michael Mandel & Gail Davidson, *Resolution 1441 and the Security Council*, <http://www.zmag.org/content/showarticle.cfm?SectionID=21&ItemID=2978> (Feb. 6, 2003).

²⁶⁹ Sulman Hassan, *The Legality of the United States Intervention in Afghanistan*, at "Modern Rules on the Use of Force", American Studies Today Online <http://www.americansc.org.uk/Online/Forum/Afghanlegality.htm#rules> (July 15, 2004).

defense has to be immediate, proportionate and necessary.²⁷⁰

If more than simply immediate responses to such terrorist attacks are allowed, this could provide any state with justifications to use force. Hassan concludes that:

[I]t appears the US has failed to satisfy and instead violated the modern rules of International Law regarding the right to self-defense and instead relied on an 'expansive' interpretation given by a limited number of academics. Further any claim of a new emergence of customary international law, based on a broader definition of "armed attack", in response to terrorism is a weak argument as only two states, those being Israel and the US, rely on such practice.²⁷¹

Arab League Responses

The Arab League's response to the Israeli wall through parts of Jerusalem was predictable. A representative for the League, Hossam Zaki, stated that the wall would strongly decrease any chance of attaining peace in the region: "East Jerusalem will become the eternal Palestinian capital whether Israel likes it or not."²⁷²

²⁷⁰ Angus Martyn, *The Right of Self-Defence Under International Law: The Response to the Terrorist Attacks of 11 September*, <http://aph.gov.au/LIBRARY/Pubs/cib/2001-02/02cib08.htm> (Feb. 12, 2002).

²⁷¹ Hassan, *supra* n. 269, at "Customary Law Requirements."

²⁷² Cited in Palestine Media Center, *EU, NAM and Arab League Oppose Israel's Wall in Jerusalem*, PLO: Israel

Similarly, Arab League Secretary General Amre Moussa called the Israeli Wall "an unprecedented wicked tactic aimed at the alteration of concrete facts and legal rights to create further doubts" and "a move that has gulped down more than 40% of the West Bank territories." He stressed that "the Wall defies international law and accentuates the suffering of the Palestinian people in a manner that endangers the future of any settlement of the Palestinian cause" and questioned: "would the current situation bring to memory the story of the Berlin wall which was branded as the Wall of Disgrace?"²⁷³

When it comes to the Arab League's response to the invasion of Iraq by coalition forces, at the present time the only real response has been the setting up of a reconciliation conference in Cairo where Sunnis, Shiites and Kurdish leaders were invited to discuss their differences: "The result was a surprising agreement on all

Is Transferring Palestinian Population of Jerusalem,
[http://www.unitedjerusalem.org/
index2.asp?id=610851&Date=7/29/2005](http://www.unitedjerusalem.org/index2.asp?id=610851&Date=7/29/2005) (July 12, 2005).

²⁷³ Cited in *The League of Arab States, Israeli Wall, Wicked Tactic to Alter Facts,*
[http://www.arableagueonline.org/
arableague/english/details_en.jsp?art_id=2463&level_id=219](http://www.arableagueonline.org/arableague/english/details_en.jsp?art_id=2463&level_id=219)
(Feb. 23, 2004).

sides, that the three factions would cooperate on setting an appropriate timetable for a US pullout."²⁷⁴

As well, the Arab League was able to announce that it will appoint an envoy to Iraq and open an office in Baghdad. In his statement upon the closing of the meeting, Arab Secretary General Moussa made a distinction between the legitimate right of people to resist invasion and acts of terrorism against civilians.²⁷⁵ According to an editorial in *The Boston Globe*, while the statements from the conference on Iraqi reconciliation did not appear to be much different from previous pronouncements, it did "reflect a heartening effort to seek compromise and prevent the current violence from becoming a sectarian war that draws in neighboring countries."²⁷⁶

²⁷⁴ Beth Romulo, *The Arab League Steps In*, ¶ 2, Manila Bulletin Online, (available at <http://www.mb.com.ph/issues/2005/12/08/OPED2005120851185.html>) (Dec. 8. 2005).

²⁷⁵ The League of Arab States, *Preparation Meeting a 70% Success, Says Moussa*, http://www.arableagueonline.org/arableague/english/details_en.jsp?art_id=3867&level_id=219 (Nov. 21, 2005).

²⁷⁶ _____, *Ground Rules For Iraq*, Boston Globe News, Editorial ¶ 1 (Nov. 23, 2005) (available at http://www.boston.com/news/world/middleeast/articles/2005/11/23/ground_rules_for_iraq/).

In two separate issues here, one which directly affects Israel and one that does not, it seems once again that progress is being made in one according to international law norms and standards but not in the other, even though the same set of international law statutes, norms, customs, conventions and agreements are being used. Why is that?

Despite the efforts of the international community, despite the presentation of International Court of Justice opinions, as well as Resolutions from the UN Security Council and representations and condemnations from the Arab League, it does not appear as if any of this will have any effect on the Israeli Wall. Meanwhile, when it comes to the reconstruction of Iraq and reconciliation efforts, the Arab League is able to cite those same international laws and norms to at least advance the process.

Again, under these circumstances, it does not seem as if the voting procedures of the Arab League are what is hindering progress and movement in these areas. Rather, it seems that the problem lies with the inability of those who make international justice determinations to impose their will on nations that are backed by powers that do not

believe that they can be placed in judgment by the rest of the world.

Thus it seems that international law enforcement still lies in the hands of the victors—just as it did so long ago at Nuremberg. The use of words such as "international law," "international norms," "customary international law," "international conventions," "international agreements," "equity," "justice," and "peace" appear to be based on objective standards when it comes to providing opinions and advisories but on a subjective basis when it comes to attempts at enforcing those opinions and advisories. There is little doubt that the Arab League has suffered because of this lack of consistency.

CHAPTER 8

STUDY RESULTS & ANALYSIS

In this chapter are presented the results of the pertinent literature review analysis with respect to:

1. Possible explanations for the historical failures of the Arab League: external interference (Cold War superpower battleground; present-day prize in American hegemony ambitions); historic inability of the Arab nations to act as one (both because of the external interference and because of the structure of the governments involved); structural problems with the Arab League itself and the voting procedures it uses; a decision on which of the explanations can be listed as the primary cause;
2. The effectiveness of attempts by the League to correct the situation, through the Joint Defense Treaty, and other corrective measures taken;
3. The effects on the League of sub-regional subsets within the Middle East;

4. The results of the comparison between the Arab League charter (pre-amendment stage) and that of the European Union, with particular emphasis on the respective voting mechanisms; comparison between Arab League conflict resolution success versus that of the EU with some particular examples;
5. A comparison of the pre-amendment Arab League Charter versus the African Union Charter, with special emphasis on their respective voting mechanisms; comparison between the Arab League's response to Darfur and that of the African Union;
6. Some predictions on the effectiveness of the amendments recently put in place but not yet fully ratified with respect to the Arab League charter, as well as the problems faced in efforts to implement any reforms.

Arab League In/Effectiveness

Explanations for Ineffectiveness

The literature has presented multiple reasons for the Arab League's perceived inability to accomplish much of what it set out to do when it was first created. Among the explanations to be found in multiple commentators were:

- Built into the general structure and nature of all regional organizations;
- Arab League's failures similar to those suffered by other regional organizations;
- The structure of the Arab League itself and the way it was set up at founding.

These various explanations and reasons are explained in more detail in the sections that follow.

General Nature of Regional Organizations

Cited among the problems that in general hold back regional organizations from fulfilling their potential roles as peacekeepers and conflict resolution mediators are:

- a lack of adequate financing and other resources
- the tendency for regional organizations to rely on their most powerful members to provide most of the resources, thus leading to these states taking over the organization
- a lack of experience
- military capabilities that vary greatly from one member to another
- non-standardized equipment

- different ways of seeing a threat (usually from a state or national viewpoint)
- security and political interests that do not match up from one member to another.²⁷⁷

Arab League Failures

It can be argued, and some commentators have argued, that the Arab League's failures in this area are similar to those suffered by other regional organizations, that the explanations above are enough to pinpoint the problems without categorizing the Arab League even further as having specific or special problems in this area. However, the fact remains that it is not possible to place all the blame on the general nature of regional organizations. For one thing, as we have seen, not all regional organizations are the same; for another, other regional organizations have managed to overcome some of these disadvantages and have gone on to successes—or at least greater successes than the Arab League is perceived to have achieved. Thus, one must look at the peculiarities of the Arab League (or of the region in which it exists or even of the special

²⁷⁷ Acharya, *supra* n. 138, at 217.

circumstances that make up the *realpolitik* and strategic concerns).

Commentators have argued that the Arab League has been particularly hamstrung even more than is usual for regional organizations by a series of circumstances that include:

- during the Cold War period, interference from the two superpowers determined to include the strategic oil fields as part of their hegemony, thus causing a split in the League as some members aligned themselves with the West while others aligned themselves with the Soviet Bloc;
- today, the split is between states that want to find purely Arab solutions to the region's problems and those who wish to align themselves with the United States or Europe;
- the circumstances of the region containing both Arabic states and Israel with its partial occupation of Palestinian lands, leading to tensions that are difficult to resolve from a purely regional standpoint;
- the historic inability of Arab nations to truly unite and act as one, as witnessed not only in

the wars against Israel but also in the divided reaction to the Gulf War and the current invasion of Iraq—to be explained by a combination of external powers and their divide and conquer policy stemming back to colonial days, and by the authoritarian and non-democratic nature and structure of many of the Arab governments.

Structure of the Arab League

The tenuousness and insecure nature of most governance in the Middle East is reflected in the voting rules of the Arab League itself, rules that had escaped intact until the Algeria Summit of 2005. Because the various members did not want to give up any part of their sovereignty when they joined the League, they created a set of rules that worked only on the unanimous agreement of all the members.

It is not difficult to see how this, given all the other problems and circumstances in the region, would lead to a stalemate situation. In conditions where swift and decisive action would be needed—the Israeli-Palestinian confrontations; the Kuwait-Iraq conflict; the Gulf War; and the invasion of Iraq, the League spent its time debating rather than acting. Even in situations of extreme concern

to all the member states, the voting system did not allow timely decisions to be made.

At the same time, the voting rules have not allowed the League an opportunity to reform the frequently outmoded governments of individual states. In this instance, no pressure could be put on authoritarian regimes to ease into more democratic societies according to Pevehouse's hypothesis concerning regional organizations and democratization.²⁷⁸ For that to take place, the regional organization itself would need to work under democratic rules, would have to be "active and enlightened." Most scholars and commentators agree that, although efforts are being made to change the picture, this is not the description of the majority of Arab governments. Even staunch allies of some of these governments admit that more needs to be done to democratize the decision-making processes.

Consensus Reasoning on League Failure

There is thus no doubt in the minds of a majority of the commentators on the Arab League that the single most important reason, the primary explanation for its

²⁷⁸ Pevehouse, *supra* n. 14, at 1.

ineffectiveness when compared to other regional organizations, lies with the voting rules adopted when the League was formed. And these voting rules were themselves the product of a group of nations that were not willing to surrender any portion of their autonomy, or even to open up their governance rules and methods to outside scrutiny.

It was as if the members wanted the advantages of being part of a regional organization without any of the pain. A similar thing occurred with the original League of Nations—and led to the disastrous consequences that resulted in the Second World War.

For the Arab League the consequences have been just as disastrous, if only on a regional scale—at least to this point. It has not been able to play its role properly in the Middle East—or at least the role that it envisioned itself playing in the security of the region. It has also been pushed aside, meekly and with hardly a fight, while internecine warfare has turned into a golden opportunity for the United States to turn the region into its personal sphere of influence. And which superpower would turn down such an opportunity in a world of *realpolitik*? As one commentator describes it:

Soon after the [2004] Tunis summit collapsed, a joke made the rounds of Arab capitals: When the

Arab League dies, a group of diplomats gather at the funeral. Almost at once they begin to argue. Each one lays a hand on the Arab League casket, shouting: "He'll be buried in MY country!"²⁷⁹

Faced with these weaknesses, however, the Arab League now appears to have resolved to reform itself, beginning with its voting procedures and enforcement statutes, and at long last assume the position among world powers and organizations that it feels it deserves. In a sense, it is time to put up or shut up, as it were.

League Corrective Measures

Because of the nature of the voting mechanism employed, there were few corrective measures that the League could take to ensure that decision-making would go more smoothly in the future. In a very real sense, the situation was a classic Catch-22: In order to make substantive changes in the voting procedures, it would be necessary to have the unanimous agreement of all the members of the League. In fact, before the 2005 amendments to this procedure, the most comprehensive attempt was the signing of the Treaty for Joint Defense and Economic Cooperation.

²⁷⁹ Martin, *supra* n. 204, at 28.

The basic tenet of the Treaty consisted of: "Every one of the contracting states commits itself not to engage in any international agreement which contradicts this treaty and not to act in its international relations with other states in a way which denies the aims of this treaty."

This general statement was made more specific with a League Council decision issued the same year that forbids any member state from negotiating or signing any separate agreements with the state of Israel.²⁸⁰ It is supremely ironical that the only time this clause was invoked was in the dismissal of Egypt from the League—the very same nation that suggested it in the first place.

As for other parts of the treaty, they suffered from the usual malaise associated with League decisions and actions. Because of the unanimity clause, treaty membership was voluntary, and there was no real means of implementing it against either external enemies or internal dissenters. Other efforts were just as futile for the same reasons: "The same fate afflicted a series of decisions made by the summit conferences since 1964 which established

²⁸⁰ A.B. Auda, *Arab League and the Palestinian Question*, Egyptian J. of Political Sci. 146 (July 1970).

a joint command of Arab armed forces. While this command exists in theory it does not possess any independent power."²⁸¹

There is one area where most commentators and scholars agree that the treaty has had an effect—or at the very least has seen members working in concert. That is the attempts to prevent Arab states from dealing directly with Israel in economic and trade matters: "The Council on Economic Blockage of Israel is the only part of the league's political apparatus which acted with increasing efficiency since its inception, without faltering or collapsing under the effect of continued crises in inter-Arab political relations."²⁸²

However, this is very much a negative and reactive victory, something like cutting off one's nose to spite one's face. Israel has one of the strongest economies in the region. The inability to trade with Israel directly probably ends up hurting Arab economies more than it does Israel's. So again this victory may be more symbolic than

²⁸¹ Said, *supra* n. 32, at 259.

²⁸² Hasan Nafa'a, *The Political Role of the Arab League in the Independence of Some Arab Countries and in the Palestinian Question*, 13 *Ctr. Arab Unity Stud.* 1, 149 (December 1983).

actual. In any case, it is necessarily a temporary one: sooner or later, all the countries in the region must interact and trade with one another—if they are not to be swamped by the growing tide of globalization and the increased splitting of the world into huge trading blocs.

Mid-East Sub-Regional Organizations

Three sub-regional organizations have arisen in the Mid-East to challenge the Arab League as representatives of the region: the Gulf Co-operation Council (GCC); the Arab Maghreb Union (Union du Maghreb arabe (UMA)); and the Arab Co-operation Council (ACC). The literature generally agrees that the most successful of these has been the six-member GCC, bringing together the Gulf Arab states. Thus, it also provides the greatest threat to the cohesion of the Arab League in terms of tension between what is considered best for the GCC and the Arab League.

That these two sets of considerations do not always meet at an agreement point has been shown quite often in the inter-Arab disputes that have taken place. In modern times, these conflicts have been numerous, starting with the Iraq-Kuwait dispute and ending with the division among Arab states with respect to the US invasion of Iraq, which was supported by the GCC but not by the Arab League.

Most of the literature also agrees that the reason for the relative cohesiveness of the GCC has to do with the original reasons for the formation of the Council: the war between Iraq and Iran, and the fear of the Gulf states that the new revolutionary regime in Iran would attempt to destabilize the traditional governments of these states: "For the oil-rich but vulnerable monarchies of the Gulf, the war and Iranian enmity seemed to threaten both their military security and their internal security."²⁸³

When it came to external military security, the Gulf States realized they did not have the manpower to really secure themselves from attack. For this, they have come to rely on Western powers with interests in the region. Thus, the real reason behind the formation of the GCC was to enhance the individual states' internal security—the passing on of intelligence information among the various police agencies.²⁸⁴ This allowed those agencies to identify and monitor the activities of groups that were working to reform the monarchies or to create new forms of government—be they Western democratic or Islamic fundamentalist. As

²⁸³ Tripp, *supra* n. 20, at 293.

²⁸⁴ Joseph Twinam, *The Gulf Co-Operation Council*, in *The Gulf, Energy and Global Security* 113-115 (Charles Doran & Stephen Buck eds., Lynne Rienner 1991).

one commentator puts it, the reason for the GCC's creation was "the maintenance of public order as defined by the regimes in these countries ... It is ... a logical conclusion from the understanding of the nature of those states, their political systems and their priorities within the framework of their current political circumstances."²⁸⁵

In a sense, this was similar to the real reasons for the formation of the League in the first place—the strengthening and enhancement of internal regime security: "When regional organizations lack the power to legislate and implement security policies independently of its member states, the cohesiveness of individual states' security policies acquires the greatest importance."²⁸⁶

However, it is much more difficult to implement the same sort of intelligence gathering and internal security assurances with respect to 22 politically diverse and geographically dispersed states than it is for six fairly cohesive and geographically connected monarchies. In fact, the literature indicates that the rupture between the internal security needs of states such as the members of the GCC and other members of the League such as Iraq, Syria

²⁸⁵ Harb, *supra* n. 170, at 236.

²⁸⁶ Said, *supra* n. 32, at 263.

and Egypt undermines the cohesiveness of the League while strengthening that of the Gulf States.

Such a situation also allows Western powers with interests in the region to drive a wedge between regional and sub-regional organizations as well as between individual states. Thus, it is to the advantage of these external powers to encourage the creation of sub-regional groupings and organizations which they can then manipulate much more easily than they can an entity such as the Arab League. It is a bonus that they are able to undermine the regional organization from within, as it were.

In conclusion, while the GCC possesses similar voting mechanisms as those employed by the League, the GCC has proved more effective in the area it has designated as key to its interests—internal security. They managed to maintain their traditional regimes based on patriarchy and tribal systems:

The ruler in each of these states is a member of a family or a tribe that has imposed its power and control by force. The ruler assumes his authority and tasks in the manner practised by the tribal chieftain. His power is absolute and he selects his advisers from among prominent figures, experts and notables, and is not committed to their opinion ... [I]t is important to point out that the GCC itself was a product of governmental decisions

in which there was no trace of popular participation.²⁸⁷

An examination of the security agreement between the member states of the GCC indicates just how determined these states were to protect themselves from internal disruption, reform or revolution. Article 16 stipulates that the names of suspects should be exchanged among the member states, that the states should be notified as to their movements, and that they should be prevented from freely leaving the country.

If the Council has not been all that successful in other areas—such as the formation of a unified military response team or even economic co-operation among the six states, those failures are much less important than similar failures in the League. At the very least, the GCC has not allowed its voting mechanisms to interfere with its internal security.

Arab League versus European Union

Charter Comparisons

The majority of commentators in the literature review have indicated that one of the major reasons for the relative success of the EU when compared to the Arab League

²⁸⁷ Harb, *supra* n. 170, at 237.

has resided until very recently with the differences in their respective Charters. This is not to deny other significant factors such as (a) the size and influence of the two organizations; (b) the effects of external pressures; (c) the differences in history and governance. There is also no denying that these factors were significant in the creation of the two Charters. However, the Charters were the result and it is there that the differences have played out.

These differences have been most important in two areas: in the voting mechanisms used and in the ability of the organizations to put into force decisions made through those voting mechanisms. In both instances, the EU has opted for some type of majority formula rather than unanimity: in some instances a simple majority but for most important decisions a two-thirds majority. As well, the EU has introduced a weighted system whereby it is not a straightforward one-nation one-vote system but rather a combination of population and political influence. Finally, opting out is not an option for EU members—except for very specific areas. While the voting system may be complex, the EU is able to arrive at a decision at the end of the

process, a decision that includes all the members no matter how they may have voted. This is exactly the opposite of the Arab League mechanism where unanimity clauses have led to stagnation and the constant opting out of member states when they felt that the majority would be against them.

With the new amendments, the Arab League voting mechanisms come closer to those of the EU—and in fact can become even more streamlined than the EU's: no weighting and no allowance for differences in population or influence.

When it comes to the implementation of edicts and rules as well as the mediation of regional conflicts, the EU has the luxury of a standing military wing in the form of the Western European Union (WEU). The Arab League has nothing of the sort and must rely on outside forces to protect its interests—even to the point where one member state attacks another and the aggrieved state must then seek outside help to secure its borders. As stated previously; while the Joint Arab Defense Pact called for the creation of a League-wide military force, that has never been implemented in practice.

Conflict Resolution Success

Again, in conflict resolution, the European Union has been perceived to have had much more success than the

Arab League. There has not been the sense of stalemate and endless debate that has haunted the Arab League all the way back to 1948 and the first Arab-Israeli war. The majority of commentators are in accord when it is said that the post-Cold War conflict resolution achievements alone of the EU far surpass those from the entire 60-year history of the Arab League. In fact, it is only in the post-Cold War period that the EU has been able to fully partake in peacekeeping and conflict resolution on its own, without the umbrella of NATO. This is all the more impressive given the fact the EU has expanded so rapidly in the last decade.

Again, while there are other extraneous factors involved in the EU's increased success in this area, the main one seems to have been the structure of that regional organization compared to that of the Arab League. No one argues that the Arab League should suddenly be able to take part in peacekeeping missions in Bosnia or the eastern Congo, for example. But it should at the very least be able to carry out such missions in its own backyard—and with respect to its own member states. As one commentator indicates:

For almost 60 years, the Arab League has been a lightning rod, reflecting the passions sweeping

across the Arab world. But member states have become increasingly frustrated with the League's inability to take action on the pressing issues which confront the Arab community.²⁸⁸

Naturally, in world of asymmetrical political and military forces, not all the EU's endeavors can be classified as a success. For example, the EU showed some glaring failures in the Balkans and failed to prevent the genocide there. It was left to the initiative of the US and NATO to step in and forcibly prevent the further killing of Muslims in Bosnia and elsewhere in the region. But it cannot be denied that the EU at least tried—and they are now in a position to redress some of those mistakes through their efforts to bring the Balkan states closer to the EU.

There are also, of course, frustrations expressed by some members of the EU, the latest being the rejection of the EU Constitution by France and The Netherlands. But, while some North American commentators are crowing about the impending demise of the EU over the issue, that does not seem very likely; given the interlinked and closely integrated political and economic system that is the EU.

²⁸⁸ Martin, *supra* n. 204, at 28.

The Arab League, on the other hand, has no such interlinks among member states—and that includes trade which is miniscule between them. The lack of such links makes it relatively easier for member states to think primarily about their own internal problems and security rather than in a larger, more regional mind-set: "Amid concerns about maintaining traditional cultural and political conventions, member states found themselves unable or unwilling to take concerted action on any of the major economic or political issues which now confront the Middle East."²⁸⁹

One may have thought that the over-riding link of Arab-ness would have been enough. It may have been to found the League and to serve as a buttress against the Israeli state. But the League's founding fathers did not see far enough ahead to realize that a voting mechanism that allows each member state to maintain every last scrap of sovereignty is dooming the organization to failure—or at the very least to relegation to practically non-entity status, a place for largely ceremonial and symbolic gestures upon which everyone can agree. Most of these are in the fields of cultural exchanges, technology, health care

²⁸⁹ *Id.*

issues and trade rather than the key political areas that the League envisioned as its primary domain.

This is not to say that the recent altering the voting mechanism to eliminate at least in part the unanimity clause will automatically make the Arab League a player on the world political stage. There are obviously other factors when it comes to that determination. It will, however, providing the amendments are ratified, give it a better chance of doing so—by allowing it to put up a united front in real rather than only symbolic terms. At least, that is the speculation and assumption. Only time will tell if: (a) enough members of the League actually ratify the amendments to the Charter (see Appendices A and B) so that it can come into effect; and (b) the ratification and subsequent implementation of the reforms put in place will make a noticeable difference in the League's effectiveness. But the effort has been made and there appears to be no turning around.

Arab League versus African Union

Charter Comparisons

It should be noted first that the African Union is the second attempt by African states to create a regional

(in this case continental as well) organization so that African nations could speak as one on the world stage. Thus, unlike the Arab League, the founders of the AU already had a negative model against which to make comparisons—and the opportunity not to make the same mistakes. They could work to get their Charter into a form that would not duplicate the errors of the previous generation.

In many ways, the old Organization of African Unity was much like the Arab League before the voting amendments. It was perceived by many as inept and unable to get its members to all pull in one direction. In fact, it is argued that the OAU was in an even worse position than the Arab League as it did not even attempt to create some form of symbolic union—and it had no successes whatsoever, as compared to the League which can at least boast some. This is understandable as the OAU arose out of a colonial situation when the concerns were mostly to find ways to protect the region from further post-colonial incursions—and to find ways to lay blame for all the problems of the African continent on the colonial powers, leaving the largely dictatorial governments intact.

The new AU, with the realization it must learn to take responsibility for its own actions, has created a structure and a voting system that resembles that of the EU. In fact, it is simpler than the EU's in that there are no weighted votes: one member one vote; a two-thirds majority passes a resolution. That resolution is then binding on all member states. This contrasted sharply with the structure of the Arab League until the Algeria amendments.

Now, it appears that the League's new charter will have a voting mechanism that is remarkably similar in its key points to that of the AU. Once the new system comes on line, similar questions occur when comparing the League to the AU as happened in comparing the League to the EU. In other words, if one takes the voting mechanism variable out of the equation, will the two organizations start to resemble each other in terms of success rates when it comes to security issues? Will the League be in a position to undertake a peacekeeping mission the same way the AU has (despite all the struggles and lack of funds and materiel faced by the AU peacekeepers)? Can the League serve as a first-line of peacekeeping and contain the situation until more substantial UN forces can be deployed?

Conflict Resolution Comparisons

As for the resolution of conflicts and involvement in peacekeeping, the AU has created a special committee, made up of five members, one from each of the five African regions, as well as 10 elected members serving for two years at a time. This committee is authorized to get the AU involved in peacekeeping, in peace support missions, and in intervention when member states are being subjected to war crimes, genocide, or crimes against humanity.

Although it is still too early to pronounce on how effective this committee will be, its effects have already been felt in the Darfur region of the Sudan. The AU was quick to deploy a peacekeeping force in the area, something which the Arab League failed to do, despite the fact the alleged genocide was being conducted by Islamic militia.

Here we have an example of two organizations, each of which has the same state as a member (Sudan). One organization is able to act relatively quickly and at least put some troops between the two sides; the other engages in rhetoric and cannot agree as to what to do once it is obvious that some form of atrocity is taking place.

Again, while there are extenuating circumstances, it seems the majority of commentators feel that it is the

Arab League structure that has been the main impediment. The AU must have conducted the same types of discussions and arguments as did the Arab League on the pros and cons of engaging a peacekeeping force in Darfur. But once the vote was in, that marked the end of discussion—as there are no veto powers in the AU.

Meanwhile, the Arab League could not bring those discussions to a conclusion: the decision not to send peacekeepers to Darfur was not done in a positive way (through a majority "no") but rather negatively through the League's inability to reach unanimity on the subject. Thus, even in the case where thousands of lives are at stake, the Arab League's structure and voting system placed it on the sidelines.

In an interesting twist, several nations that belong both to the Arab League and the African Union expressed their willingness to supply troops for the AU force. According to Samir Hosni, in charge of the Darfur issue for the League, Algeria, Egypt and Libya "informed the committee of Arab foreign ministers gathered in Cairo ...

to discuss Darfur that they would dispatch troops as part of the African Union contingent."²⁹⁰

This took place at the same time as the Arab League was taking a stand that backed Sudan in the dispute. As well, a commission of inquiry sent by the Arab League to Darfur in May 2004 reportedly concluded that "massive violations of human rights [had been] committed by pro-government militias." But that report was not made public following a protest by the government of Sudan.²⁹¹

At the same time, some analysts argue that the Arab League, because it is so squarely in the middle, has to be an integral part of any permanent solution in the region. According to Egyptian political analyst Hassan Abu Taleb: "If the Arab League is absent from this issue, it will only make matters worse."²⁹² While the Sudanese government is

²⁹⁰ The Namibian, *Arab League Ready to Send Troops to Darfur*, ¶2, <http://www.namibian.com.na/2004/august/national/045D341117.html> (Aug. 16, 2004, 9:57 AM GMT).

²⁹¹ Human Rights Watch, *Arab League: Condemn Atrocities in Darfur*, http://www.hrw.org/english/docs/2004/08/07/darfur9197_txt.htm (Aug. 7, 2004).

²⁹² Cited in Cam McGrath, *Arab League's Ability To Manage Crisis*, ¶16 (August 22, 2004) (available at http://www.sudantribune.com/article.php3?id_article=4874).

naturally suspicious and cautious in accepting help or aid from Western powers, it is less so when it comes from Arab states.

As well, while the Arab League has been accused of not doing enough to "get on side" when it comes to peacekeeping in Darfur, Abu Taleb argues that no permanent peaceful solution is possible without the participation of the Sudanese government: "You have to deal with the Sudanese government as a tool to solving the crisis. We have to help them, not punish them, because if we punish the government we will also be punishing the poor."²⁹³

Abu Taleb also indicates that the situation is much more complex than what has been reported in the Western media, which has a tendency to show only what it feels will move Western viewers. In fact, the present situation is part of a long-standing fight between the Sudanese president and Islamist leader Hassan al-Turabi: "We can't disarm the Janjaweed yet leave arms in the hands of the Darfuri rebels. This would only lead to more bloodshed."²⁹⁴ Thus, the Arab League may not be showing its presence in an obviously visible way in terms of peacekeeping but it may

²⁹³ Ibid. at ¶20.

²⁹⁴ Ibid at ¶23.

yet serve to act as the mediator in terms of coming up with a long-term solution to the problems in the region. On the other hand, Sudan may become another victim of the splits that are threatening the entire Arab community.

Suggested Reforms and Their Effectiveness

Up until very recently, the Arab League had been notoriously slow in even attempting to implement any suggested reforms. As indicated, the reasons behind this foot-dragging had much to do with exactly the kinds of reforms being demanded by those who felt the Arab League was falling into a pit of its own making, a pit that would have made it a simple bystander in its own region—and that is the actual structure of the Arab League voting mechanism.

However, following a series of reforms proposed at one summit (2004) and finally put on the table in 2005, that attitude seems to have changed. The Arab League members, having viewed that pit, have decided at long last that major changes to the Charter were not only needed but needed immediately—or as immediately as possible in a world of slow-moving diplomacy and sovereign self-interest.

It has long been argued that the proposals recently accepted were not only worthwhile but, if ratified by the required two-thirds of the members, would serve to break

open the logjam that now blocks much of the Arab League action.

Among the various reforms suggested were included an Arab court of justice, the creation of a pan-Arab parliament, the setting up of an Arab security order, establishing a form of collective diplomacy, and the abandoning of the rule of unanimity. Of course, it can be argued that the dropping of the rule of unanimity was not on the same level as the other reforms. This was in the order of a meta-reform. In fact, this was what would make some or all of the other reforms possible.

A similar argument pertained if the reformers were to say: "No problem. We will not push for the changing of the unanimity rule at this moment. But let us at least establish that Arab court of justice." The League is immediately thrown into a Catch-22 situation: to create an effective Arab court of justice, one would have to do away with the unanimity clause; to do away with the unanimity clause; one would need the unanimous approval of all the member states of the league ... and on and on.

The same situation occurred with another of the suggested reforms: the reactivation of the Joint Arab Defense Pact, originally designed to protect (a) the League

members from outside security problems; and (b) individual members from incursions by other members. Similarly, the suggestion for the imposition of sanctions for those members who did not adhere to decisions made at the summits fell prey to the same logic: if the Charter says that individual members can opt out of a decision simply by not voting, then how can sanctions be imposed?

Now, with the passing of the amendments that bring into play a two-thirds majority (albeit in a limited form with a 30-day postponement for non-unanimous votes), all those circular arguments go out the window. That it is now possible for the Arab League to implement some real changes has already been shown—with the creation of a transitional Arab Parliament and the bringing together of that parliament for the first time in Cairo.

Granted that this was most probably the easiest of the reforms to pass, given that the parliament will not be able to legislate and will have only advisory duties—much like the experts called upon by the royal families of the GCC, whose advice can be accepted or ignored at the whim of the royal family member who requested it in the first place. So, for the time being at least, this will be a parliament in name only, even if it is an elected body.

But it is a very strong start and may serve to revive the Arab League's fortunes. This will be even more true if the other amendments are ratified. Once that happens, we will then see just how effective the Arab League becomes—and what role it will have to play in the working out of the region's security problems.

Summary

In this chapter, the dissertation has examined the research literature, history and legal/political structures as presented in the previous three chapters, comparing the Arab League, the European Union, and the African Union. The League's pre-amendment charter was compared to those of the EU and the AU to determine what the effects of the respective charters have been on the ability of the regional organizations to act in a quick and decisive manner when dealing with security, peacekeeping and conflict resolution.

The opinions of various commentators and scholars were noted and analyzed and the results presented. It is important to note here that, because this is a qualitative research program, no statistical evaluations were done. Instead, the statements of the commentators were examined and placed in some sort of perspective—and a decision was

made as to whether the commentators approved or did not approve of the way the Arab League conducted its business. Also, reasons were given to explain these opinions.

For the most part, it was agreed that the Arab League did not fare well when compared to the other two organizations. The assumption in this thesis is that this is the result primarily of the League's voting mechanism, a mechanism that was only very recently amended—so recently, in fact, that up to the writing of the thesis, only four of the 22 members had ratified the amendments—Jordan, Yemen, Algeria and Egypt. That means that the amendments will not come into effect until another 11 members ratify it. When that happens, we will then be able to see just how effective the new Arab League will be.

In the next chapter, some general conclusions are drawn from the results and implications drawn from these literature review opinions and statements. As well, some recommendations are made with respect to how the Arab League needs to ensure that its recent reforms are acted upon fully. Finally, some suggestions for future research are made.

CHAPTER 9

CONCLUSION: IMPLICATIONS, AND RECOMMENDATIONS FOR FURTHER RESEARCH

The breakdown of the sections in this chapter on the comparative examination of the pre-amendment voting mechanism of the Arab League consists of the following:

1. The presentation and interpretation of some general conclusions arrived at from the directed literature review on the Arab League, the European Union and the African Union and their respective voting mechanisms (bearing in mind that this is the Arab League's pre-amendment unanimity voting mechanism and not the one presently in the process of being ratified by two-thirds of the member states);
2. Some implications that can be determined as a result of the general conclusions drawn above;
3. Some general recommendations arising from the conclusions and implications—with direct

4. reference to the Arab League's pre- and post-amendment voting mechanism;
5. Other potential model voting mechanisms that could be applied to the Arab League;
6. Some suggestions for further research;
7. Some notes of a personal nature on the overall nature of the research project and the researcher's own reactions to the results found in the literature review.

General Conclusions

From the writings and opinions of the majority of the commentators on the state of the Arab League, it is not difficult to draw the following conclusion: The League of Arab States has not functioned in the past, and is not presently functioning in the manner hoped for by its founders. The reasons for this, according to the same commentators, are varied and complex. But they are generally in agreement that one problem stands out and underpins the rest—and that is the unanimity voting mechanism imposed on the League from the very start and only revoked very recently.

Other regional organizations, such as the European Union and the African Union (as well as the Organization of

American States), have faced similar problems to those of the Arab League. But they have managed to achieve more in the key areas of security, peacekeeping and conflict resolution than the League. The literature on the subject suggests the reason for this is that these organizations do not employ a unanimity voting mechanism, but rather some flexible form of majority vote.

Further proof, albeit of the negative variety, comes from the demise of the predecessor to the African Union, the Organization of African Unity. This was another organization that did not employ a majority voting system but rather one of unanimity and was also unable to achieve many of its goals. Again, the commentators are quick to point out that the voting mechanism may itself be the result of a deeper malaise. In the case of the Arab League, it is generally admitted that the League would never have got off the ground if the various member states had been forced to give up a measure of sovereignty through the acceptance of majority rule. In other words, the League had little choice but to go with the unanimity rule or there would have been no League. At least, that was the assumption at the time, although it is open to

interpretation, especially given the crisis circumstances under which the League was formed.

If the past and the present had not looked too bright for the Arab League, there was little in the future that would lead commentators to speculate on a brighter vision to come. In fact, until very recently (until the Algeria Summit in 2005), it was hard to imagine the setting up of a majority rule organization (with all the rules of democracy in place) by a group of governments that themselves were not democratically elected and that represent several diverse systems of government from full dictatorships and military rule to monarchy and Islamic theocracy—with the occasional democracy thrown in.

However, while this argument might have held for the European Union which is at present a very homogeneous system in terms of kinds of governments, it is not valid for the African Union, which represents as many different types of governmental systems as does the Arab League. Thus, once some of the other variables are removed or treated as equal for both organizations, the voting mechanism factor arises once again as the prime cause of the problems.

One more factor is sometimes brought up as a "special case" when it comes to the make up of the Arab League. That is the effect of the state of Israel being situated in the middle of the Arab League region. The argument here is that it is the tension between Israel and members of the Arab League that leads to a stalemate and the inability of the League to react.

However, while commentators acknowledge that this is an unusual situation and places the Arab League in a unique and somewhat unenviable position, they also indicate that part of the problem has been the inability or unwillingness of the League's members to present a unified face in opposition. This inability or unwillingness has been made possible because of the voting mechanism. Otherwise, the voices of the dissenting member states would be subsumed within a majority decision, a decision that all would have to adhere to or face the collapse of the League. As well, one member state could not effectively sabotage either attempts to confront Israel or to negotiate with it.

This lack of unanimity (within a framework of unanimity of all things) has been most obvious in the Palestinian Question. The Arab League has not been able to come up with a solution to this despite the rhetoric that

has emanated from the summits. Again, this failure is a result of the League's inability until very recently to get past the original reason for its creation—and the original reason for the unanimity clause: the creation of the state of Israel on what was previously Palestinian land.

It must be mentioned, however, that in 2002 the Arab League did offer a way to resolve the Palestinian Question and to ease tensions between Arab states and Israel at the same time. This offer was reiterated in the 2005 summit in Algiers: "[T]he 2002 League initiative is based on the land-for-peace formula: Israel withdraws from all territories it occupied in 1967, allowing for the creation of a Palestinian state, and in return Israel would receive recognition and peace with the entire Arab world."²⁹⁵

Interesting that, after completely rejecting this initiative on both occasions, Israel recently started on just such a project with its departure from the Gaza Strip—and has even hinted that there may be future withdrawals depending on how the Palestinians manage the Gaza Strip. However, it must be remembered that, in this instance, the Arab states had the backing of two UN Resolutions which

²⁹⁵ Valenti, *supra* n. 200, at 34.

were originally authored by the United States. That legal framework and American influence may have put more pressure on Israel than the Arab League itself ever could on its own.

In summing up, the general conclusions of this dissertation are that the pre-amendment voting mechanism of the League has not been conducive to the creation of an effective security function. As well, until recently, the unwillingness of the member states to give up that voting mechanism may have eventually led to the League's demise—or at the very least seriously endangered its viability and credibility.

However, it must now be admitted that the Arab League has taken a very important step towards doing away with the unanimity clause in its charter and has also strengthened the way it implements its resolutions, as well as how it administers any punishment for member non-compliance. The amendments presented at the Algeria Summit and in the process of being ratified may well lead to a much brighter future for the Arab League. The League has shown the type of courage that very few commentators felt that it had. Whether this courage will allow the League to become a tighter, stronger organization depends very much

on how the individual members proceed from here on in. There is still plenty of time to sabotage the reforms and, in the end; it all depends on the political will shown.

Implications for Arab League

Again, until recently, it was felt that, while the demise of the Arab League is not something most commentators anticipated, there was a sense that the League's pre-amendment structure (and the stagnation resulting from that structure) would effectively sideline the League's role as a regional organization more and more, making it a bystander in its own region. That, in some ways, was worse than a declaration that the League was folding up its tents. At the very least, with such a declaration the individual members would be free to decide what agreements and treaties they would like to initiate that would prove best for them, without having to worry about what fellow members might think.

At the same time, whether it was declared dead or only moribund, the Arab League would no longer be in any position to control or protect its members. The members would be even more vulnerable than they are now to groups and nations with interests in the region to set up

bilateral pacts that would see these members create vertical alliances rather than lateral ones.

Already, thanks to the latest failure in trying to set up a pan-Arab trading bloc (AFTA), there is talk of creating smaller Arab trading blocs with the idea that they would one day re-merge into a new version of the Arab League. But, at the same time, both the US and Europe are looking at ways to sidetrack these unification programs by offering packages that would essentially tie these smaller groupings (such as the GCC and the AMU) to either the US or the EU.

The results would be similar to what took place during the Cold War, only this time economically and in trade terms rather than a military face-off. No matter what occurs, however, the Arab region would be in a similar position: carved up among various spheres of influence and forced to compete against fellow Arab states.

At least, if the decision were something made by the people of the region, that might make a difference. But, as one commentator has pointed out: "Whatever choice is made, it will not be the result of any direct input from the populations most affected by it. There has been no

call for a referendum in the Arab world, to determine the form an Arab trade bloc would take."²⁹⁶

This is a significant point, and it goes to the heart of the matter when it comes to the health of the Arab League. Up until this point, and despite all the rhetoric to the contrary, the Arab states seem to have received exactly the type of regional organization they wanted. This was one that did not interfere with the individual states' sovereignty or internal governance in any way. A too strong Arab League might have interfered with this unbridled form of governance.

If this were indeed the case, then as some commentators have pointed out, the real start to any type of reform in the region would have had to be with the governments of the individual states themselves. Only then could the Arab League have had any hope of itself being reformed and brought back to life. The corollary to that argument was that, at present, the chances of such a reform taking place would be practically non-existent. Not only would the individual states be uninterested, but nations from outside the region with oil interests would not be interested in backing any reforms that could disrupt those

²⁹⁶ Martin, *supra* n. 204, at 29.

interests. When they do take the calculated risk of such a disruption, as is presently taking place in Iraq, it is because other nations are also laying claim to the region's resources.

To sum up, the implications for the Arab League were that it had arrived at a point where its voting mechanisms, combined with the particular and specific situation in the Middle East, had left it very vulnerable. This was the theme of many commentators who spoke in doomsday terms of the League's "collapse" or "demise" or "irrelevance". That is no longer the case—or at least is well on its way to no longer being the case. The League has decided, with no help from outside sources, what reforms it had to make and how to make them in order to have a reasonable chance of surviving.

The continued survival and opportunities for increased success of the League in the areas of security and protection hinge on how well those reforms are now carried out (starting with their ratification) and the will of the individual members to carry them out. One cannot look at the voting, implementation and enforcing reforms recently enacted as the end product. In fact, the reforms

recently carried out may not still be enough to ensure the future success of the Arab League (although it can be argued that they do guarantee its continued survival at least into the foreseeable future). The thing to remember, however, is that with the ratification of the two-thirds vote new reform proposals of all kinds will be much easier to pass in the future. That will be the case even when it comes to once again changing the voting mechanism, if need be.

Other Potential Model Voting Mechanisms

Theoretical Considerations

Theoretically, the political reason for forming regional organizations is for members to be able to work in a coordinated manner to achieve some common goals. At the same time, most individual governments want to maintain their sovereignty and the ability to act in a bilateral manner when necessary. Individual governments would naturally insist on self-regulation of internal affairs and thus on unanimity in the decision-making process. But, as has been shown with the Arab League, this is not the best way to maximize group decision-making efficiency. In fact, the use of the veto option on the part of each and every

member of an organization—basically what unanimity voting procedures entail—quickly leads to stalemate.

Basically, voting mechanisms are made up of two key elements:

- Assigning votes to the selected participants in either qualitative or quantitative voting
- The identification of an aggregation rule to clarify what type of majority is needed so as to arrive at either a yes or no vote: simply majority (SM); qualified majority (QM); and unanimity.

Connected to this is the notion of "voting power" and this depends critically on the type of aggregation rule employed by a particular organization: "[T]he basic theoretical lessons include that a dispersed distribution of votes may make small players dummies, qualified majority rules increase blocking power but decrease group decisiveness, and finally, unanimity presents all players whatever their size with the same blocking or veto power but results in little overall voting power."²⁹⁷

The various types of voting mechanisms employed by regional organizations include:

- **One-state one-vote:** If unanimity is used, then sooner or later decision-making comes to a halt. Most organizations that employ the one-state one-vote rule also employ aggregation rules in the order of two-thirds or three-quarters majority.
- **Simple Majority:** The use of one-state one-vote and simple majority decision-making rules results in a high probability of decision-making—as is the case in an institution such as the European Parliament. However, it must be noted that, like most national parliaments, the members of the European Parliament seldom vote as if they were separate from the political parties under which they ran in the first place.
- **Qualified Majority:** The EU uses a voting mechanism that takes into account both quantitative voting and a qualified majority. The qualified majority is necessary because a simple majority system would allow the group of states with the largest pool of votes to form their own bloc much more easily than in the

²⁹⁷ Lane & Maeland, *supra* n. 1, at 9.

present system. The present system requires a 72% voting majority as well as two-thirds of the member states. This increases the blocking power and makes decision-making more difficult. The new draft EU Constitution calls for a qualified majority scheme of 55% of all members and 65% of the population.

- **The Veto:** The best-known employment of the veto rule is within the UN Security Council. When it comes to procedural matters, a three-fifths qualified majority suffices with no veto. For international peace and security issues, any one of the five permanent members can block a decision with a veto.

Three elements must be taken into account when trying to set up a voting mechanism system for effective regional organizations (or for any international organizations for that matter). These are:

- Member state blocking power ability
- Group decisiveness
- Member state power differences.

Which one of these elements takes precedence in any particular instance or situation has much to do with what

the individual governments entering into an organizational agreement consider their priorities—and also what they definitely do not want to happen in such a formation (what they do not want to give up, in other words): “If blocking power was the only consideration, then unanimity will be employed. If decisiveness was the main consideration, then simple majority would be used. Finally, if governments want to recognize differences between states in terms of size and economic power, then quantitative voting should be used instead of qualitative voting.”²⁹⁸

The Arab League Model

Given the nature of the Arab League as it is presently constituted, if one were to start today to plan such a League, the type of voting mechanism that seems most appropriate would be that employed by the European Union Council. Such a mechanism—the quantitative vote plus double qualified majority (percentage of a number or states and percentage of the population)—seems best to fit the blending of the three elements considered most important by individual members—especially members who are interested in preserving their sovereignty.

²⁹⁸ *Id.*

Arab states are very interested in preserving as much of their sovereignty as possible, while, one hopes, still serving as effective members of the regional organization. Thus, they need considerable blocking power in League decisions. However, as has been shown, this should not extend to unanimity, which has already been shown historically to lead to stalemate and the ability of entities from outside the region to "pick off" Arab League states one at a time.

As for group decisiveness, the argument has been made that this type of decisiveness was very important in the past for Arab League states (considering what they felt was a common enemy in Israel and considering their alleged agreement on the Palestinian Question). Also, group decisiveness was supposed to have been built into the notion of eventually creating a pan-Arab state. However, in today's Middle East, the various states have split off into several blocs, some in the form of trading blocs and others security blocs. A simple majority, which serves group decisiveness best, is not appropriate for the reconstituted Arab League. It does not take into sufficient account the differences in size, population,

military and economic strength, and governmental systems among the various states.

It is felt that the qualified majority rule or some variant of that rule provides the best support for the third element in the voting mechanism decision process: member state power differences. This element is a key one in the Middle East with its variety of states and approaches to governance, let alone a legacy from the Cold War that has left many of the states divided and pitted against one another. The voting system has to have some way of indicating the differences between a major state such as Egypt or even a renewed Iraq, and a principality such as Qatar, for example.

Those differences are best reflected in a system that takes into account a state's population and size, while at the same time allowing the smaller less powerful states a voice at the table. Such a system, though somewhat complex and subject to tremendous bargaining and negotiations before it can be set up, best blends the three elements that all states seek. It is not the best of all possible worlds, by any means. But it is probably the best that Arab states can make from the world that they have inherited.

The voting reforms brought in at the Algeria Summit are somewhat simpler than those stated above—and do not capture completely the complexity of how to deal with states with hugely varying populations, military strength, and economies. However, it can be argued they do have the counter-balancing element of the two-thirds majority. Nevertheless, it is still possible for a two-thirds majority of the League members passing a resolution without representing at least 50% of the population of the League. That may lead to some problems in the future. Other problems arise from the fact that consensus is still the first option and, if there is no consensus, then a new vote will be held within one month—at which time two-thirds is all that will be needed to pass a resolution. However, the 30-day waiting period may not be appropriate for security issues and disputes. The time period should be shorter so that the Arab League is not misused as a diplomatic scapegoat by members who want to claim that the consensus is still an option and thus delay crucial resolutions (such as those dealing with genocide and peacekeeping).

Those problems, however, are solvable and resolvable. The elimination of the unanimity rule (subject to ratification—and that is not always a done deal) has

made such solutions possible. Whether they actually take place will depend very much on the will power and determination of the Arab League members to bring out true change and to create the type of organization that will actually have a say in world affairs. After all, in terms of economic power, there is little argument that the Arab League states do have some considerable clout—if only because of their vast oil resources.

Further Research Suggestions

As this is a preliminary literature-based study of the problems encountered by the pre-amendment Arab League voting mechanisms and how it compared to the voting mechanisms of other regional organizations, the potential value of further research exists. Among the suggestions for such research:

- A follow-up on this study using qualitative methods in the form of Likert Scale Questionnaire surveys of a sample population in the Middle East and/or semi-structured interviews with Middle East politicians/technical experts/scholars on the subject of the Arab League's voting mechanism

as it is presently set up versus the pre-amendment rules;

- A comparative analysis using a similar methodology (Likert Scale and/or interviews) with populations from other parts of the world and politicians/ experts/scholars in the Western world to get their views of the suggested new Arab League voting system and what its effect will be on the future effectiveness of the League;
- A quantitative analysis using the Banzhaf Score and Index (the Penrose-Banzhaf-Coleman model) to determine the possible weighted and quantitative vote breakdown of the various Arab League members similar to what has been done with respect to the members of the European Union and its voting patterns;²⁹⁹

²⁹⁹ John F. Banzhaf, *Weighted Voting Doesn't Work: A Mathematical Analysis*, 2 Rutgers U. L. Rev. 317, 318 (1965); Lionel S. Penrose, *The Elementary Statistics of Majority Voting*, 1 J. Royal Statistical Socy. 53, 53-57 (1946); James Samuel Coleman, *Control of Collectivities and the Power of a Collectivity to Act*, in *Social Choice* 1-39 (Bernhardt Lieberman ed., Gordon & Breach 1971).

- Research into the actual creation of a formal voting mechanism model based on that used in the European Union Council to determine whether such a model would be practical for the Arab League: votes weighted by some combination of population, economic and military power, influence, etc.; fine-tuning of the balanced blending of qualified majority in terms of population and double qualified majority in terms of what percentage of the number of members voting "yes" is enough for a decision to be made. This would entail detailed examination of the population statistics, GNP, military capacity, etc., of each member state and then turning that into a number that can be used to determine what the voting power of that member would be.

There is little doubt as to the usefulness of such research. Not only would such research be valuable in a theoretical sense for any regional organization looking to increase its decision-making capacity, but also in practical terms for the Arab League itself. Such research might even help Arab League members to learn how to handle

their new voting rules and how to best make use of their new resolution-passing powers, helping to move the League into the 21st century.

Personal Remarks

While it is clear to this researcher that the problems surrounding the Arab League are many and that any solutions suggested cannot be simplistic or unattainable, it is also obvious that a continued attempt must be made to find some answer to the dilemma. The alternative is not something that most of the Arab population wants to see: a fragmentation of the League and a return to the days when neighbor fought neighbor.

Again, there are those who would argue that such internecine conflict occurred even after the League came into effect. This is admittedly true, but was it the League that brought it on? Was the League the cause of it? Or did the League, by focusing on the singular issues of Israel and the Palestinian Question, help to reduce such fighting?

It is the belief of this researcher that the last interpretation is closest to the truth. It also goes to explain why the Arab League has become less and less effective as both the existence of Israel and the

Palestinian Question have become items on a negotiation list rather than ideological objects of an intransigent nature.

If this is the case, then it follows that, for the Arab League to be refreshed and to regain a foothold in world affairs, it would have to look at changing the way it conducted business—in particular, how it made its decisions. In this dissertation, a comparison with other regional organizations has been made with respect to their voting mechanisms (using naturally the Arab League's pre-amendment unanimity clause as there has not been enough time to analyze the new voting rules). It is the belief of this researcher that the adoption of an alternative voting mechanism (such as the Arab League has done in principle and is on the verge of ratifying and implementing) or a cobbling together pieces from several types of voting mechanisms can be the start of just such a resuscitation of the League.

There was a time when the researcher was of the opinion that no such changes in the voting mechanism would ever come about without changes being made in the structure of the governmental process within individual states. For one thing, the actual populations had to be brought into

the process and given a voice in what was taking place. This opinion has obviously changed now that the Arab League has indeed carried out needed reform in its voting mechanism without doing much about the underlying governmental processes. Thus, it seems that external forces became so strong that the individual League members put aside their differences to come up with a new voting mechanism, albeit still a tentative and fragile one.

However, that does not mean that those underlying governmental processes can remain dormant or undisturbed while voting reform goes forward. The dissertation has shown how the democratization process is reciprocal in nature. Democratic states will create democratized regional organizations; autocratic regimes will be reflected in the nature of the regional organizations created (for example, the GCC as a creation of monarchies and principalities). Conversely, democratized regional organizations can greatly enhance the democratization process within individual member states.

In conclusion, this researcher's most fervent hope has reached stage one, as we can call it: against all odds, the League of Arab States has had the courage to move forward, starting with the abolition of the unanimity

clause. At one time, the researcher felt that, if the League could not do that and do it quickly, lacking the will to change needed from each and every member state, then perhaps the best thing that could happen would be the collapse of the League as it was then constituted. From the ashes of such a debacle, a new league could then rise, one which would find a more effective voting mechanism in order to enhance the organization's security functions, lend weight to its decisions, and give the dream of Arab unity another chance on the world stage.

There is no need for that now. The Arab League has indeed started to pull itself up by its own bootstraps. With the unanimity clause vanquished, the League will have one less excuse for not fulfilling its original mandate—especially towards the security of the region.

APPENDIX A:

RESOLUTIONS AND COMMITMENTS

The Organization Following up on the Execution of Resolutions and Commitments

The Council of the Arab League at the Ministerial level, after reviewing:

The Memorandum of the General Secretariat;
The Resolution of the Arab league in its Summit Session number 293 dated March 23, 2005 regarding the approval to create the Organization; and
The recommendation of the Legal Affairs

It is hereby resolved:

To approve the "Founding Law for the Organization Following upon the Execution of Resolutions and Commitments" according to the attached wording.

Arab League Council Ordinary Session # 124 - C2 (Resolution No. 6577, September 8, 2005)

The State of Qatar shall be responsible for keeping the Founding Law of the Organization. Founding Law for The Organization Following up on the Execution of Resolutions and Commitments

Article One

This Law shall be named: "Founding Law for the Organization Following Upon the Execution of Resolutions and Commitments"

Article Two

The following terms shall bear the meaning stated beside them:

League: League of Arab States

Charter: Charter of the League of Arab States and its appendices

Organization: Organization Following up on the Execution of Resolutions and Commitments

State: Member state in the League of Arab States

General Secretariat: The General Secretariat of the League of Arab States

Resolutions: The resolutions issued by the Council of the League of Arab States in its Summit Meetings

Commitments: Commitments stated in the Charter of the League and also the ones resulting from the resolutions of the League of Arab States in its Summit Meetings

Article Three

- The Organization is formed of representatives of the member states of the Special Troika at the Council of the League at the Summit Level and representatives of the member states of the Special Troika at the Council of the League at the Ministerial Level , with the participation of the Secretary General.
- The Chair of the Organization shall be the Minister of Foreign Affairs of the State that is Chairing the Summit.
- The quorum for the Meetings of the Organization shall be met with the attendance of two-thirds of committee members by their ministers.

Article Four

A representative of a non-member state in the Organization can attend its meetings pursuant to an invitation sent by the Chair of the Organization, after consulting with the Secretary General, if it is necessary to review the opinion of this State regarding an issue that is of importance to this State.

Article Five

The Organization shall be responsible for:

- a) Following up on the execution of the member states to their commitments stated in the Charter.
- b) Perform the necessary negotiations and communications to follow up on the execution of the summit resolutions and

- any new issues arising with the member states and other states or regional and international organizations.
- c) Taking recommendations aimed at the execution of the summit resolutions and submitting suggestions which it sees appropriate in this respect.
 - d) In the framework of executing the commitments resulting from the provisions of the Charter and the summit resolutions and to facilitate removing any obstacles, the Organization shall present the issues which it sees as important enough to be discussed, and take the necessary resolutions regarding such issues in its ordinary and extra-ordinary sessions of the Council of the League at the Ministerial Level, Economical and Social Council and any other councils or ministerial committees.

Article Six

- A) The organization shall study the status of the execution of the resolutions and commitments mentioned. A State shall be considered in breach of its commitments under the following conditions:
 - Non-compliance with the provisions of the Charter.
 - Not executing the resolutions of the Council at the summit level.
 - Non-compliance with its financial obligations towards the League.
- B) Any emergency facing such a state shall be taken into consideration based on a request submitted to the Secretariat, which shall be decided upon by the Council at the summit level pursuant to a recommendation from the Council of the League at the Ministerial level.

Article Seven

The General Secretariat shall submit a report on the extent of the execution of the resolution to the Organization, after conducting all the necessary negotiations with the state or the States in question.

Article Eight

- a) The Organization shall review all reports sent to it by the General Secretary.

- b) The Organization shall hear the views of the State that is in breach and discuss them.
- c) All deliberations of the Organization shall be in camera, without the participation of the State that is in breach.
- d) The Organization shall issue its recommendation with two-third of the members voting, without the participation of the State in breach, if the State is a member of the Organization. The Organization shall submit its recommendations to the League Council at the Ministerial level.

Article Nine

The Council of the League at the ministerial level shall reprimand the State in breach. If such breaches recur or they are of great significance, the Council at the Ministerial level shall refer the matter to the Council at the Summit Level to take the necessary actions.

Article Ten

The disciplinary procedures which the Council of the League can undertake at the Summit level towards the State in questions shall include:

- a) Depriving the State of privileges and programs offered by the League
- b) Depriving the State of its right to vote for at least one whole ordinary cycle at the Summit level.
- c) Depriving the State of the right to attend Council Meetings and its committees for at least one complete ordinary cycle, at the summit level.
- d) Suspending the State's membership in the League for a period decided upon by the Council at the summit level.
- e) Discharging the State from the League pursuant to the provisions of Article Eighteen of the Charter of the League.

Article Eleven

- a) The Council, at the summit level, after exhausting all other means, shall enforce the procedures and measures stated in Article Ten of this Law in a gradual manner when issuing its resolutions against the State which breached its commitments. The Council at the Ministerial level shall, by authority given to it by the Council at the summit level, review such procedures and measures in

light of any development arising in the situation of the State in breach during the cycle. The Council may temporarily suspend such measures if the State has fulfilled its commitments, or make a recommendation to the Summit to carry on with the next procedure.

- b) The State with measures were taken against it pursuant to Article Ten of this Law may request a review of this resolution based on justifications submitted or fulfilled commitments. The Council, at the Ministerial Level, pursuant to a recommendation from the Organization, may suggest the appropriate measure based on this request.

Article Twelve

- a) The Organization shall hold two ordinary meetings at the ministerial level annually.
- b) The Organization shall hold a preparatory meeting at the permanent representatives' level before the date set for any of the ordinary meetings of the ministers.
- c) The Chair of the Organization, any of the members of the League, or the General Secretary all have the right to call an extra-ordinary meeting at the Ministerial level. This shall be done, in consultation with the Chair of the summit and the General Secretary, to discuss any specific issue or subject within the jurisdiction of the Organization.

Article Thirteen

The Organization shall hold its meetings at the General Secretariat or within any of the Member States which may ask to host a meeting.

Article Fourteen

- a) The Organization shall present a semi-annual follow-up report to the ordinary session of the Council of League at the Ministerial Level in September. This report shall be presented by the Secretary General to the Summit Chair.
- b) The Organization shall present its final report for the previous year at the summit preparatory meeting of the Ministers of Foreign Affairs in March, and it shall be submitted by the General Secretary to the Summit Chair in preparation for its presentation at the Summit Meeting.
- c) The Organization reports shall be listed as a standing agenda item on the agenda of the Council of the League at

the Ministerial Level in the September session, and of the Council League at the Summit Level.

Article Fifteen

The General Secretariat shall prepare for the meetings of the Organization and shall be responsible for circulating all reports and recommendations issued by it to all the member states after every meeting.

APPENDIX B

ARAB PARLIAMENT
Charter Amendment

Development of the Joint Arab Action and Its System:
Amendment to Some of the Articles of the Charter of the
League of Arab States. The Council at the Summit Level,
after reviewing:

The Memorandum from the General Secretariat

The report of the General Secretary about the Joint
Arab Action, and

The Charter of the League's appendix regarding the
periodical sessions of the Council at the Summit Level; and

- Pursuant to the provisions of Articles (19) and (20) of
the Charter of the League of the Arab States, and in
order to catch up with the Joint Arab Action due to the
acceleration of developments on the international
relations front, and the development of the systems in
effect in the international and regional organizations;
and
- In pursuing its desire to develop the Joint Arab Action
in order to achieve its desired goals; and
- Further to resolution number 256, ordinary session number
16 in Tunisia 2004 regarding amendment of the Charter and
the development of a Joint Arab Action; and
- Pursuant to Resolution number 6479 dated January 13, 2005
issued by the Council of the League of the Arab States in
its extra-ordinary session and pursuant to Resolution
number 6485 dated March 3, 2005 issued by the Council of
the League of the Arab States at its Ministerial Level in
its ordinary session # 123 in this regard,

THE COUNCIL RESOLVED:

First: Entering the following amendments to the Charter of
the League of Arab States:

First Amendment

To add a new article to the Charter as follows:

Within the frame of the League of Arab States there shall
be an Arab Parliament; its Founding Law shall specify its
structure, tasks and jurisdictions.

Second Amendment:

Paragraph "2" of Article (6) shall be amended as follows:

The Council shall decide on the necessary measures to stop this aggression and shall issue a unanimous resolution in its regard. If this is not possible, the Resolution shall be passed with the consent of two-thirds of the present member states and their participation in the vote. If the aggression is from a member state, the vote of this State shall not be counted in the majority of votes.

Third Amendment:

Agreement to replace the text of Article (7) of the Charter with the following text:

1. The attendance of two-third of the member states shall constitute a quorum for any session to be held for the Council of the League, the Social and Economic Council, and other Ministerial Councils working under the frame of the League.
2. Not to violate the provisions of paragraph 2 of Article Six and paragraph 2 of Article Eighteen, resolutions shall be passed first with unanimous votes, whenever it is possible.
3. If a unanimous vote cannot be achieved, pursuant to paragraph 2 of this Article, the following action shall be taken:
 - a) The Resolution shall be postponed to the next session.
 - b) If the matter is of an urgent nature, an extra-ordinary session shall be held within one month.
 - c) If a unanimous resolution shall not be reached, then the resolution shall be passed with two-third of the votes of the member-states present. This applies to the resolutions pertaining to specific issues.
 - d) A simple majority of the present member states and their participation in voting shall pertain to other resolutions which do not fall under the provisions of paragraph "C" of this Article, and in consideration of the provisions of paragraph 4 of Article Five and the provisions of Article Sixteen of the Charter.
 - e) The by-laws of the mentioned Councils in paragraph (1) of this Article shows the procedure on how to vote if a

unanimous vote cannot be reached.

Second: These amendments shall take effect after filing the ratification documents with the General Secretariat by the majority of the member states.

Arab League Summit Resolution No. 290, ordinary session No. 17 (March 23, 2005)

Development of the Joint Arab Action and its System: Specifying Matters of Specific Issues and Procedures for Resolutions The Council at the Summit Level, after reviewing:

The Memorandum from the General Secretariat

The report of the General Secretary about the Joint Arab Action

The executive steps taken by the General Secretary in the process of following up on the Development and update of the System of the Joint Arab Action,

- and pursuant to its Resolution number 256, ordinary session number 16 in Tunisia 2004 which required amending the Charter of the League of the Arab States pursuant to Articles (19) and (20) of the Charter, and pursuant to Resolution number 122 of the Council of the League at the Ministerial Level in its ordinary session number 6427 on September 14, 2004, and pursuant to the Resolution of the Council at the Ministerial Level at its extra-ordinary session number 6479 dated January 13, 2005, and pursuant to the Resolution of the Council at the Ministerial Level at its ordinary session number 6489 dated March 3, 2005, and pursuant to the resolution of the Council at the Permanent Representative Level in its extra-ordinary session number 6481 dated February 9, 2005 in this regard,
- and in light of the discussions and deliberations:

THE COUNCIL RESOLVED:

To assign to the Council at the Ministerial Level and the General Secretariat consideration of any specific issues, procedural actions, and plans to execute resolutions in an extra-ordinary meeting to be held before the end of this year in preparation for its presentation to the Council Meeting at the Summit Level in its 18th ordinary session.

Arab League Summit Resolution No. 291, ordinary session No. 17 (March 23, 2005)

Development of the Joint Arab Action and its System:
Creating the Transitional Arab Parliament The Council at
the Summit Level

- after reviewing:

The Memorandum from the General Secretariat

The report of the General Secretary about the Joint Arab
Action, and

- Pursuant to the provisions of Articles (19) and (20) of
the Charter of the League of the Arab States, and
- In its desire to develop and upgrade the institutions and
systems of the League
- In consideration of the importance of consulting and
expanding on the participation of the people as the
foundation of democratic development; and
- In our belief that the Arab nations are anxious to build
closer ties amongst themselves, and in contributing to
creating an Arab System fulfilling the aspirations of the
Arab nation for economic, social and political
development and respecting the law and supporting human
rights, and to reach an integrated Arab unity; and
- In response to the desire of the Arab people and its
representative institutions to establish the Arab
Parliament to serve its interest and support its
solidarity; and
- In execution of its resolution number 256, ordinary
session number 16 in Tunisia 2004 which required the
development of a Joint Action; and
- Pursuant to Resolution number 6479 dated January 13, 2005
issued by the Council of the League of the Arab States in
its extra-ordinary session in this regard,

THE COUNCIL RESOLVED:

1. To create a Transitional Arab Parliament for a period of
five years, may be extended, to a maximum of two years,
starting from the date of the first meeting it holds. This
is considered as a transitional phase towards creating a
permanent Arab Parliament. The Transitional Arab Parliament
shall consist of four members for every member state of the
League of the Arab States and shall work pursuant to its
Founding Law, attached to this Resolution.

2. The General Secretariat shall be instructed to prepare the financial budget (cost) expected for the creation of the Transitional Parliament and to present it to the Council Meeting at the Ministerial Level in its next meeting.

3. The General Secretary of the League shall be responsible for sending out invitations to hold the first meeting of the Parliament after its formation.

Arab League Summit Resolution 292, Ordinary session 17
(March 23, 2005)

FOUNDING LAW FOR THE TRANSITIONAL ARAB PARLIAMENT

Article (1)

A Transitional Arab Parliament shall be created for a period of five years, which may be extended by a maximum of two years, starting from the date of the first meeting it holds. This period is to be considered a transitional phase towards creating a permanent Arab Parliament. The Transitional Arab Parliament shall consist of four members for every member state of the League of the Arab States

Article (2)

The members of the Transitional Parliament shall be nominated by their legislative assemblies or the equivalent in their countries, while giving consideration to the representation of women in the Parliament.

Article (3)

The Transitional Parliament shall have its own independent budget. The budget shall be prepared and executed pursuant to the fiscal by-laws and accounting procedures established by the Parliament. The resources of the Parliament in its transitional stage shall be made up of equal contributions from member states, in addition to other approved resources.

Article (4)

Every national parliament shall be responsible for the living expenses and operating costs of its representative in the transitional parliament.

Article (5)

- a) The headquarters of the Parliament shall be in the Arab Republic of Syria.
- b) The transitional parliament may hold its meetings in any Arab country upon making a resolution and pursuant to an invitation from that member state.

Article (6)

The League Council at the Summit level shall determine the date of the first session of the Transitional Parliament upon the completion of its formation.

Article (7)

The Transitional Parliament shall form its own by-laws, offices and committees.

Article (8)

The Transitional Parliament, before the end of its term, shall prepare the Founding Law of the Permanent Parliament and this Law shall be effective after it is ratified by the League Council at the Summit level.

Article (9)

The Transitional Parliament shall have the following jurisdictions:

- a) Research means to enhance the Arab relationship within the frame of the League, its laws, Charters and effective Arab agreements.
- b) Discuss issues related to enhancing the Joint Arab Action and issue its opinion and recommendations in its effect. It shall pay attention to the challenges facing the Arab World and its development especially in the human and economical fields and economic integration in the Arab World.

- c) Discuss any issues referred to it by the Council of the League at the Summit level, at the Ministerial Level or the General Secretary of the League and to give its opinion on those issues. It shall have the right to issue recommendations to their effect to be considered when the appropriate councils make their resolutions for such issues.
- d) Discuss projects of collective agreements between Arab countries which are referred to it by the Council of the League.
- e) Hold cooperative relationships with Parliamentary federations, international parliaments, at the regional and national levels to serve the interest of the Arab nation, its security, peace and settlement in the region.
- f) Approve the budget for the Transitional Parliament and the final accounts.
- g) Be briefed on the annual budget projections of the League of the Arab States.
- h) Approve the by-laws of the Transitional Parliament.

Article (10)

- a) The Transitional Parliament shall hold ordinary meetings at least two times annually, within periods determined in its by-laws. The session for the end of the year shall not be adjourned until the budget is discussed and approved.
- b) All meetings of the Transitional Parliament shall be public unless the Parliament decides to hold them in camera.

Article (11)

- a) The members of the Parliament shall carry out their tasks freely and independently.
- b) The headquarters of the Parliament shall enjoy immunity and privileges which shall be established in the agreement between the parliament and the host country of the headquarters.

Article (12)

The Transitional Parliament shall have a General Secretariat headed by a General Secretary, and the by-laws of the Transitional Parliament shall specify the tasks and

conditions for appointing the General Secretary, his aids and the jurisdictions of the General Secretariat.

Development of the Joint Arab Action and its System:

Creation of the Organization Following up on the Execution of Resolutions and Commitments The Council at the Summit Level, after reviewing:

The Memorandum from the General Secretariat

The report of the General Secretary about the Joint Arab Action, and

- Pursuant to the provisions of Articles (19) and (20) of the Charter of the League of the Arab States, and
- In compliance with the Covenant, Agreement and Solidarity Convention signed by the Leaders of the Arab Countries; and
- In believing that in order to fulfill the goals of the Charter of the League of the Arab States, and to ensure compliance with its resolutions and their execution at all levels; and
- Further to Resolution number 256, ordinary session number 16 in Tunisia 2004 regarding the amendment of the Charter and the development of a Joint Arab Action; and
- Pursuant to Resolution number 6484 dated March 3, 2005 issued by the Council of the League of the Arab States at its Ministerial Level in its ordinary session # 123 in this regard, and
- In confirming the importance of the compliance of the member states to the resolutions and its execution,

THE COUNCIL RESOLVED:

- 1) To create the Organization following up on the Execution of Resolutions and Commitments.
- 2) The Organization shall be formed of representatives of the member states of the Troika of the Council of the League at the Summit Level (Current, previous and successor presidency) and representatives of the member states of the Troika of the Council of the League at the Ministerial Level (Current, previous and successor presidency) with the participation of the Secretary General.
- 3) The Organization shall follow up on the execution of the States' commitments as stated in the Charter or resulting from Resolutions passed by the League at its Summit meetings.

- 4) The Council of the League at its Ministerial Level shall approve the Founding Law of the Organization, which shall establish the methods to carry out its tasks and procedures in its first ordinary or extra-ordinary session.

Arab League Summit Resolution No. 293 - Session # 17 (March 23, 2005)

APPENDIX C:

RESOLUTION REGARDING SUDAN

Supporting Peace, Development and Unity in the Republic of the Sudan

The Council of the League of the Arab States at the Ministerial level, after reviewing:

The Memorandum of the General Secretariat;

The report on the General Secretariat activities during the Period between the two sessions; and

The recommendation of the Political Affairs Committee,

- Confirming its former resolutions in this respect;
- Confirming the implementation of the Comprehensive Peace Agreement in the Sudan signed at the Kenyan Capital Nairobi on January 9, 2005 between the Sudanese government and the Sudan People's Liberation Movement;
- Confirming the respect for the sovereignty, unity of land and independence of the Sudan, demanding all states to practically affirm this commitment and to support all endeavors aiming at reaching peace and national reconciliation among its people; and
- Expressing its deepest concern regarding the developments in the Darfur Region and the human crisis faced by the region's migrants and refugees in Chad,
- has resolved:
 1. Welcoming the steps taken to implement the Comprehensive Peace Agreement between the Sudanese government and the Sudan People's Liberation Movement signed in the Kenyan capital, Nairobi, demanding both parties to continue exerting their efforts to implement the agreement;
 2. Assigning the Ministerial Committee on the Sudan to follow-up on the issue of submitting the financial contributions of the Arab States to the Arab Fund to support Sudan to develop its southern region and the war-affected regions and to set a timetable based on the priorities proposed by the Sudanese government;

3. Demanding the General Secretariat to invite the Member States, the Arab Monetary Fund and the concerned Arab Funds to hold an urgent meeting to discuss solving the issue of the Sudanese debts to them, in support of the peace process and to maintain the efforts of development and reconstruction in all Sudanese regions;
4. Calling upon the Arab States, Funds and financing institutions to continue their efforts and effective participation in "The Fourth Coordinative Meeting for Development and Investment in Southern Sudan" held this year to coordinate developmental investments in Southern Sudan and the war-affected regions particularly in the fields of infrastructure, public and social services;
5. Calling upon the General Secretariat to accelerate the process of inaugurating the Arab League office in Gobi in Southern Sudan to coordinate the Arab aid and to contribute in implementing the Comprehensive Peace Agreement;
6. Confirming the continuation of the efforts of the African Union and completing its task to solve the Crisis in Darfur, particularly the sponsoring of the political mediation, its support and observation of the cease fire signed on April 8, 2004 at Enjamina, the Capital of Chad; rejecting sending any more forces to the region without prior approval from the Sudanese government; demanding the Arab States to provide financial and material support for the mission of the African Union to enable it to continue its duties, calling upon the African Arab states to take part in the forces of the African Union, urging the already participating countries to increase the number of their forces in Darfur;
7. Calling upon the negotiating parties in the Sudanese peace talks for Darfur, held in Aboga, to work hard to reach a comprehensive and final settlement agreement concerning the Crisis in Darfur during the current round of negotiations;
8. Expressing great appreciation to the role played by The Great Socialist People's Libyan Arab Jamahiriya to end the tension between the Republic of the Sudan and the Republic of Chad and confirming the necessity of implementing the Tripoli Declaration signed on February 8, 2006 in order to restore the natural relations between the two neighboring countries;
9. Calling upon all parties in Eastern Sudan to reach an immediate peaceful solution for the crisis through peace negotiations sponsored by The Great Socialist People's

Libyan Arab Jamahiriya together with the participation of the Arab League;

10. Appreciating the positive participation of the Arab League in the peace talks between the Sudanese government and the Armed Movements in Darfur held under the sponsorship of the African Union in Aboga/Nigeria and in the meetings of the Joint Implementation Mechanism between the Sudanese government and the United Nations as well as in the meetings of the Joint Committee concerned with observing the implementation of the Cease Fire Agreement signed between the Sudanese government and the Armed Movements in Darfur, demanding the League to continue its efforts with the concerned parties until a final settlement for the Crisis is reached.

11. Providing immediate aid to the Sudan to support its efforts seeking to solve the humanitarian crisis and restore security and stability in Darfur, extending thanks to the member states that have provided humanitarian aids to the Region of Darfur and calling upon the member states, Arab Organizations, Specialized Ministerial Councils and the Arab grass-roots organizations to provide immediate humanitarian aids and technical support to maintain the direct presence of the Arab States in the Region of Darfur for the purpose of providing humanitarian aid to the afflicted;

12. Extending thanks to the Arab States, institutions and organizations that have responded immediately by providing humanitarian aid to the afflicted in the region of Darfur and calling upon all the Arab parties involved, including the Specialized Arab Organizations and the grass-roots organization, to reinforce their presence in the Region of Darfur and the refugee camps and their provision of immediate humanitarian relief to the afflicted;

13. Appreciating the efforts exerted by the Secretary General and asking him to continue these efforts with the Sudanese government and parties as well as with the regional and international bodies, to boost the peace and reconciliation process in the Sudan and to submit a report to the Council during its next ordinary session.

(Arab League Resolution No. 6619, Ordinary Session #125, C2, March 4, 2006)

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