

Report of the National Council for Human Rights on Human Rights Situation in Egypt in the Context of the Universal Periodic Review

1. The purpose of this report is to objectively contribute to the procedures of the Universal Periodic Review of the human rights situation in Egypt. It abides by the guiding principles established by the UN Human Rights Council and covers the period 2006 - 2009.
2. Before finalizing its report, the National Council for Human Rights Council (NCHR) was keen to organize expanded hearing sessions with different representatives of the civil society organizations concerning the Agenda of the Council to promote citizenship rights and to enhance the respect for human rights. The Council ensured geographic diversity by meeting with representatives from Cairo, Delta and Upper Egypt; thematic diversity by selecting organizations working in various fields, such as human rights, development, woman and childhood and the promotion of the rights of the disabled; and diversity of insights through selecting academic, research and activist expertise.

First: The Legal and Constitutional Context

3. In March 2007, Egypt introduced the first extensive constitutional amendment to the 1971 constitution. The amendment annulled the texts that were overridden by the political and social realities; emphasized the principle of citizenship as the basis for the relationship between the citizens and the State; strengthened the oversight function of the parliament vis-a-vis the Government; and allowed for enhanced representation of women in Parliament.
4. The constitutional amendment, however, allowed for the development of a new anti-terrorism legislation (Article 179) as a substitute for the state of emergency which has been continuous in the country since 1981. In a serious precedent, this constitutional amendment protected/immuned the prospective law from challenging its constitutionality in case its provisions are in conflict with Articles 41, 44 and 45 of the Constitution which provide for personal freedoms, the right to privacy and the sanctity of home. The amendment also empowered/allowed for the President of the Republic to refer any of the terrorism-related crimes to any judicial authority established by the Constitution or the Law including the Military Courts, which may lead to the violation of the principles of fair trial. NCHR has strong reservations with regards to these provisions.
5. Despite the commitment by the Government in 2005 to end, within two years, the state of emergency which obscures several of the guarantees for human rights, the Law was extended in May 2008 for an additional two years. NCHR calls to end the state of emergency and all the exceptional procedures associated with it.
6. NCHR calls upon the Egyptian Government to enter into agreement for technical cooperation with the United Nations Commission to rehabilitate the law enforcement bodies for the post state of emergency phase since these authorities have been used, for consecutive decades, to the exercise of extensive powers under the state of emergency. This is in addition to the rehabilitation of the detainees and prisoners for security and political reasons to integrate them in society and to secure decent sources for their livelihoods following their extended periods of detention.
7. The Government embarked on translating into legislation, some of the principles established by the constitutional amendments. On 8 June 2009, the Government submitted to both chambers of the parliament (Peoples' Assembly and the Shura Council) a positive draft bill for amendments to the Law on the Observation of Political Rights to allocate 64 seats (an affirmative action) for women in the People's Assembly representing 12.5% of the total number of seats after including the additional seats. However, the draft bill limited this allocation to two legislative sessions (ten years) and to the People's Assembly only, excluding the Shura Council and the popular and local councils thus constraining the achievement of the desired goal.
8. The State enacted an amendment to the Child Law (No.126\2008) which introduced important reforms that are in accordance with international standards and the Convention on the Rights of the Child. These included the criminalization of female genital mutilation (FGM), raising the marriage age for females to uphold the principle of equality, raising the age of criminal liability for children from 7 to 12 years and establishing a special jurisdiction to address the situation of delinquent children.
9. NCHR calls upon the Government to expedite the implementation of the principle of citizenship established by the Constitutional amendments in 2007 and to promulgate the Unified Law for Places of Worship which was proposed by NCHR (**Annex 2**), as well as the proposals by the Council with respect to promulgating the Law on Equal Opportunities and the Eradication of Discrimination as well as setting up of an Ombudsman Office to oversee its implementation (**Annex 3**).

Second: Civil and Political Rights

10. Several legislations were promulgated and several procedures were undertaken to enhance basic human rights. Among these are the amendment of the Law on Criminal Procedures No. 145 in July 2007 to reform the pre-trial detention system which was almost transformed into a penalty in its own right and the amendment to the Law on Military Judiciary in April 2007 to establish the right to appeal the rulings of the military judiciary before a higher military court. A coordination committee was also established in July 2007 to combat trafficking in persons and it proposed a draft bill for this purpose. In October 2007, the Transparency and Integrity Committee was established within the Ministry of State for Administrative Development to enhance and promote transparency, accountability and anti-corruption in the civil service and in the government and public sectors.

11. The National Council for Human Rights of Egypt (NCHR) calls upon the Government:

- a. To protect the Right to Life, by amending national legislations to limit the death penalty to only the gravest and most callous crimes in accordance with the Government legal commitments emanating from its accession to the International Covenant on Civil and Political Rights. It is worth noting that the penal laws sanction more than 70 crimes by the death penalty;
- b. To combat torture, by overriding the shortcomings of legislation which in many cases result in perpetrators and collaborators of torture crimes evading severe punishment. This would respond to the legislative amendments proposed by NCHR in this respect. There is also a need to accede to the Optional Protocol of the Convention Against Torture and to respond to the request of the Special Rapporteur for the Combat of Torture to visit Egypt which has been pending since 1997;
- c. To strengthen the Right to Freedom and Personal Security, the Government is urged to respect the rulings of acquittal by the judiciary; to settle the status of the administrative detainees who have completed the duration of penalty or those who were re-detained administratively after exhausting the maximum detention periods according to the Emergency Law. NCHR is requesting to expedite the amendment of the Penal Code to ensure additional protection for women against violence and to promulgate the unified law to criminalize trafficking in persons;
- d. To confirm the Independence of the Judiciary, The NCHR is calling for additional guarantees to ensure the eradication of all forms of interference by the executive authority in the works of the judicial authority such as the adherence to objective and specific criteria with regards to the secondment of judges and their re-assignment as councilors outside the judicial authority; transferring the administrative affiliation of the judicial inspection to the Supreme Council for the Judiciary rather than the Ministry of Justice in a manner that ensures the independence of the judges and enhances their right to a fair trial;
- e. Whereas the amendment of the military judiciary has strengthened the right to Fair Trial for the military personnel and those subject to its rulings by adding the right to appeal, the trial of civilians before the military judiciary and the State Security Courts (Emergency Jurisdiction) at the different stages, still represents a significant loophole in the guarantees of fair trial and NCHR calls for the elimination of all forms of exceptional jurisdiction;
- f. With respect to the treatment of prisoners and other detainees, the Government introduced several improvements to their situation. However, the conditions of detention, in general, remain to be way below the minimum international standards with respect to crowdedness, food and health care. This is based on the numerous complaints received by NCHR in addition to some unjustified constraints with regards to the regulations for conditional release which do not benefit those prisoners who have committed crimes categorized as concerning State Security or as political and security cases. The Council also calls for the amendment of the Prisons Law Number 396 for the year 1956 and its executive regulations to be in line with the minimum standards for the treatment of prisoners and other detainees and to also amend the Criminal Procedures Code to adopt the system of Judicial Supervision of Implementation.** The Council also calls for enhancing the capacities of prisons as rehabilitative, productive and income-generating institutions that would contribute resources to the rehabilitation of prisoners and to improving the living conditions in prisons.

12. At the level of Freedom of Opinion and Expression, in 2006, the Government introduced amendments to the Penal Code with regards to the crimes of opinion. These included the exclusion of some acts from being criminalized; the abolishment of the penalty of imprisonment for some crimes and replacing it with the penalty to pay a fine; the fine-tuning of the wording of some articles to ensure conformity and precision in the standards of criminalization; and the abolition of the penalty to shut down or suspend newspapers. However, these amendments have not stopped penalties that deprive freedoms for journalists in a number of other publishing crimes. Editors-in-Chief of several newspapers were subjected to

imprisonment which was substituted with the payment of fines by the Court of Appeal. The President used his constitutional powers of pardon to avoid their imprisonment. NCHR notes some necessary procedures to enhance the respect for the freedom of opinion and expression such as:

- a. The complete abolition of penalties that deprive freedoms for the other crimes of publishing and which are contained in several laws;
 - b. Amendment of the Law for المرافعات and Criminal Procedures to establish the necessary guarantees to limit the number of lawsuits against intellectuals, writers and journalists which violate their right to freedom of expression, belief, and scientific research. This amendment would respond to the NCHR proposal attached as **Annex 5**;
 - c. Promulgation of a law to ensure the free access to information;
 - d. Respect for the freedom of expression by bloggers in accordance to the law and in a manner that would encourage participation in the political and cultural life.
13. With regards to the **right to establish political parties**, the Political Parties Law Number 40 for the year 1977 and its amendments particularly the implementation machinery "The Political Parties Committee" constrain the freedom to set up political parties. Over the past three decades since its establishment, the Committee has rejected more than 75 applications to set up political parties and most of the present parties have been set-up through judicial procedures. NCHR stresses the need to revisit the laws regulating political parties to codify the constitutional amendments, and to affirm the freedom to set-up political parties and their right to advocate for their policies and programs.
14. With regards to the **freedom to form NGOs**, the NGO Law Number 84 for the year 2002 constrains this right as it stipulates penalties that deprive the freedom of those who violate its provisions. It accords the administrative authority the right to dissolve NGOs by an administrative decree whereas the NGO has to bear the burden of resorting to the Judiciary to contest these decrees by the administrative authority for their dissolution. This has impacted some of the active human rights NGOs and NCHR is calling to expedite the amendment of the law to withhold administrative dissolution by the State which is in conflict with the Constitution, and which would free NGOs of the administrative obstacles and interventions and would broaden the margin for democracy.
15. The same applies to the **Law for Professional Syndicates**. Law Number 100 for the year 1993 represents a major obstacle to the exercise of union rights. It has crippled several syndicates (elections have not taken place in several of these for the past fifteen years) and resulted in a situation where syndicates have been supervised by non-elected committees that have in fact become permanent ones. NCHR calls to expedite the review of the laws regulating professional syndicates to alleviate the current obstacles and to avoid the situations where syndicates would fall within the custody of the administrative committees. This would also ensure a democratic practice in election.
16. The Government reacted positively to several forms of peaceful gatherings such as meetings, demonstrations and sit-ins which have taken place during the recent years covered by this report. However, the law still accords considerable discretionary powers to the security authorities in a manner that impedes the practice of this right on several occasions such that in some cases peaceful demonstrations have turned into riots during which excessive force has been used. NCHR calls to revisit the laws regulating peaceful demonstration and in particular Law Number 10 for the year 1914, some of the articles of which are in conflict with the provisions of the Egyptian Constitution and the Law of meetings and demonstrations, Number 12 of 1923.
17. The Government has been delayed with the implementation of decentralized management/administration in line with the provisions of the Constitution in Article 161. NCHR calls for amendment of the Law for Local Administration to be in accordance with the principles of decentralization.
18. The Government holds presidential, legislative and local elections systematically and periodically in most instances. Although the electoral laws have been reformed several times over the past years, to include the reform of the election system; as well as the supervision and monitoring, they have been marred by shortcomings that have impacted public interest and participation in elections; its integrity and its representation of political and social powers in the society. NCHR suggests that it is important to reconsider the laws regulating legislative and local elections as follows:
- a. Implementing the Proportional List Election System that was successfully implemented in the 1984, 1987 elections with a view to enhancing competition by political parties, women, youth and Copts in a supportive environment.

- b. Revisiting the system of election supervision since several shortcomings were revealed by the local elections that have been conducted after the cancellation of direct supervision by the judiciary over the election stations
- c. Completion of the process to verify and modernize the voter lists ahead of the parliamentary elections by the end of 2010.
- d. Undertaking the necessary action to conduct elections using the National ID Number.
- e. Facilitating for the Egyptian expatriates their right to vote in elections.

Third: Economic, Social, and Cultural Rights

19. Despite the relative success of the Government in increasing the economic growth rate over the past years; in broadening the coverage of the social security and the beneficiaries of the health insurance as well as in enhancing job opportunities, NCHR, however, notes the suffering of citizens in accessing their economic and social rights as well as the increase in the rates of poverty and absolute poverty. NCHR also notes the suffering of citizens in accessing their right to high quality education that qualifies for local and international competition and that enhances human resources; their right to quality health care regardless of the citizens' financial capabilities; their right to safe public transport that respects human rights as well as the guarantee to adequate income for the citizen to secure a decent life. NCHR notes the situation of people living in squatter housing which is widely spread in the society, the existence of which constitutes a violation of citizens' economic and social rights where the estimated number of inhabitants in these areas exceeds 10,000,000.

20. Taking into consideration the two principles of "Capabilities" and "Gradualism" acknowledged by the Covenant on Economic, Social and Cultural Rights, still there are several means whereby the Government may cater for economic and social rights of which the NCHR considers the following to be priorities:

- a. The establishment of a social security network that provides insurance against unemployment, sickness, and ageing, that takes into consideration equity in the distribution of resources and in the alleviation of burdens as well as the protection for the vulnerable groups in the society;
- b. Promulgation of the Law for Equality and Equal Opportunities which NCHR has called for and the setting-up of the Ombudsmen Office/ Public Commissioner to oversee its implementation;
- c. Operationalization of the measures for transparency, anti-corruption, anti-trust and accountability procedures and restoring the prestige and respect for the immunity of public funds through legislative and administrative procedures which are necessary in accordance to the provisions of the United Nations Convention Against Corruption which was ratified by Egypt and published in the Official Gazette.

21. Paying special attention to the efforts in support of **the Egyptian migrant citizens and the expatriates** who were officially estimated to be around eight million citizens and to especially support their integration into the communities of the migrant countries; to motivate the establishment of linkages with their country through legal protection, to facilitate outreach with their country; to encourage them to invest savings in their country and to enhance the institutional set-ups within the Ministries of Foreign Affairs and Manpower for their support.

22. Calling upon the Government to promulgate new legislation that guarantees respect for the citizen right to health care such that catering for this right will not be subject to the financial capabilities of individuals and to ensure that the access to and the quality of this service is equitable for all geographic regions and for all individuals in the society.

23. Strengthening efforts of the State to stop **school dropouts**, and to ensure its commitment to eradicate illiteracy by the year 2015 to achieve the Millennium Development Goals (MDGs).

24. In the context of **strengthening development efforts**, the Council renews its call upon the Government to develop a comprehensive plan, with a time frame that does not exceed five years, to clear the north-west coast from landmines within an international framework of cooperation with the participation of those countries that were parties to the Second World War and with the participation of international organizations working in this field.

25. Calling upon the Government to ensure that all its plans are inclusive of the protection of the environment; and the rights of future generations to natural resources and their protection against all forms of pollution which has become one of the major threats to the right to health and the right to development in Egypt.

Fourth: Disseminating/Promoting the Culture of Human Rights

26. The culture and knowledge of human rights is a core challenge to the Egyptian society .Despite the increased governmental efforts to promote this culture since 1999 through conducting training programmes targeting police officers, prosecutors, judges, the media, journalists and human rights activists.NCHR is of the opinion that these efforts have not yet attained the desired goal and that there is a need to increase its effectiveness and to broaden its scope.

The Government has recently also collaborated with NCHR to promote the culture of human rights. The Ministry of Information has established institutional relations with the NCHR and the Government has declared its intention to integrate the National Plan for Human Rights prepared by the NCHR in the State Five-Year Plan.

27. The Ministry of Education has endorsed the NCHR report with regards to clearing the school curricula from subjects that are in conflict with the human rights principles and also with regards to enhancing the human rights values in these curricula. NCHR had conducted specialized surveys for this purpose and the Ministry of Education has already acknowledged some of the recommendations by NCHR and pledged to implement them within three years.

Fifth: International Obligations and Optional Commitments

28. Egypt has acceded to most of the international human rights conventions, and pledged to accede to the International Convention for the Protection of All persons from Enforced Disappearance. However, despite its early opening up to international standards, Egypt did not accede to the Optional Protocols to the two Covenants nor to other international conventions such as the Optional Protocol establishing the Sub-Committee to Combat Torture.

29. Egypt also acceded to several ILO conventions concerning human rights with regards to slavery, forced labor, freedom of association, collective bargaining, eradication of discrimination, ,الوظائف و استخدام الأطفال, and the filling of posts, and the exploitation of children.

30. Egypt had no reservations to any of the provisions of the Convention Against Torture and the Convention on the Rights of Persons with Disabilities; except for an explanatory statement for one of the provisions. In July 2003, Egypt withdrew its reservations on the Convention on the Rights of the Child concerning adoption (Articles 21 and 21); and in 2008, it withdrew its reservation on Article (9/2) of the Convention on the Elimination of All Forms of Discrimination against Women with regards to granting women, like men, an equal right concerning the nationality of her children. Egypt, however, maintains its reservations to Articles (2) and (16) of the same Convention and also has reservation on articles (4) and (18/6) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

31. The Council calls upon the Government to honor its pledge to expedite the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and to accede to the Optional Protocol to the Convention Against Torture. The Council also calls upon the Government to reconsider its reservations to the conventions that it has ratified and to determine their scope and to withdraw its reservation on Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, which represents the essence of the Convention.

32. Within the context of the voluntary pledges by the Government and the directions of the National Council for Human Rights, the NCHR is calling for :

- a. Hosting the OHCHR Regional Office for North Africa;
- b. Since Egypt's international commitments are broader than the provisions of the Arab Charter for Human Rights, the NCHR invites the Egyptian Government to further develop the Charter so that it is in line with international standards;
- c. Accession to the Charter to set-up the African Court for Human and Peoples' Rights;
- d. Cooperating with international machineries/monitoring bodies to honor Egypt's obligations especially with regards to addressing an open invitation to these procedures to visit Egypt;
- e. Establishing a governmental mechanism to cooperate with NCHR and NGOs to follow-up on the implementation of the recommendations emanating from the Universal Periodic Review and other treaty bodies that were established by conventions ratified by Egypt.