

**Arab Republic of Egypt**

**National Council for Human Rights**

**Annual Report  
of  
The National Council for Human Rights**

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## Foreword

In 1945, the United Nations' Charter laid the cornerstone for enjoyment by individuals of a number of rights after its drafters correlated the relation between international peace and security on one hand, and respect for human rights and fundamental freedoms for all persons without discrimination on the other.

The United Nations did not settle for incorporating into its Charter several provisions on human rights, but it set out to supplement these provisions by adopting many international instruments and agreements covering various aspects of human rights and fundamental freedoms.

In the forefront of these provisions are the "International Legitimacy of Human Rights", which comprise the Universal Declaration of Human Rights of 1948; the International Covenant on Civil and Political Rights of 1966; and the International Covenant on Economic, Social and Cultural Rights of 1966.

This is in addition to the First Optional Protocol to the International Covenant under which the Commission on Human Rights is to receive and review letters submitted by victims of violations in respect of any the rights therein enshrined.

At the internal Egyptian level, upon the enactment of the Constitution of 1923, the Egyptian political system then in power contained provisions granting rights and human freedoms to citizens. This political system

found ideological and cultural bases in its ancient Egyptian heritage and in the Islamic culture which regards the human person as a revered creature enjoying, by virtue of his humanity, a number of rights and freedoms that proscribe any political authority from violation or infringement thereof.

This reverence has been reflected in the subsequent Egyptian constitutions, the most important of which were the Constitution of 1956 enacted following the Revolution of 1952, the Constitution of the United Arab Republic signed in 1958 following the union of Egypt and Syria, and, finally, the present Constitution enacted in 1971.

With these constitutional provisions and the legislations issued thereunder, the Egyptian judiciary assumed a leading and honourable role in granting judicial protection to the rights and freedoms of Egyptians. At the forefront of these rights and freedoms are the right to life and security of person, freedom of belief and expression, the right to private property, and the right to resort to courts of law, and to fair investigation and trial when charged with an offence.

The Egyptian legislator promulgated Law no. 94 of 2003 on the establishment of the National Council for Human Rights (NCHR) amid a shift in world-wide public opinion towards more protection of rights and freedoms and amid greater emphasis on political, constitutional and economic reform in Egypt and radical changes thereto.

The most important changes were:

- the gradual shift from a socialist regime to an economy driven by the forces of supply and demand and by private sector enterprises,
- the transfer from a one-party political regime to a multi-party one;
- the increased awareness of the importance of public participation in political and economic decision-making to realise economic growth and development.

The object of this Law is to promote, ensure respect, set values for, raise awareness and ensure observance of human rights.

Accordingly, the first NCHR was established in Egypt, and its first meeting was held on 18 February 2004. Pursuant to Article 13 of this Law, the NCHR shall prepare an annual report covering its efforts and activities and shall incorporate therein recommendations deemed appropriate within its functions, and shall present its report to the President of the Republic, the head of the People's Assembly and the head of the Shoura Council.

This is the first report prepared by the NCHR in application of its promulgating Law and it outlines the activities of the NCHR from 14 February 2004 up to the end of February 2005.

However, this report is to be read in light of the special nature of the

NCHR. This nature does neither render it under any circumstances a governmental agency or organisation as imagined by some, nor make it a civil society organization that emerges spontaneously and voluntarily with the accord of the wills of some individuals interested in human rights and seeking to identify, prevent or stop the recurrence of cases of violation of rights and freedoms.

This special nature of the NCHR led it to build bridges with ministries and other official entities of the State. Through these bridges the NCHR seeks to encourage these ministries and entities to respect and undertake to promote human rights, each within its respective competence.

A five-member committee composed of the deputies of the Ministers of Foreign Affairs, Justice, and the Interior and the Assistant Public Prosecutor was thus established and is convened at the NCHR.

For this reason, the report outlines the activities undertaken by, and the measures and arrangements instituted on the part of these ministries and the other agencies to ensure respect for citizens' rights and freedoms.

The special nature of the NCHR also prompted it to build bridges with civil society organizations working in the field of human rights.

The report relies in all its chapters on the available sources of data and information collected as a result of liaison with the concerned agencies, after being reviewed, analysed and evaluated. The most important sources are:

- Complaints received by the NCHR; findings of the follow-up on such complaints with complainants; answers received to questions raised (in many cases) by the NCHR;
- Reports received by the NCHR from human rights NGOs.
- Data and reports received by the NCHR from ministries and other bodies.
- Communications with the UNHCHR, national institutions in some countries, and international, NGOs.

Within this framework and despite the detailed data on some human rights and freedoms violations committed during 2004 that the reader will find in this report, the accuracy and objectivity used in describing "the conditions of human rights in Egypt" and the position of some governmental bodies on related issues, such as torture and repeated detention owing to application of the Emergency Law, calls for the NCHR to report, in appreciation, the compliance of most of the ministries and their subordinate bodies with the comments and recommendations

successively made by the NCHR.

An example of this is the compliance by the Ministry of Justice (MoJ) and the Public Prosecutor with the comments of the NCHR on provisional detention, and travel interdiction. In this regard, committees were set up at the MoJ and the office of the Public Prosecutor to review the legislative provisions on these two procedures. The Public Prosecutor issued orders to prosecutors to apprehend absconding individuals charged with crimes relating to investment and non-performance and to release them once they voluntarily return and turn themselves in to renew the legal procedures taken against them.

The report also credits the MoJ with responding to many of the NCHR's recommendations. It voluntarily undertook to cancel punishment by flogging in prisons, to remove the wire partitions separating prisoners from visitors, and to intensify training programs for policemen and incorporate therein detailed education on human rights concepts.

The Ministry, moreover, intensified its efforts to improve the living, health and educational conditions of prisoners. It was keen to learn the point of view of the NCHR on torture and detention and its recommendation to terminate the state of emergency.

The Ministry expressed its opposition to the NCHR regarding the

amendment of some constitutional provisions concerning these issues, which are contained in the Penal Code and in the Criminal Procedures Law. It also renewed its reservation on the NCHR's call to terminate the state of emergency.

The reader will find in this report a description of the five-member committee, which convenes monthly at the NCHR's premises. Its members are the deputies of the Ministers of Foreign Affairs, Justice, and the Interior and the office of the Public Prosecutor, to continue the dialogue and review all issues related to human rights in Egypt and the means to protect and promote them.

The NCHR acknowledges the important step announced by the President of the Republic on Saturday 26 February 2005, concerning the invitation of the People's Assembly to commence the procedures to amend Article 76 of the Constitution on the election of the President of the Republic.

This is aimed at moving from the present referendum system to a new one based on direct national elections within the framework of a choice between more than one candidate for the presidency of the republic.

However, the NCHR realises the difficulties that might prevent this course from fully producing the desired effect in the coming elections because of the tight time frame available till the start of implementation

and the ambiguity of the criteria of eligibility for nomination.

The NCHR reaffirms that effecting political participation in this area and in others represents an additional guarantee of the rights of citizens. The NCHR, moreover, reaffirms that all progress achieved by society to promote human rights and freedoms represents, in return, a guarantee of more progress on the course of real democracy and is a reinforcement of the sovereignty of the Constitution and the rule of law and order.

Fulfilling its duty as such and in the course of monitoring the conditions of human rights and freedoms in Egypt at the end of each year, the NCHR looks forward to receiving feedback from the readers of this report on the facts and viewpoints contained therein.

At the end of this foreword, the NCHR cannot but thank all those who have assisted in preparing and drafting it. In particular it is grateful to the secretaries and members of the permanent committees, and the experts who reviewed the material and provided their experience in arranging the contents and in completing elements. Their efforts resulted in producing the first draft that the NCHR presented to a special committee of its members. This committee compiled the report in its final form for the NCHR's approval.

The NCHR moreover expresses its appreciation of the governmental and non-governmental bodies and Egyptian and Arab human rights organisations who took the time and effort to provide the NCHR with detailed accounts in many cases of their activities on protecting and ensuring respect for the rights of citizens in Egypt.

NCHR, represented by its Chairman, Deputy-Chairman, Secretary General, as well as its distinguished members and elite research workers, technical and administrative assistants, would very much like to thank all those who lent a hand in the production of this report. The UNDP, which has remained at all times close to the NCHR's activity and has been keen to provide the financial support necessary for the publication of this report, deserves special mention.

The Shoura Council, its Chairman and technical and administrative body also deserve special thanks for two reasons. First, for the unlimited help extended to the NCHR from the first day of its operation. Second, for the spirit in which this support was extended. A spirit of deep regard of and extreme sensitivity to and respect for the NCHR's independence in carrying out its activity.

**Chapter One**

**Egypt's role in establishment**

**of the International and Regional Legitimacy**

**of**

**Human Rights Principles**

**First : Universal Declaration of Human rights**

**Second : Egypt's role in establishment of International Legitimacy of Human Rights Principles**

**International Agreements Adopted by Egypt**

**Third : Egypt's role in establishment of Regional Legitimacy of Human Rights Principles**

**Regional Agreements Adopted by Egypt**

### **First: Universal Declaration of Human Rights:**

The preamble to the UN Charter reaffirms faith in "fundamental human rights", and article 1 lists among the purposes of the UN: "To achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

Similar provisions are contained in the additional statements of purpose in art. 55.

Moreover, Article 13 provides that "The General Assembly shall initiate studies and make recommendations for the purpose of assisting in the realization of human rights and fundamental freedoms for all without distinction..".

Article 62 provides that "The Economic and Social Council (ECOSOC) may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all."

Henceforth, a commission on HR, created by ECOSOC was entrusted with the drafting of a universal declaration of HR. the text of drafter in June 1948. On 10 Dec. 1948, it was adopted by the UN General Assembly, with 48 states voting for adoption and eight states abstaining.

In its preamble, the Declaration provides that it is " a common standard of achievement for all peoples and all nations, to the end that

every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, among the peoples of Member States themselves."

## **Second: Egypt's role in to establishment of The International Legitimacy of Human Rights Principles**

Throughout its recent history, Egypt has participated with the international community in its efforts to crystallize and establish the principles of fundamental human rights and freedoms. Egypt's efforts commenced with the Convention on the abolition of slavery and servitude at the beginning of the twentieth century. Egypt continued its efforts thereafter in international conventions for the recognition of specific rights, such as the two International Labour Organisation ("ILO") conventions on the abolition of forced labour as well as other conventions regulating the right to work, which were issued under the auspices of the ILO.

Egypt's efforts within the international community came successively with its endorsement of the creation of the United Nations Organization and in the definition of its aims and objectives, foremost among which is respect for and promotion of human rights, as the natural avenue to safeguarding international security and peace and to saving the international community from the scourge of wars and disputes.

Egypt has joined the global march of the international movement of human rights towards its transformation into international legitimacy, and in the drafting of the principles of fundamental human rights and freedoms, set forth in the Universal Declaration of Human Rights, into

binding international legal rules. Egypt's participation has been to propose, prepare, draft and endorse United Nations' charters and agreements and by its concrete active participation in the membership of the United Nations mechanisms or those established by international human rights agreements.

Egypt has adopted the following international Conventions:

**(1) Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention, signed at Geneva on 25 September 1926, and the Protocol amending the said Convention.**

Egypt ratified the Convention on 25 January 1928, and the Protocol on 29 September 1954. The Convention was published in the Egyptian Official Gazette, Issue 73, of 22 September 1955, and was implemented as of 7 July 1955.

**(2) Convention on the Prevention and Punishment of the Crime of Genocide, opened for signature on 9 December 1948.**

Egypt ratified the Convention on 28 January 1952 pursuant to Law 121 of 1951, published in the Egyptian Official Gazette, Issue no. 71, of 16 August 1951. The Convention was published in Issue 100, of 3 July 1952, and was implemented as of 3 May 1952.

**(3) Convention No. 29 of the International Labour Organisation concerning Forced Labour, Geneva, 1930.**

Egypt adopted the Convention pursuant to Law 510 of 1955, which was published in the Egyptian Official Gazette, Issue no. 81 bis, of 23 October 1955, and was implemented as of 29 November 1956.

**(4) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Geneva, 1956.**

Egypt ratified the Convention on 17 April 1958. It was implemented as of 17 April 1958, which was the day of deposit of the ratification document in application of Article 24 of the Convention.

**(5) Convention No. 105 of the International Labour Organisation concerning Abolition of Forced Labour, Geneva, 1957.**

Egypt adopted the Convention pursuant to Presidential Decree no. 1240 of 4 October 1958, published in the Egyptian Official Gazette, Issue no. 101, of 25 December 1958, and was implemented as of 23 October 1959.

**(6) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950.**

Egypt adopted the Convention pursuant to Presidential Decree no. 884 of 11 May 1959, published in the Egyptian Official Gazette, Issue no. 244, of 9 November 1959, and was implemented as of 10 September 1959.

**(7) International Convention on the Elimination of All Forms of Racial Discrimination, 1965.**

Egypt adopted the Convention pursuant to Presidential Decree no. 369 of 1967 of 25 January 1967. The Convention was published in the Egyptian Official Gazette, Issue no. 45, of 11 November 1972 and was implemented as of 4 January 1969.

**(8) International Convention on Suppression & Punishment of the Crime of Apartheid 30 Nov. 1973:**

Egypt adopted the Convention pursuant to Presidential Decree no. 62 of 1977. The Convention was published in the Egyptian Official Gazette, Issue no. 32, of 11 August 1977, and was implemented as of 5 July 1977.

**(9) Convention relating to the Status of Refugees, 1951.**

Egypt adopted the Convention on 28 June 1980 pursuant to Presidential Decree no. 331 of 1980, with the reservations set forth hereunder:

a- Article (12) paragraph (1) titled "Personal Status", and which provides that: "The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence".

Article (20) titled "Rationing", and which provides that: "Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals".

b- Article (22) which provides that: "The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education ".

c- Article (23) which provides that: "The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals ".

d- Article (24) which provides that: "The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters.. (hours of work - holidays - apprenticeship and training – social security – compensation."

The Convention was published in the Egyptian Official Gazette, Issue no. 48, of 26 November 1981, and was implemented as of 20 August 1981.

**(10) Protocol relating to Amendments to the Convention of the Status of Refugees, 1966.**

Egypt adopted the Protocol on 28 June 1980 pursuant to Presidential Decree no. 333 of 1980. The Protocol was published in the Egyptian Official Gazette, Issue 45, of 5 November 1981, and was implemented as of 22 May 1981.

**(11) Convention on the Political Rights of Women, 1953.**

Egypt adopted the Convention pursuant to Presidential Decree no. 345 of 17 June 1981. The Convention was published in the Egyptian Official Gazette, Issue 49, of 3 December 1981.

**(12) Convention on the Elimination of All Forms of Discrimination against Women, 1979.**

Egypt adopted the Convention pursuant to Presidential Decree no. 434 of 1981, and ratified the Convention on 18 September 1981, with the following reservations:

- a- The text of Paragraph (2) of Article (9) which grants women equal rights with men with respect to the nationality of their children. Egypt holds that this must be without prejudice to the right of a child born within wedlock to acquire the nationality of his father. This is to avoid a child having two nationalities in case the parents are of different nationalities, so as not to prejudice his future, as the enjoyment by a child of the nationality of his father is the most beneficial situation for the child. This does not prejudice the principle of equality between women and men, as it is customary that a woman married to an alien accepts that the children derive their nationality from the father.
- b- The text of Article (16) which grants women equal rights with men in all matters relating to marriage, family relations during marriage and at its dissolution. Egypt holds that this is subject to the rights granted by Islamic Sharia to the wife corresponding to those granted to the husband, and which provide for fair equality between them. This is in observance of the sanctity of the marriage relationship in Egypt, which is derived from solid religious faith, which may not be infringed upon.

Moreover, among the most important foundations of this relation is the equality of the rights and responsibilities in a manner that achieves integration, which in return brings about real equality between spouses instead of superficial aspects of equality that do not generate benefits to the wife from the marriage but rather add to her burdens. The Islamic Sharia stipulates that the husband pay an appropriate dowery, fully support his wife financially, and pay alimony upon divorce. The wife retains her full rights in respect of her money and is not obliged to spend it on herself. In return, the Islamic Sharia imposes a restriction on the right of the wife to divorce, by

requiring that divorce be effected by rule of law, whereas the same restriction is not imposed on the husband.

- c- Paragraph (2) of Article 29 which provides that each state party may declare that it does not consider itself bound by paragraph (1) of this article, concerning the submittal of any dispute between the state parties on the interpretation or application of the Convention to arbitration. This is to avoid being bound to arbitration in such issues.
- d- With general reservation on Article (2). Egypt is willing to enforce the provisions of the paragraphs of this article provided that they do not conflict with the Islamic Sharia.

The Convention was published in the Egyptian Official Gazette, Issue no. 51, of 17 December 1981, and was implemented as of 18 October 1981.

### **(13) International Covenant on Civil and Political Rights, 1966.**

Egypt signed the Convention on 4 August 1967 and adopted it pursuant to Presidential Decree no. 536 of 1981. It was published in the Egyptian Official Gazette, Issue no. 15, of 15 April 1982, and was implemented as of 14 April 1982. Upon adoption, Egypt issued the following declaration: "Subject to and in conformity with Islamic Sharia".

### **(14) International Covenant on Economic, Social and Cultural Rights, 1966.**

Egypt signed the Convention on 4 August 1967 and adopted it pursuant to Presidential Decree no. 537 of 1981. It was published in the Egyptian Official Gazette, Issue no. 14, of 8 April 1982, and was

implemented as of 14 April 1982. Upon adoption, Egypt issued the following declaration: "Subject to and in conformity with Islamic Sharia".

**(15) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1948.**

Egypt adopted the Convention pursuant to Presidential Decree no. 154 of 6 April 1986. It was published in the Egyptian Official Gazette, Issue no. 1, of 7 January 1988, and was implemented as of 25 July 1986.

**(16) Convention on the Rights of the Child, 1989.**

Egypt adopted the Convention pursuant to Presidential Decree no. 260 of 1990 of 24 May 1990. It was published in the Egyptian Official Gazette, Issue no. 7, of 14 February 1991, and was implemented as of 2 September 1991.

**(17) International Convention against Apartheid in Sports, 1985.**

Egypt adopted the Convention pursuant to Presidential Decree no. 562 of 1990 on 23 December 1990. It was published in the Egyptian Official Gazette, issue no. 24, of 17 June 1991, and entered into force as of 2 May 1991.

**(18) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.**

Egypt adopted the Convention pursuant to Presidential Decree no. 446 of 1991. It was published in the Egyptian Official Gazette, Issue no. 31, of 5 August 1993, and was implemented as of 1 June 1993. Egypt had the following reservations thereon:

a- The text of Article (4) which provides as follows:

"For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned"

b- The text of paragraph (6) of Article (18) which provides as follows:

"When a migrant worker or a member of his or her family has, by a final verdict, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person".

**(19) International Labour Organisation's Convention No. 138 of 1973 concerning Minimum Age for Admission to Employment.**

Egypt adopted the Convention pursuant to Presidential Decree no. 67 of 1999, issued on 21 February 1999. The Convention was

published in the Egyptian Official Gazette, Issue no. 35, of 2 September 1999, and was implemented as of 9 June 2000.

**(20) International Labour Organisation's Convention No. 182 of 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.**

Egypt adopted the Convention pursuant to Presidential Decree no. 69 of 2002 issued on 23 March 2002. It was published in the Egyptian Official Gazette, Issue no. 30, of 25 July 2002.

**(21) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, 2000.**

Egypt adopted the Protocol pursuant to Presidential Decree no. 104 of 2002, which was issued on 13 May 2002. Egypt deposited the ratification documents on 12 July 2002. Publishing procedures are in progress.

**(22) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, 2000.**

Egypt adopted the Protocol pursuant to Presidential Decree no. 105 of 2002, which was issued on 13 May 2002. Constitutional procedures are in progress to finalise ratification.

**(23) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.**

Egypt adopted the Protocol pursuant to Presidential Decree no. 295 of 2003, issued on 4 November 2003. It was published in the Egyptian Official Gazette, Issue no. 37, of 9 September 2004, and was implemented as of 4 April 2004.

Egypt's reservations mentioned above conform to the Islamic Sharia, in application of Article 2 of the Egyptian Constitution, which provides that the Islamic Sharia is the main source of legislation.

### **Third: Egypt's role in establishment of the Regional Legitimacy of Human Rights Principles**

Egypt's efforts and participation have not been confined to its endeavours to establish international legitimacy for the principles of human rights at the international level through the United Nations, but it has striven in its national struggle to establish and consolidate the regional groupings to which it belongs at the African and Arab levels.

Egypt has supported the establishment of the Arab League as a regional community for the Arab states. Egypt also supported the creation of the Organization of African Unity as an African community of states. Egypt has effectively participated in proposing, drafting and endorsing African and Arab charters relating to human rights and has set out to adopt them.

#### **Egypt has adopted the following regional conventions:**

##### **1- Organisation of African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969.**

Egypt adopted the Convention pursuant to Presidential Decree no. 332 of 1980, issued on 28 June 1980. It was published in the Egyptian Official Gazette, Issue no. 20, of 20 May 1982.

**2- African Charter on Human and Peoples' Rights, 1980.**

Egypt adopted the Charter pursuant to Presidential Decree no. 77 of 27 February 1984. The Charter was published in the Egyptian Official Gazette, Issue no. 17, of 23 April 1992, and was implemented as of 21 October 1986.

Egypt had reservations on Article (8) and Article (18-3), holding that their application would be subject to the Islamic Sharia, and that Egypt's interpretation of Article (9-1) is that its provisions shall be confined to the information permitted to be acquired under Egyptian laws and regulations.

**3- The Charter on the Rights of the Arab Child of the League of Arab States, 1983.**

Egypt adopted the Charter pursuant to Presidential Decree no. 365 of 1993, without any reservations. It was published in the Egyptian Official Gazette, Issue no. 11, of 7 March 1994, and was implemented as of 11 January 1994, which is the day of the deposit of the ratification document in application of the provisions of Article 51 thereof.

**4- African Charter on the Rights and Welfare of the Child, 1990.**

Egypt adopted the Charter pursuant to Presidential Decree no. 33 of 2001. It was published in the Egyptian Official Gazette, issue no. 44, of 28 October 2004, and was implemented as of 22 May 2001.

These efforts reflect Egypt's keenness to promote regional groupings and support their activities that relate to the promotion of human rights and the establishment of protecting mechanisms therefore.

## **Chapter Two**

**The National, International and Regional Framework**

**For The Establishment Of**

**The National Council for Human Rights (NCHR)**

**First: National Framework for The Establishment of NCHR**

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- \* Human rights principles in Egyptian legislation
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**Third: International Framework for The Establishment of NCHR:**

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## **First: National Framework for the Establishment of the NCHR:**

### **\* Introduction:**

Egypt participated in preparing and drafting the Universal Declaration of Human Rights issued in 1948, which reflects a realization of the importance of this international instrument. This document has become the fulcrum from which international efforts sprang to establish an international legal system to protect human rights, which has become one of the main features of the current international order.

Without doubt, Egypt's national experience, with its unique civilization combined with its esteemed religious values, and the special features and international acceptance enjoyed as a result of its national character, have imposed on Egypt important responsibilities on the international, regional and Arab levels. Egypt's effective participation in all aspects of international efforts to protect human dignity and promote the stature of humanity is therefore inevitable.

The Egyptian legal system attaches special importance to human rights principles in Egypt, whether at the constitutional or legal level. It simultaneously provides national means for remedies to promote, protect and secure these rights and freedoms. Egypt has, moreover, endeavoured to align itself with international efforts and developments to establish various national mechanisms dedicated to the protection of human rights. These focal points are detailed as follows:

## **\* Human rights principles embodied in Egyptian legislation:**

### **1- The Egyptian Constitution & Human Rights Principles:**

The Constitution, as a document, enjoys a special status, and was at the forefront of national demands for many years, around which evolved the national struggle from the start of Egypt's modern era in 1805 up to the promulgation of the country's first Constitution in 1882, which was abolished as a result of the British occupation.

The national struggle continued until the independence Constitution was issued in 1923. Thereafter, a number of constitutions replaced each other in succession. The most important constitution came after the Revolution in 1952. It was then followed by the Constitution of the United Arab Republic in 1958, which came into force after the establishment of union between Egypt and Syria. The State's permanent constitution was issued in 1971, and is presently applicable. This Constitution came into force after a public referendum on 11 September 1971 and was amended on 22 May 1980 to introduce the Shoura Council and the Press.

At the time of drafting the Constitution, Egypt was among the signatory states (on 4 August 1967) of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights, which were issued by the United Nations in 1966. Egypt was, in fact, a signatory of a number of international conventions on human rights then in existence and in force, such as the four Geneva Conventions for the protection of war victims; the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention relating to the status of refugees; the two Conventions concerning forced or compulsory labour (1930, 1957); the Convention on slavery and its supplementary conventions; the Convention for the Suppression of the Traffic in Persons and of the

Exploitation of the Prostitution of Others; and the Convention on the Elimination of Racial Discrimination.

The instrument of proclamation of the permanent Egyptian Constitution articulated the fundamental directions and bases followed by the constitutional legislator in this field, and reaffirmed the immense importance of the principles of human rights and fundamental freedoms for all. The instrument provides that: "This Constitution establishes a faith that political and social development for all peoples can not be effected or achieved except with the freedom and free will of these peoples, and that no civilisation deserves a name unless if free of any regimes of exploitation, irrespective of form or kind".

It further provides that:" convinced that the nation's national and international experiences have achieved an integration that may reach unity with the universality of the human struggle for liberation of the human person politically, economically, culturally and intellectually, and of the war against all powers and the residue of backwardness, domination and exploitation".

It also provides that : "recognizing that humanity and the glory of the human person is the light that guides and directs the course of the great progress of Mankind towards its ideal; that the dignity of the human person is a mirror image of the dignity of the nation since the individual is the cornerstone in building the nation; that with his worth, work and dignity is the stature, strength and prestige of the nation; and that the rule of law is not only a security required for the freedom of the individual, but also the only basis for the legitimacy of authority".

The content of the instrument of declaration of the permanent Constitution of Egypt reflects Egypt's national and stable vision throughout the annals of history, of its respect for human dignity and the universality of human rights, and reflects its assertion of the rule of

law as the basis for the legitimacy of authority. At that time, this vision was in the forefront of the movement of history and, indeed, embraced all modern global developments in the international arena, in particular those relating to the principles of human rights and fundamental freedoms, as established and developed by international efforts when the permanent Egyptian Constitution came into force.

The incorporation of the principles of human rights and freedoms in the Egyptian Constitution has resulted in the enjoyment of these principles under the Egyptian legal system with the following legal effects:

- 1- The stability that is commonly enjoyed by constitutional provisions, represented by amendments or additions requiring that the necessary constitutional procedures be properly undertaken. These procedures are protracted, which, in itself, constitutes a security and inevitably leads to referral to the people for a referendum on the amendment (Article 189 of the Constitution).
- 2- These provisions, as constitutional ones, are at the top of the constitutional hierarchy and as a result shall be in a higher position than other legal provisions issued by the legislature. The legislature must undertake, in performance of its functions, to observe and act in accordance with such provisions in a manner that ensures that these provisions are not prejudiced, breached or modified by subordinate legal provisions.
- 3- These provisions enjoy constitutional, judicial protection through the Supreme Court, which is competent to determine the constitutionality of laws by rulings that are binding on all authorities.
- 4- The competence of the Supreme Constitutional Court to interpret constitutional provisions by the issuance of binding decisions ensures that the interpretation of constitutional provisions relating to human

rights and freedoms is in line with regulating constitutional provisions pursuant to the rules and procedures established in such regard.

In addition to the advantages provided by the Egyptian legal system to human rights principles, arising by virtue of their incorporation into the Constitution, the human rights principles embodied in the Constitution enjoy a special security that is provided in the Constitution itself in Article (57), which provides that "Any assault on individual freedom or on the inviolability of private life of citizens and any other public rights and liberties guaranteed by the Constitution and the law shall be considered a crime, the criminal and civil prosecution of which is not limited by prescription.

Thus, infringement on the principles of human rights and freedoms is criminalized, and ensures punishment of every perpetrator and, accordingly, guarantees a remedy for the victim for damage sustained as a result of these acts. Moreover, neither the crime nor any action shall lapse by prescription.

We refer to these principles in detail as follows:

**First: Principles of Human Rights set forth in Chapter One of the Constitution:**

Chapter one of the Constitution addresses matters relating to fundamentals of the State in Egypt.

**1- Principle that the People are the source of authorities (Article 21 of the Universal Declaration of Human Rights):**

This principle is contained in Article 3 of the Constitution, which provides that "The People are the sole source of sovereignty and

authority. The People shall exercise and protect this sovereignty, and safeguard national unity in the manner specified in the Constitution".

**2- Principle of political freedom (Article 21 of the Universal Declaration of Human Rights):**

This principle is contained in Article 5 as amended on 22 May 1980, which provides that "The political system of the Arab Republic of Egypt is a multiparty one, within the framework of the basic constituents and principles of Egyptian society as stipulated in the Constitution. Political parties are regulated by law."

**3- Principle of the right to a nationality (Article 15 of the Universal Declaration of Human Rights):**

This principle is contained in Article 6 of the Constitution, which provides that "The Egyptian nationality is defined by the law."

**Second: Principles of Human Rights set forth in Chapter Two of the Constitution**

Chapter two of the Constitution, titled "BASIC CONSTITUENTS OF THE SOCIETY", contains certain human rights principles, as follows:

**1- Principle of equality of opportunity and the fair allocations of the burdens of public service:**

This principle is contained in Article 8 of the Constitution, which provides that "The State shall guarantee equality of opportunity to all citizens."

**2- Principle of protection of the family, mothers, infants and care of young persons (Articles 16 and 25 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 9 and 10 of the Constitution. Article 9 provides that "The family is the basis of society, which is founded on religion, morality and patriotism. The State is keen to preserve the genuine character of the Egyptian family- the embodiments of its values and traditions."

Article 10 provides that "The State shall guarantee the protection of mothers, infants and provide for children and young persons.

**3- Principle of equality between men and women (Articles 1 and 2 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 40 and 11 of the Constitution. Article 11 provides that "The State shall guarantee the proper coordination between the duties of women towards the family and her work within society, with equality with men in political, social, cultural and economic life in conformity with the rules of Islamic Sharia".

Article 40 of the Constitution provides that: "All citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion or creed".

**4- Principle of the right to work and prevention of forced labour (Articles 4 and 23 of the Universal Declaration of Human Rights):**

This principle is contained in Article 13 of the Constitution, which provides that "Work is a right, a duty and an honour ensured by the

State. Workers who excel in their field of work shall receive the appreciation of the State. No work shall be imposed on citizens, except by virtue of the law, for the performance of a public service and in return for a fair remuneration".

**5- Principle of the right to assume public positions (Article 21 of the Universal Declaration of Human Rights):**

This principle is contained in Article 14, which provides that "Public positions are the right of all citizens and responsibility of those so employed in the service of the people..."

**6- Principle of the right to cultural, social, health services and social security (Articles 22 and 24 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 16 and 17 of the Constitution. Article 16 provides that "The State shall guarantee cultural, social and health services, and to ensure continuous access thereof to villages in particular, to raise the standard of life therein." Article 17 provides that "The State shall guarantee social and health insurance services and all citizens shall be entitled to disability, unemployment and old-age pensions, in accordance with the law".

**7- Principle of the right to free education at all stages and compulsory education at the elementary stages (Article 26 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 18 and 20 of the Constitution. Article 18 provides that "Education is a right guaranteed by the State. It is obligatory at the primary stage and the State shall endeavour to extend obligation to other stages".

Article 20 provides that "Education in the State educational institutions in its various stages shall be free of charge".

**8- Principle of equal distribution of national income, minimum wage, elimination of unemployment and raising the standard of living (Articles 23, 24 & 25 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 23 and 25 of the Constitution. Article 23 provides that "The national economy shall be organised in accordance with a comprehensive development plan which ensures raising the national income, fair distribution of income, raising the standard of living, eliminating unemployment, increasing work opportunities, and determining a minimum wage.."

Article 25 provides that "Every citizen shall have a share in the national product to be defined by law".

**9- Principle of safeguarding and protecting the rights of private property (Article 17 of the Universal Declaration of Human Rights):**

This principle is contained in Article 34 and 36 of the Constitution. Article 34 provides that "Private property shall be safeguarded and may not be sequestered except in cases specified by law and by judicial decision. Private property may not be expropriated except for the public interest and against a fair compensation in accordance with law. The right of inheritance is guaranteed".

Article 36 provides that "Public sequestration of funds shall be prohibited. Private sequestration shall not be permitted except by judicial decision".

### **Third: Principles of Human Rights set forth in Chapter Three of the Constitution**

The Constitution earmarks Chapter three, which is titled "General Freedoms, Rights and Duties", to highlight several principles embodied in international human rights agreements. We will examine these principles in the order of their appearance in the Constitution, as follows:

#### **1- Principle of equality of rights and duties, and protection against discrimination or racial discrimination (Articles 1, 2 & 7 of the Universal Declaration of Human Rights):**

This principle is contained in Article 40 of the Constitution, which provides that "All citizens are equal before the law. They have equal public rights and duties without discrimination of race, ethnic origin, language, religion or creed."

#### **2- Principle of the right to personal freedom (Article 3 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 41 of the Constitution, which provides that "Personal freedom is a natural right and shall not be abridged. Except for cases of apprehension in the act of commission of a crime, no person may be arrested, and searched, nor may his freedom be restricted by any restriction nor may he be prevented from free movement, except by an order resulting from investigations and for the security of the society. This order shall be issued by the competent judge or the Public Prosecution in

accordance with the provisions of the law. The law shall determine the period of detention”.

**3- Principle of treatment of arrested persons in a manner that preserves their dignity and does not subject them to physical or moral injury or torture, and no detention may be effected in places other than those subject to laws regulating prisons, and no evidence obtained under duress or coercion shall be valid (Articles 5 & 9 of the Universal Declaration of Human Rights):**

This principle is contained in Article 42 which provides that "Any person arrested, detained or with restricted freedom shall be treated in concomitant with the preservation of his dignity. No physical or moral injury or torture shall be inflicted. He may not be detained or imprisoned except in places defined by law regulating prisons. If a confession is proved to have been obtained under duress or coercion, it shall be deemed invalid.

**4- Principle of the inadmissibility of conducting medical or scientific experiments on any person without his free consent (Article 3 of the Universal Declaration of Human Rights):**

This principle is contained in Article 43 of the Constitution, which provides that "Any medical or scientific experiments may not be conducted on any person without his free consent".

**5- Principle of the sanctity of homes and private lives of citizens (Article 12 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 44 and 45 of the Constitution. Article 44 provides that "Homes shall be inviolate and may not be

entered or inspected except with a judicial order justifiable according to law."

Article 45 provides that "the inviolability of the private life of citizens is protected by law. Means of communication are inviolable, the private nature of which is secured, and may not be monitored except with a justified judicial order for a definite period pursuant to provisions of law".

**6- Principle of the right to freedom of belief creed and worship (Article 18 of the Universal Declaration of Human Rights):**

This principle is contained in Article 46, which provides that "The State shall guarantee the freedom of belief and the freedom of worship."

**7- Principle of the right to freedom of opinion and expression and of mass media and publishing (Article 19 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 47 and 48 of the Constitution. Article 47 provides that "Freedom of opinion is guaranteed. Every individual has the right to express his opinion and to publicise it verbally or in writing or by other means of expression within the limits of law. Self-criticism and constructive criticism is a guarantee of the safety of the national structure".

Article 48 provides that "Freedom of the press, printing, publication and mass media shall be guaranteed. Censorship of newspapers is prohibited, nor may they be censured, or suspended by the administrative methods. In a state of emergency or in time of war a limited censorship may be imposed on newspapers, publications and

mass media in matters related to public safety or for purposes of national security in accordance with law".

**8- Principle of freedom of scientific research and literary, artistic and cultural creativity (Articles 27 of the Universal Declaration of Human Rights):**

This principle is contained in Article 49 of the Constitution, which provides that "The State shall guarantee the freedom of scientific research and literary, artistic and cultural creativity and shall provide the necessary means to support such achievement."

**9- Principle of the right to freedom of movement and residence, and of prohibition of deportation or prevention from return (Article 13 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 50 and 51 of the Constitution. Article 50 provides that "No citizen may be prohibited from residing anywhere and no citizen may be forced to reside in a particular area, except in cases specified by law."

Article 51 provides that "No citizen may be deported from the country or prevented from return".

**10-Principle of the right to asylum by foreign refugees, and victims of persecution for reasons relating to the defence of the peoples' interests and human rights, peace or justice, and the principle of prohibition of extradition of political refugees (Articles 14 of the Universal Declaration of Human Rights):**

This principle is contained in Article 53 of the Constitution, which provides that "The right to political asylum shall be guaranteed by the State to every foreign person persecuted for defending the peoples' interests, human rights, peace or justice. Extradition of political refugees is prohibited".

**11-Principle of the right to assembly (Article 20 of the Universal Declaration of Human Rights):**

This principle is contained in Article 54 of the Constitution, which provides that "Citizens shall have the right to peaceable and unarmed private assembly, without the need for prior notice. Security authorities may not attend these private meetings. Public meetings, processions and gatherings are permitted within the limit of the law".

**12-Principle of the right to form and belong to associations (Article 20 of the Universal Declaration of Human Rights):**

This principle is contained in Article 55 of the Constitution, which provides that "Citizens shall have the right to form associations as defined in the law. The establishment of associations with activities hostile to the social system, clandestine or of a military nature are prohibited."

**13-Principle of the right to form and to join syndicates and trade unions (Article 23 of the Universal Declaration of Human Rights):**

This principle is contained in Article 56 of the Constitution, which provides that "The creation of syndicates and unions on a democratic basis is a right guaranteed by law. Syndicates and unions shall have a

legal personality, shall hold their members answerable for their conduct in carrying out their activity based on a code of ethics, and shall defend rights and freedoms that are established by law for its members."

#### **14-Principle of the right to vote and nominate (Article 21 of the Universal Declaration of Human Rights)**

This principle is contained in Article 62 of the Constitution, which provides that "Citizens shall have the right to vote, nominate and express their opinions in referenda according to the provisions of law. Their participation in public life is a national duty.

#### **Fourth: Principles of Human Rights set forth in Chapter Four of the Constitution**

The Constitution earmarks Chapter four, which is titled "Sovereignty of the Law", to highlight several principles embodied in international human rights agreements. We will examine these principles, as follows:

##### **1- Principle of independence and immunity of the judiciary (Article 10 of the Universal Declaration of Human Rights):**

This principle is contained in Article 65 of the Constitution, which provides that "The State shall be subject to law. Independence and immunity of the judiciary are two basic guarantees to safeguard rights and liberties."

**2- Principle of the individuality of penalty, and of absence of crime or penalty except pursuant to law (Article 11 of the Universal Declaration of Human Rights):**

This principle is contained in Article 66 of the Constitution, which provides that "Penalty shall be personal. There shall be no crime or penalty except pursuant to law. No penalty shall be imposed except by virtue of a judicial order. A penalty shall be imposed only for acts constituting an offence pursuant to a law".

**3- Principle of the right of presumed innocence of a defendant until proved guilty in a public trial at which he has had the right and guarantees necessary for his defence (Articles 11 of the Universal Declaration of Human Rights):**

This principle is contained in Article 67, which provides that "A defendant is innocent until he is proved guilty before a lawful court, in which he is granted the right of defence. Every person accused of a crime must be provided with counsel for his defence".

**4- Principle of the right of every person to litigation, and to resort to the natural judge, the accessibility of the judiciary to litigants, expeditious settlement of cases, and the prohibition of stipulating immunity of any act or administrative decision from control by the judiciary (Article 8 of the Universal Declaration of Human Rights):**

This principle is contained in Article 68 of the Constitution, which provides that "The right to litigation is inalienable for all, and every citizen has the right to refer to his natural judge. The State shall guarantee the accessibility of judicial organs to litigants, and of expeditious adjudication of cases. Stipulating in law the immunity of

any act or administrative decision from the control of the judiciary is prohibited".

**5- Principle of the right to legal defence and provision for citizens lacking necessary funds (Article 11 of the Universal Declaration of Human Rights):**

This principle is contained in Article 69, which provides that "The right of defense in person or by power of attorney is guaranteed. The Law shall grant financially incapable citizens the means to resort to justice to defend their rights."

**6- Principle of the right of an person arrested or detained to promptly learn the reasons for his arrest or detention, to communicate with, inform and seek the help of a third party concerning his charge, to challenge against such arrest or detention (Article 9 of the Universal Declaration of Human Rights):**

This principle is contained in Articles 71, which provides that "Any person arrested or detained must be informed, forthwith of the reasons for his arrest or detention. He has the right to communicate, inform, and seek the help of anyone as provided in law. He must be informed, as soon as possible, of the charge directed against him. Any person may complain to the courts to challenge any measure taken to restrict his individual freedom. The law regulates the right of challenge in a manner ensuring a ruling within a definite period, or else release is mandatory".

The principles of human rights and fundamental freedoms reviewed above and as contained in the Egyptian Constitution reflect

adherence by the constitutional, Egyptian legislature, while drafting the Constitution in the light of the Egyptian identity, to the provisions of international agreements on human rights and freedoms.

The Egyptian Constitution, moreover, outshines the many international guarantees and protective measures, and the national constitutional instruments of many states in granting special prerogatives relating to human rights and fundamental freedoms. In this regard, the Constitution has stipulated special guarantees to incriminate acts of infringement thereupon and the removal of a prescription period of civil or criminal lawsuits arising therefrom, and to provide compensation to the victim. These principles, moreover, by their inclusion as constitutional provisions enjoy judicial protection through the Supreme Constitutional Court, which protects the constitutionality of laws. This is in addition to the text of Article 53, which provides for granting political asylum to oppressed foreign person who defends human rights.

Thus, Egypt has reaffirmed its desire to maintain international and national visions of human rights and freedoms. Egypt was keen to maintain its permanent Constitution in line with all precious values agreed by the international community and which have become an inevitable course and the only alternative through which international relations and national legislations are re-phrased in the framework of abidance to the international course relating to respect and protection of human rights in all places and at all times.

## **2- International agreements in the framework of the Egyptian Legal system:**

The legal status of international human rights agreements in the framework of the national legal system is one of the most important subjects of interest to the United Nations' international human rights mechanisms established under international human rights agreements,

and of interest to the regional mechanisms established under regional human rights agreements. This status reflects the extent of binding authority which these agreements enjoy at the national level resulting in effective enforcement of the substance and spirit of their provisions, and, of the stipulated rights and freedoms for those seeking protection at the national level.

Upon publication in the Official Gazette pursuant to constitutional procedures, the international agreements adopted by Egypt are deemed Egyptian laws, in application of the provisions of Article 151 of the Constitution, which provides as follows:

"The President of the Republic may conclude treaties and shall communicate them to the People's Assembly, accompanied by appropriate substantiation."

"However, peace treaties, alliance pacts, commercial and maritime agreements and all agreements involving modifications in the territory of the State, or having connection with the rights of sovereignty, or which lay upon the Treasury of the State certain charges not provided for in the budget, shall be subject to the approval of the People's Assembly"

The Egyptian, constitutional legislature adopted a system that accords international agreements the weight of laws since they generally conform to the legal system in Egypt, and according to the text of paragraph one of Article 151 of the Constitution, they enjoy the same status as laws in the legislation system. These agreements rank immediately after the Constitution in importance as the text of the aforementioned paragraph provides that the President of the Republic is charged with concluding international agreements and communicating them to the People's Assembly accompanied with appropriate substantiation. Thus, these agreements have the force of law upon

conclusion, ratification and publication in accordance with the required procedures.

The second paragraph of the same Article enumerates the agreements that require the prior approval of the People's Assembly before their conclusion, which agreements relate to peace, sovereignty, alliance, trade, maritime, or which lay upon the Treasury of the State certain charges not contemplated in the budget.

Accordingly, in application of the aforementioned Article and upon adoption, ratification and publication in the Official Gazette, international agreements on human rights and freedoms are deemed Egyptian laws as those promulgated by the legislative authority. Therefore, their provisions are considered legal and enforceable provisions and binding upon all authorities of the State, whether legislative, executive or judicial.

These international agreements on human rights and fundamental freedoms, being the main source of the Constitution, as the provisions and principles set forth thereunder relate to corresponding provisions in the Constitution, enjoy, in particular, further special protection which is the protection extended to constitutional provisions, as aforesaid in part one of this chapter.

They enjoy immunity from any laws promulgated in conflict with their substantive provisions on human rights or freedoms or those protected thereunder. Thus, any subsequent law conflicting with or modifying these provisions would be a constitutional breach and would be tainted with the error of unconstitutionality since, by conflicting with the provisions of international agreements on human rights and freedoms it would be in breach of the relevant provisions contained in the Egyptian Constitution. Accordingly, any such law shall be subject to repeal by the Supreme Constitutional Court by a decision binding upon

all authorities of the State. Upon publication of the decision, the application of the text ruled unconstitutional is terminated, and the decision shall apply retroactively up to the date of the law ruled unconstitutional, pursuant to the regulations set out by the Constitutional Court and the national legislature.

By virtue of the legal status of human rights international agreements in Egypt as Egyptian laws as referred to above, the principles of human rights and fundamental freedoms set forth thereunder and which have been determined that every principle is generally based upon corresponding provisions contained in the Constitution, enjoy in Egypt:

**First:**

The protection established for constitutional provisions as the high authoritative law. This renders unconstitutional all legal provisions actually in force, which are in conflict with or in breach of these principles or any future legislations containing a violation or inconsistency in relation to these principles. Any interested party may resort to the Supreme Constitutional Court under the established procedures for a ruling of unconstitutionality of any such laws by a decision binding upon all authorities of the State.

**Second:**

The provisions of international agreements on human rights and fundamental freedoms, as State laws as provided in Article 151 of the Constitution, shall have immediate force and effect before all authorities of the State upon finalisation of the constitutional procedures of ratification, and upon publication. These authorities must thereupon

observe all the immediately enforceable provisions that do not require intervention by the national legislator. This directly reserves the right of those prejudiced from non-observance or breach of such provisions, whether caused by an act of natural persons or governmental organs and bodies or otherwise, to resort to the courts of law, to obtain the rights arising therefrom, depending on the nature of the breach.

The Egyptian courts of law are rich with many practical applications of the provisions of related international agreements. Court rulings of all degrees and circuits have made many references to and founded rulings on the provisions of these agreements, as being legal provisions in force. Among the most prominent examples in this regard is the ruling of the Cairo State Security Emergency Criminal Court on the strike by railway drivers. This ruling concluded by exonerating them from guilt pursuant to the provisions of the International Covenant on Economic, Social and Cultural Rights, which deem the right to stage a strike a human right. This ruling deems the text of the said Covenant to have nullified that of the Penal Code which prohibits and incriminates strikes.

At its session of 16 April 1987, the Court ruled on the strike by the railway drivers, as follows:

"We must first know the force of the international conventional rule as compared with the ordinary legislative one, and whether it has the same legislative weight taking into consideration that both rules are issued by the same sovereign authority within the State. Or is it that more weight should be given to the Covenant than to internal legislation since it involves at the same time an obligation upon the State before the other states parties to the Covenant to apply the international rule, while the State is not under any international obligation to apply the legislative one.

This consideration may not be invoked at the national level by giving precedence to the rule of the Covenant over that of the national legislation. The obligation of the State on the international level is one matter and application by the national judiciary of the Covenant is another. The national judge does not apply the Covenant on the grounds of the international obligation undertaken by the State to apply it. The judge applies it considering that it is a part of the State's internal laws if it fulfills the necessary conditions for enforceability within the territory.

The Egyptian Constitution establishes this meaning in paragraph one of Article 15, which provides that: "The President of the Republic may conclude treaties and shall communicate them to the People's Assembly, accompanied with appropriate substantiation. They shall have the force of law after their conclusion, ratification and publication in accordance with the established procedure". The second paragraph provides that: "However, peace treaties, alliance pacts, commercial and maritime conventions and all agreements involving modifications in the territory of the State, or having connection with the rights of sovereignty, or which lay upon the Treasury of the State certain charges not provided for in the budget, shall be subject to the approval of the People's Assembly".

Presidential Decree no 537 of 1981 concerning approval of the International Covenant on Economic, Social and Cultural Rights, published in the Official Gazette in issue no. 14, 8 April 1982, expressly stipulates that the approval of the said Covenant was effected upon review of the second paragraph of Article 151 of the Constitution. This means that following the approval by the People's Assembly the Covenant was promulgated, as an international agreement relating to sovereignty rights. This is in view of the restrictions it imposes on the authorities of the State by necessitating respect of the rights provided

for under the international agreement issued under the auspices of the United Nations and in application of the United Nations' Charter.

In application of Article 151 of the Constitution, and as established in jurisprudence and by precedent, international conventions issued pursuant to the established constitutional rules, and published in the Official Gazette pursuant to the established procedures are considered one of the State laws that the national judiciary must apply as such. Thus, the said Covenant, having been published in the Official Gazette on 8 April 1982 following its approval by the People's Assembly, is a State law, and as it was subsequent to the Penal Code, then Article 124 is to be considered implicitly repealed by paragraph (d) of Article (8) of the Covenant. This is in implementation of Article two of the Civil Code which explicitly provides that "A provision of a law may only be repealed by a subsequent law expressly providing for such repeal, or containing a provision inconsistent with a provision of the former law or regulating anew a matter previously regulated by a former law". This means that the Court considered the Covenant an internal law and subsequent to the Penal Code, and, therefore it repeals Article (124) of the Penal Code, in application of Article two of the Civil Code.

In the course of its interpretation of the rights in question and attributing them to their source, the Supreme Constitutional Court referred in many rulings to international and regional human rights declarations, resolutions and conventions, including the Universal Declaration of Human Rights, adding by this to its rulings many important constitutional principles on human rights and freedoms.

The Egyptian legislature has set out to issue legislations conforming to international human rights agreements adopted by Egypt, whether by amending the existing legislations or introducing new ones to regulate rights and freedoms.

Subject to Article 57 of the Constitution, the Egyptian legislator incriminates acts incriminated under international human rights conventions to protect, ensure respect for, safeguard and recognise these rights, in the forefront of which the right to life, and security of body, honour and reputation; inviolable private and family life; security, peace and ownership; and prohibition and incrimination of forced labour, prostitution, racial discrimination, torture, and child labour; and right to freedom of work, and to belong to associations. The Egyptian legal system simultaneously provides for remedies for the injured whether the act or violation subjected to constitutes a crime or gives rise to civil liability based on the general rules.

Among the new legislations is the Child Law of 1966, the Labour Law of 2003, the Environmental Law of 1994, the Public Associations Law of 2002, the Press Law of 1995, the Intellectual Property Law of 2002, Family Courts Law of 2004, and Law no. 1 of 2000 on Personal Status Regulations.

Among the modified legislations are the laws on political parties, election, punishment, emergency, civil procedures, criminal procedures, prisons, and on abolition of flogging as a punishment and of hard labour.

These unceasing legislative efforts primarily aim to conform with international human rights conventions adopted by Egypt, to respond to the legislative requirements necessary to meet international and national developments and changes, and to align with the political, economic and social reform policies, plans and programs adopted by Egypt to achieve comprehensive development for the nation and its citizens.

### **3- National Means of Remedy:**

The Egyptian legal system provides for national means of remedy for victims and injured parties in respect of any violations relating to the rights and freedoms protected by the Constitution and law. This is irrespective of whether they are committed by public authority officials or others, and whether they represent an offence or relate to decisions issued by the administrative bodies within the discharge of their functions stipulated therefor by law. Moreover, the Constitution provides for the establishment of a legal state, the sovereignty of law as the source of rule in the State, the independence of the judiciary, and the protection and safeguarding of the right to litigation for all people.

The Constitution has defined the rules for litigation, and judiciary authorities and bodies.

The Egyptian Penal Code no. 58 of 1937 stipulates the penal provisions for acts incriminated under international human rights conventions and defines the punishment that may be inflicted on perpetrators proven to have committed them.

The Public Prosecution is the principal branch of the judiciary charged with investigations and prosecution in criminal actions. Its members enjoy legal immunity that grants it independence to issue judicial decisions when discharging the functions entrusted to it by law.

After promulgation of its law to replace the High Court, the Supreme Constitutional Court surpassed the constitutional, judicial protection of human rights provided for in the Constitution, and played a leading role in eliminating the legal provisions in the legislative structure prejudicial to principles of human rights and fundamental freedoms contained in the Constitution. Within its competences, it moreover ruled for the non-constitutionality of legal provisions in conflict with the Constitution, and it established, by its constitutional rulings, the

principles that enhanced the meanings, concepts and spirit laid down by international human rights conventions.

It is worth mentioning that the Supreme Constitutional Court has moved to consider that international and regional human rights agreements constitute, in general, a principal source for it when formulating its perception of the constitutional provisions relating to human rights and fundamental freedoms. This, in itself, is an elevation of the worthy of these international conventions, which are considered by the Supreme Constitutional Court as the main source for the constitutional legislator.

The pivotal role played by the Cour de Cassation and the High Administrative Court to establish and reaffirm the main principles of human rights and fundamental freedoms is not to be ignored. This, in turn, has had a bearing on ordinary court rulings and on the State NCHR courts in their respective competence, and has led to the application of legal provisions to affirm the protection of rights and freedoms and to define the applied rules furthering their enforceability, and nullifying the legal effects resulting from their breach, punishing the perpetrator, and compensating the injured party.

Without doubt, the continuous support and assistance for national means for remedy to enable them to deal with the increasing burdens faced and to maintain their independence and impartiality is a national quest that the government must exert its efforts to realize to safeguard the security and stability of the society and to create the appropriate social environment to embrace the culture of human rights.

#### **4- Human Rights National Mechanisms:**

The last two decades of the twentieth century and the beginning of this century witnessed State efforts to promote and disseminate respect

for human rights and effectively enforce the international obligations arising from adoption by Egypt of the relevant international conventions. Several national governmental mechanisms were established, as follows:

**a- National NCHR for Childhood and Motherhood:**

The NCHR was established pursuant to Presidential Decree No. 54 of 1988, 24 January 1988, and was published in the Official Gazette, Issue no. 5, 4 February 1988.

**b- National NCHR for Women:**

The NCHR was established pursuant to Presidential Decree No. 90 of 2000, 8 February 2000, and was published in the Official Gazette, Issue no. 5 bis, 8 February 2000.

**c- Public Department for Human Rights Affairs, Ministry of Justice:**

The Department was established pursuant to the Minister of Justice's Decree no. 3081 of 2002, 18 June 2002.

**d- Public Department for Human Rights Affairs, Ministry of Foreign Affairs:**

The Department was established pursuant to a decree by the Minister of Foreign Affairs in 1996.

**e- High Committee for Human Rights, Ministry of Interior:**

The Committee was established pursuant to Ministerial Decree no. 22562 of 2001 concerning the formation of a high committee for human rights in which all heads of security and police bodies are represented.

**f- Human Rights Committee, Ministry of Social Insurance:**

Pursuant to Ministerial Decree no. 41 of 1 March 2004, a committee was established at the Ministry of Social Insurance composed of senior officials of the Ministry.

The presence of these governmental institutions at the national level reflects the development of the national human rights system and the increase of related governmental efforts within enabling frameworks.

In its respective field of activity, each of these mechanisms effectively undertakes to achieve the purposes of its establishment, which directly serve the continuous efforts to promote respect for human rights and to directly perform the obligations of the Egyptian government in such field at national, regional and international levels, and likewise before citizens and foreign persons in the Egyptian territory.

Without doubt, these national governmental, mechanisms play an important role to ensure respect for human rights by governmental organs; performance by the Egyptian government of its legal obligations under the applicable international conventions to which Egypt is a party, and the obligations under the applicable Egyptian laws and regulations; and, in general, to further, promote and respect fundamental human rights, increase awareness of human rights and widely disseminate its culture.

The NCHR realises the importance of the role undertaken by national, governmental mechanisms to ensure respect for human rights and promote, further and disseminate the culture of human rights in the Egyptian society. At the time of preparation of this report, the NCHR received, with appreciation, approximately eighteen, detailed reports on the activity of many of these mechanisms from various ministries. These reports are the source of some of the information and data contained in this report, and bear witness to an appreciated effort, nationally and internationally, in the field of human rights and the performance of the legal and human obligations of the ministries, and governmental agencies and bodies in such regard.

It is worth mentioning in this context the five- member committee formed by the NCHR to be the point of meeting and communication with the concerned ministries and governmental bodies to facilitate the performance by the NCHR of its duties and functions set forth in its promulgating law. This committee comprises the deputies of the Ministers of Foreign Affairs, Justice, and the Interior and the Assistant Attorney General, and convenes regularly. It noticeably facilitated the duties of the NCHR and has enabled it, in many instances, to overcome bureaucratic problems. The NCHR's aim is that the work of this important mechanism continue in a smooth manner to realize coordination for attainment of the purposes and objects for which the NCHR was established.

## **Second: Regional Framework for The Establishment of The NCHR:**

### **\* International changes and developments in the middle east and the importance of political reform in the area:**

The Middle East has been witnessing, and, in particular, after the events of the 11<sup>th</sup> of September 2001 in the United States, many major

developments, and has been the focus of many intensive international initiatives and efforts to attach high importance to political reform programs, and respect for democracy, sovereignty of law, good governance, human rights and fundamental freedoms, and partnership with the civil society.

The national governments are assuming the leading role to conform to these international developments, to deal with them as the main pivots for interaction of international relations, to identify their patterns and trends, and to determine plans and programs to implement them, while preserving the Arab identity and culture of the peoples in the region.

Reform efforts have followed in the Arab countries to initiate these changes and to embark upon political reforms in conformity with the national conditions and needs, and to promote democracy and human rights systems in accordance with international standards contained in the regulatory international agreements.

Countries in the region seek to conform their national human rights systems to the international standards and to actively participate in related international efforts. They moreover, set out to establish supporting governmental and national human rights mechanisms to effectively enforce these rights and curb violations and non-conformity of practices, and to encourage the civil society to participate in this field.

Many states embarked upon the creation of ministerial offices and National Councils for Human Rights to boost efforts to promote respect for the human rights system and improve national conditions in such regard, with eight countries in the Arab world having established National Councils for Human Rights.

At the African level, the African Charter on Human and Peoples' Rights, adopted in Nairobi on 26 June 1986, intended to establish and

improve national institutions charged with the promotion and protection of human rights. The Charter affirmed that promotion of these institutions is a function of the African Commission on Human and People's Rights, which was established under this Charter.

Africa has moreover witnessed a considerable increase in the number of national human rights institutions, and the first conference thereon was held at Yaoundé, Cameroon, in February 1996. A coordination committee for African institutions was formed for the convocation of the conference. The second conference was held at Durban, South Africa in July 1998.

The African Commission has supported the establishment of national institutions and called upon states and governments to establish them. Some of these committees were appointed as observers at the Commission.

Mauritius' plan of action stipulated the importance of setting a framework for cooperation between national human rights institutions to further exchange of information and experience between them, and, accordingly, support their activities.

In its 24<sup>th</sup> Ordinary Session held in October 1998, the Commission approved to grant national institutions affiliate status, subject to the following criteria:

- 1- Institutions shall be established by virtue of a law conforming to the Paris Principles.
- 2- Institutions of the states parties to the Charter shall be respected. Affiliate national institutions shall present a report on their activities once every two years and shall be ready to help the Commission to establish and protect human rights at the national and international levels, and to implement action and media programs.

These regional efforts, in which Egypt has participated throughout their various stages and the resulting conventions and resolutions at the African and Arab levels, prompted Egypt to establish the NCHR and participate with the regional groupings referred to, in their efforts to further the attempts of these mechanisms to exist at the national level and to establish groupings at the regional level to consolidate and boost the efforts to effectively enforce the international standards of human rights and fundamental freedoms.

### **Third: International Framework For The Establishment of The NCHR:**

#### **\* National Institutions for Promotion of Human Rights:**

In its international efforts to enforce international legitimacy of human rights and fundamental freedoms, the United Nations undertakes many activities to develop the international mechanisms established by international conventions and the principal structures at the United Nations. The efforts of these mechanisms have unified to monitor implementation and promote observance, investigate violations in addition to the parallel and important role of disseminating awareness of and education on human rights issues.

The international system relies foremost on these institutions to further and promote these efforts and on the regional human rights system existing in Europe, Africa and America, which have made significant progress to establish legitimacy and provide regional, judicial mechanisms competent to settle matters by final and binding rulings.

At the international level, the role of national governments has gained great importance in view of their role in enforcing and promoting human rights, and in performing obligations arising under international conventions. This is due to the authorities they have in regulating

relations among individuals, or between individuals and the state. Thus, the role of national governments revolves in this field around the following:

- 1- Introducing the appropriate legislations through established democratic institutions that protect human rights and fundamental freedoms within the unanimously agreed principles set forth under related international agreements.
- 2- Setting up an independent judicial authority to protect, monitor and check any violations at the individual level and safeguard and protect these rights by binding rulings.
- 3- Disseminating and raising awareness of the culture of human rights within the framework of national culture and traditions and local identity.

In view of the increasing various practical difficulties for the effective enforcement of human rights principles at the national level, and to achieve the required coordination and proximity between the international and national efforts in such field, there is a pressing need to set up key national structures to protect and promote human rights.

The United Nations' interest to establish these institutions began in 1946. The Economic and Social NCHR requested the states parties to consider the extent it is beneficial to establish national human rights commissions in their territories to cooperate with the NCHR to promote the work of the Commission on Human Rights.

In 1960, the Economic and Social NCHR affirmed the importance of formation of national institutions and called upon governments to form and support these institutions to promote human rights.

With the build up of international efforts by issued international conventions during the sixth and seventh decades of the past century, the Commission on Human Rights invited the states parties in 1978 to

study the structure, functions and work of these national committees, and held a seminar at Geneva in 1978 where a number of guiding principles on the functions of these national institutions were approved.

In 1990, the Commission on Human Rights called for a seminar with national legal institutions to boost effective cooperation between the United Nations and these institutions. The seminar ended in October 1991 proclaiming the principles of the status and functions of national institutions concerned with the protection and promotion of human rights. These principles may be summarised as follows:

- 1- Competence of national institutions concerned with the protection and promotion of human rights shall be established by virtue of constitutional or legislative provisions.
- 2- Opinions, recommendations and reports shall be presented on a consultative basis to governments, parliaments or any other body. Reports shall be prepared on the national status of human rights. Cases of violations shall be reported to governments with recommendations thereon. Adoption of international instruments shall be encouraged. Institutions shall participate in preparation of regular reports, and publications, and shall undertake to raise awareness and educate on human rights and efforts exerted in this regard.
- 3- The structure of these institutions shall incorporate various social powers and civil society organizations, and regulations to ensure good conduct of their business and independence of their members, who shall be officially appointed for a definite, renewable term.
- 4- Institutions shall independently review all internal matters within their competence, hear any person, directly address the public, convene meetings regularly and when so required, and establish

relations with government agencies and non-governmental organizations.

5- Institutions may be charged with receiving complaints from individuals and with amicable settlement within the limits defined by law and subject to maintenance of confidentiality and to notifying the complainant of his rights and, in particular, the means of remedy available to him and assist his access to same, and present recommendations thereon to the competent authorities.

The second World Conference on Human Rights (Vienna, 1993) referred in its declaration to the important and positive role played by national institutions to promote and protect human rights, in particular, their capacity to present advice to the concerned authorities, and their role to deal with human rights violations, and to disseminate information on human rights and ensure education in such fields.

Resolutions of the United Nations' Commission on Human Rights that call upon states to set up national institutions pursuant to Paris Principles followed. The Office of the High Commissioner of Human Rights set up a special program to present advice to states on establishing these institutions, and to provide technical assistance and train employees thereat. In 1988, during the meeting of the Commission, it approved the granting of special legal status to national institutions and an international coordination committee representing all World territories was established.

The world has witnessed a considerable increase in the setting up of these national institutions pursuant to the Paris Declaration.

Moreover, international and regional groupings have been established for these committees to undertake to coordinate efforts and exchange experience on human rights issues. The world-wide spread of national committees have created an international parallel network that

works side by side with international human rights mechanisms in the light of common standards and regulations that ensure effective national work to encourage all national powers to effectively serve national issues relating to the promotion of respect for human rights and fundamental freedoms.

**Chapter Three**  
**Establishment of**  
**The National Council for Human Rights**

## **The National Council for Human Rights:**

First: Duties and purposes

Second: Functions

**THIRD:** Makeup and Powers

Fifth: Secretariat

## **FIRST : DUTIES AND PURPOSES**

Pursuant to its promulgating law, the NCHR undertakes to achieve the following purposes:

- 1- Further the protection and set the values of human rights.
- 2- Raise awareness of human rights and fundamental freedoms.
- 3- Ensure the observance of such rights and freedoms and undertake to settle complaints related thereto.
- 4- Provide opinions, recommendations and advice on matters relating to human rights at the national and international levels and monitor the enforcement and application of international agreements.

## **SECOND: FUNCTIONS**

Pursuant to the provisions of Article 3 of its promulgating law, the NCHR is competent to undertake, as follows:

- 1- Prepare and propose means of implementation of a national action plan designed to further the protection of human rights in the Arab Republic of Egypt.

- 2- Provide competent bodies with recommendations and advice on all means to protect, further and promote human rights.
- 3- Provide opinions, recommendations and advice on matters referred to it by the competent authorities and bodies concerning the protection and promotion of human rights.
- 4- Receive and examine complaints concerning protection of human rights, refer, at its discretion, any such complaints to the competent bodies and follow-up same, advise the parties concerned with the matter of the legal procedures to be followed and assist them in such regard, or settle such complaints with the relevant bodies.
- 5- Monitor the application of international human rights agreements and conventions, and provide the concerned authorities with proposals, notes and recommendations necessary for proper application of such agreements and conventions.
- 6- Coordinate with international and local organizations and agencies concerned with human rights in matters that would help achieve the purposes of, and promote the relationships of such organizations and agencies with, the NCHR.
- 7- Participate with Egyptian delegations in forums, and in meetings of regional and international organizations concerned with the protection of human rights.
- 8- Assist by way of advice in preparing reports that the State undertakes to present regularly to human rights committees and organs in application of international conventions; and respond to inquiries made by such committees and organizations.
- 9- Coordinate with public agencies concerned with human rights, and cooperate with the National Council for Women, the National Council for Children and Motherhood, and other interested councils and agencies.

- 10- Disseminate and raise public awareness of the culture of human rights through the assistance of institutions and organs relating to education, culture, media and information.
- 11- Hold conferences, symposia and seminars on subjects relating to human rights issues or related matters.
- 12- Make the recommendations necessary to support institutional and technical capacities in fields of human rights, including technical education and training of employees of State bodies on civil liberties, and economic, social and cultural rights, with a view to increasing the efficiency of such employees.
- 13- Issue bulletins, magazines and printed material concerning the NCHR, and its purposes and functions.
- 14- Issue reports on human rights conditions, and developments made by the Arab Republic of Egypt in such regard at governmental and community levels.

The above functions, powers and duties reveal that the legislature is in line with the authorities provided for the national institutions under Paris Principles of 1991.

### **THIRD : MAKEUP**

Article One provides that the Council has a legal personality and shall independently perform its duties, activities and functions.

The Chairman of the Shoura Council issued Decree no. 1 of 2004 concerning the makeup of the NCHR as follows:

Dr. Boutros Boutros Ghali	Chairman
Dr. Ahmed Kamal Abu-El-Magd	Deputy Chairman
Dr. Ahmed Youssef Ahmed Mohamed	
Dr. Ossama Mohamed El-Ghazali Harb	
Mr. Bahi-El-Din Mohamed Hasan	
Mr. Galal Aref Mohamed Ossman	
Counsellor Gamal Ahmed Morsi Sayed Ahmed Shumann	
Dr. Georgette Sobhi Abdou Kellini	
Mr. Hafez El-Sayed Ahmed Abu-Sedda	
Dr. Hossam Hassan Badrawi	
Dr. Zeinab Abdel-Meguid Radwan	
Mr. Sameh Mohamed Marrouf Ashour	
Counsellor Samia Abdel-Ghani El-Motium	
Dr. Solliman Abdel-Moneim Solliman Ewiss	
Dr. Salah-El-Din Mahmoud Fawzi Amer	

Counsellor Adel Mohamed Farid Koura

Mr. Fahmi Nashed Abdel-Messih

Dr. Fouad Abdel-Moneim Riad

Dr. Lila Ibrahim Tekla

Dr. Mohamed El-Saied El-Dekkak

Mr. Mohamed Mohamed Fayek

Dr. Mohamed Noemann Galal

Dr. Moustafa Mohamed El-Feki

Counsellor Mamdouh Moustafa Hassan

Mrs. Mona Salah-El-Din Zulfikar

Mr. Mounir Fakhri Abd-El-Nour

Dr. Hoda Abdel-Moneim El-Sadda

#### **FOURTH : COMMITTEES**

The NCHR, upon its establishment, undertook to complete its organizational structure by laying down its internal and financial regulations, and setting up its internal committees and secretariat in accordance with its internal regulations. The NCHR set up the following seven main committees.

- Civil and Political Rights Committee: Presided by Mr. Mohamed Fayek with the membership of Dr. Moustafa El-Feki, Dr. Georgette Kellini, Dr. Ossama El-Ghazali, Dr. Ahmed Youssef, Mr. Mounir Fakhri Abd-El-Nour, Mr. Sameh Ashour, Mr. Bahi-El-Din Hasan, Mr. Hafez Abu-

Sedda, Mrs. Mona Zulfikar, Dr. Hossam Badrawi, Mr. Fahmi Nashed, Dr. Hoda El-Sadda, Mr. Galal Aref, and Dr. Lila Tekla.

- Economic Rights Committee: Presided by Dr. Ossama El-Ghazali Harb with the membership of Mr. Hafez Abu-Sedda, Mr. Mohamed Fayek, Dr. Mohamed Noemann Galal, Counsellor Samia El-Motium.
- Social Rights Committee: Presided by Counsellor Adel Koura with the membership of Dr. Hossam Badrawi, Mrs. Mona Zulfikar, Counsellor Gamal Shumann, Counsellor Mamdouh Moustafa Hassan, Counsellor Samia El-Motium, Mr. Galal Aref, and Dr. Zeinab Radwan.
- Cultural Rights Committee: Presided by Mr. Bahi-El-Din Hasan with the membership of Dr. Hoda El-Sadda, Mr. Fahmi Nashed, Dr. Ahmed Youssef, Dr. Fouad Abdel-Moneim Riad, Mr. Galal Aref, Dr. Solliman Abdel-Moneim Solliman, and Dr. Zeinab Radwan.
- Legislative Affairs Committee: Presided by Mr. Sameh Ashour with the membership of Dr. Mohamed El-Saied El-Dekkak, Dr. Salah-El-Din Amer, Counsellor Mamdouh Moustafa Hassan, Counsellor Gamal Shumann, Dr. Georgette Kellini, Dr. Solliman Abdel-Moneim, Mr. Hafez Abu-Sedda, and Mr. Bahi-El-Din Hasan.
- International Affairs Committee: Presided by Dr. Lila Tekla with the membership of Dr. Mohamed El-Saied El-Dekkak, Dr. Moustafa El-Feki, Dr. Salah-El-Din Amer, Dr. Fouad Abdel-Moneim Riad, Dr. Mohamed Noemann Galal, and Mr. Mounir Fakhri Abd-El-Nour.
- Grievances Committee: Presided by Mr. Hafez Abu-Sedda with the membership of Mrs. Mona Zulfikar, Dr. Hossam Badrawi, Mr. Mounir Fakhri Abd-El-Nour, Mr. Sameh Ashour, Dr. Georgette Kellini, Mr. Bahi-El-Din Hasan, Dr. Hoda El-Sadda, Mr. Mohamed Fayek, Counsellor Samia El-Motium, Dr. Lila Tekla, Mr. Fahmi Nashed and Dr. Mohamed Noemann Galal.

The NCHR may set up other permanent committees from among its members by a resolution adopted by a majority of two-thirds of its members.

The secretariat of each committee is headed by one member of the Council's members for a term of one year that may not be renewed. A committee may seek the assistance of any person whose experience it deems appropriate when reviewing any matter to which it is charged. This person shall not be entitled to vote.

- Executive Committee: An executive committee has been set up at the NCHR to monitor the NCHR's daily work. This committee is headed by the NCHR's chairman or his proxy and includes all secretaries of the permanent committees and the NCHR's secretary general.

#### **FIFTH : SECRETARIAT**

Pursuant to Law no. 94 of 2003 promulgating the Council, the Council issued a resolution to form the secretariat.

Ambassador Mokhles Kotb has been elected as the Council's Secretary-General. He has been accorded the authority of the competent minister set forth in the applicable laws and regulations on financial and administrative matters.

## **Chapter 4**

### **NCHR's Activities**

Following its inception, the NCHR set forth a framework to finalize a national plan for ensuring compliance with human rights in Egypt.

To this end, NCHR specified two mechanisms. The first was the formation of a joint committee with the ministries of the interior, foreign affairs and justice as well as the General Prosecutor Office. This committee convenes periodically at under-secretaries' level to review the scheduled issues the second mechanism which is underway seeks cooperation with human rights NGOs.

The work priorities approved by the NCHR are as follows:

- 1- To end the state of emergency as well as the legislations that conflict or are inconsistent with human rights principles.
- 2- To add new legislations that support the advancement and protection of human rights principles.
- 3- To promote respect for basic rights and public freedoms with special emphasis on :
  - a) resolving issues concerning detainees arrested, under the Emergency Law.
  - b) ending all forms of torture and cruel, degrading treatment
  - c) abrogating all penalties that violate the freedom of speech and the freedom of the press
- 4- To enhance the economic rights of Egyptian citizens, with special emphasis on :
  - a) the unemployment problem which deprives individuals from the right to a job

- b) problems concerning workers laid off owing to changes in the Labor Law.
- c) the problem of unequal opportunities and the lack of transparency in filling public jobs owing to nepotism and favoritism
- d) the conditions that repel and hinder investment, leading to the scarcity of job opportunities in Egypt.

5- To ensure a decent life for citizens, with special emphasis on:

- a) the right to good health maintenance.
- b) the right to good education.
- c) judicial supervision on prisons, supporting social rehabilitation and providing health care to prisoners as well as social care after completing their sentence.
- d) resolving the problem of mines buried in Egyptian soil since World War II which result in casualties and the hindrance of development.

6- To disseminate human rights principles in the Egyptian media, education, culture, with special emphasis on:

- a) the development of educational curricula in compliance with human rights principles and values .
- b) the entitlement to cultural rights in Egypt.
- c) the mainstreaming of the culture of human rights throughout the media.
- d) the training of mosque and church preachers in issues concerning different faiths and human rights.

7- To (i) strengthen relations and exchange expertise with similar national institutions, international organizations, and cooperation mechanisms with the UNCHR; (ii) coordinate financial and technical

support on an international level, (iii) review Egypt's reservations on international conventions, (iv) observe the violation of rights of Egyptian citizens abroad, and (v) take interest in discussing issues concerning Iraqis and Palestinians, the humanitarian condition in Darfour, anti-Semitic issues, and contempt for other faiths.

Under this program, the NCHR undertook convening several hearings and has appointed experts to conduct studies on issues of interest so that they may present their recommendations to the Egyptian President and competent authorities. The NCHR has also authorized a program for visiting prisons and has carried out a number of visits to Tora and El-Kanater prisons for male and female prisoners as well as to the Abu Zaabal prison. The NCHR has forwarded thousands of complaints addressed thereto to the relevant ministries and has established an internal mechanism for their follow-up.

### **Legislation and Law:**

NCHR has submitted a memorandum to the Egyptian President, the Chairman of the People's Assembly and El-Shoura Council, including a recommendation to terminate the state of emergency and to resume the normal litigation system as stated in the Constitution.

This recommendation was made after studying the various perspectives of the state of emergency, the justifications for its continuity, and the negative impact of such continuity on the overall stance of Egyptian citizens with regard to the legal protection of their rights and freedoms.

In light of this, there were important alterations to Egyptian legislation in 1992. An entire section was added to Chapter Two of the Penal Code concerning terrorism crimes. This section may substantially be considered a complete legislation to fight terrorism. Furthermore,

some modifications were made to the Criminal Procedure Code. Its contents concern the regulation of special procedures to face terrorism crimes, violence, and the organized Crime. This is intended to provide security authorities and the Public Prosecution with the necessary legal means to fight terrorism crimes, violence, and organized Crime.

With these changes, as well as the other provisions of the Penal Code and Criminal Law, society has been more capable of facing any real danger through the normal legislative system.

Despite the positive action taken by the judicial and executive authorities to limit the scope of practicing exceptional powers granted by the Emergency Law, it is now time, in the NCHR's opinion, to top this action by once and for all ending the Emergency Law.

Also, NCHR views certain provisions of the Penal Code and Criminal Procedure Code as infringing upon the rights of individuals and impairing the basic guarantees established by the Constitution in investigation procedures and criminal trials.

**The NCHR's recommendations include the following:**

- 1- To amend Article 1 of the Penal Code which stipulates that the punishment of any civil servant who orders or carries out the torture of a suspect or detainee to obtain a forced confession therefrom shall be three to ten years of imprisonment.

The proposed provision includes the widening of the scope of criminal acts punishable by law so that it is not restricted to obtaining forced confessions from a suspect or detainee. Rather, in addition to this, it includes torture to obtain forced information or to terrify or force such suspect or detainee to do or abstain from doing a certain action.

The proposed provision also widens the scope of incrimination to include those who instigate or approve torture, or who take a passive stance regarding it, or who fail to prevent or to report such torture.

- 2- To annul the paragraph under Article 206 of the Criminal Law which grants certain members of the Public Prosecutor's Office the powers and authorities of the Court of Appeal, Misdemeanour Chamber, convened in a deliberation room. This authority grants the right to detain a suspect for a period of up to six months without forwarding the matter to a court or obtaining permission for such detention, or allowing the detainee's protest before him.
- 3- To amend Article 40 of the Criminal Law by adding a new paragraph thereto, which prohibits the arrest or detention of any person without an order issued by legally competent authorities. It also obligates the treatment of an arrested person in a manner that maintains his dignity as a human being. It further prohibits harming such person physically or mentally. The NCHR believes that the provision in its new form is adequate enough. However, it stressed the need for adding this new paragraph:

" In all cases, it is prohibited to hear the statement of a suspect arrested in a misdemeanour or felony which, by law, requires detention or interrogation, without the presence of that suspect's attorney. If his attorney fails to attend, an attorney shall be appointed for him through the competent Bar Association".

**Moreover, the NCHR has embarked on the study of two other issues, namely:**

- 1- Procedural and substantive criteria for temporary arrest, which is undeniably a necessary procedure in certain cases. It should be governed by substantially specific regulations and controls necessary

to safeguard it from becoming a system that is inconsistent with the principle of original innocence of a suspect of a criminal act and that violates the fundamentals of criminal legislation.

- 2- The NCHR believes that the travel interdiction, which has become widely applicable, and which is sometimes extended to periods exceeding five years, is an unacceptable violation of the Constitutional rights concerning travel.

### **Enhancement of Basic Rights and General Freedoms:**

A meeting was convened with the Interior Minister on August 3, 2004, regarding the NCHR's engagements and the enhancement of the policies concerning the protection of human rights.

The NCHR agreed to coordinate its efforts with the national project for sustaining capabilities in the domain of human rights. This project is aimed at qualifying law enforcement personnel as well as competent sectors. This project is being implemented by the Ministries of the Interior, Justice and Information, in addition to the Public Prosecutor's Office, with the support of the UNDP and the Office of the High Commissioner for Human Rights.

The NCHR has also reached a preliminary agreement with the Minister of Interior and the Public Prosecutor to establish a joint committee to review the conditions inside prisons and the legislative framework therefore as well as to improve the treatment of prisoners and detainees. The agreement includes appointing two members to the committee to review the recommendations and specific reforms declared by the Ministry and the Public Prosecutor's Office and to follow up the execution thereof.

As a positive initiative to cooperate with the NCHR, the MoI, on January 4, 2005, released 51 prisoners whose names had been included on a detailed list submitted by the NCHR. The Ministry also promised to review the other cases and reassess each case individually. The Ministry will also inform the NCHR of the procedures carried out.

The NCHR recommends to expedite the study of the prisoners' conditions in light of the Emergency Law in order to issue their release, with the exception of those who pose a real threat to national security until the Emergency Law is no longer enforced. Such exceptions shall be only in crucial circumstances and in accordance with specific and objective standards.

The continuous imprisonment of large numbers of prisoners for long periods, which, after being repeatedly extended, have exceeded ten years, represents a blatant violation of judicial legitimacy, which could, in turn, create a new focal point of instability and tension. National interest calls for terminating this state of affairs promptly. Furthermore, this matter could damage Egypt's image before the entire world especially before human rights organizations.

On 13 October, a visit to Tora Prison in a series of such visits was paid by four of the NCHR's members, who were adequately aware of prison rehabilitation issues, i.e.: the NCHR's Deputy Chairman, Dr. Ahmed Kamal Abul-Magd, Secretary of the Committee for Civil and Political Rights, Mr. Mohamed Fa'ek, Dr. Osama El-Ghazaly Harb, and Secretary of the Committee for Complaints, Mr. Hafez Abu Seda. They carried out an extensive tour of to the prisoners' cells, the services available, the production centers where the prisoners work, the special clinics, as well as the visiting areas.

The members of the NCHR met separately with a large number of prisoners as well as those in temporary custody and spoke with them in private and asked if they had any complaints regarding the prison.

The delegation expressed pleasure that flogging is no longer a permissible punishment in prisons and that wired barriers have been removed from the visiting areas. It was also pleased with the conditional release issue. However, there are some lingering complaints regarding temporary detention and its extended time periods as well as some problems regarding procedures concerning criminal acts which will be studied by the NCHR and its sub-committees.

During the visit to Tora Prison, a number of prisoners informed the NCHR's delegation that the treatment of prisoners has noticeably improved recently.

On the other hand, these visits may not be sufficient to issue a general and accurate assessment regarding the conditions of other prisons. The NCHR will therefore conduct more visits to most of the other prisons during its second year so that it may reach more sustainable recommendations.

Regarding the death of some prisoners and temporary detainees during their transfer to prisons and various other locations, the NCHR stated that it feared the recurrence of such incidents and requested the MoI to reconsider the methods adopted in this regard to guarantee the safety of those in custody.

The NCHR also stated that imprisonment in particular, in spite of its legality, should remain a last resort. It also added that the wide use of this procedure does not comply with the spirit of judicial legitimacy.

On another plane, the NCHR denounced the assault on the journalist and writer, Dr. Abdel Haleem Kandil, and requested that

security forces promptly identify and capture the assailants so that they may be tried, thus demonstrating the keenness of the State and of society on protecting the freedom of speech and on guaranteeing the safety of journalists and writers.

The NCHR has listened to the statement made by Mr. Galal Aref, Chief of the Press Syndicate, and a member of the NCHR, regarding the assault on Dr. Kandil. The NCHR has decided to continue communicating with the competent authorities to assure the progress of investigations and to follow up on their findings.

#### **Enhancement of Common Freedoms:**

The NCHR invited the Minister of State for Shoura Council Affairs and Secretary of the Vocational Committee under the National Party, Dr. Mofeed Shehab to discuss the amendment to Vocational Syndicates Law No. 100 for 1993.

The discussion included the NCHR's views regarding the new law and its proposed amendments enhancing the role of vocational syndicates in providing services to their members to include their families in case of a member's death or retirement; continuously extending and increasing financial care, healthcare, and services; asserting the syndicate's principles of jurisdiction with regard to membership registers, prohibiting both the interference therewith and the enrolment of any member thereon without a final court order; the syndicate's restricted jurisdiction to impeach its members.

This is in addition to other effective proposals regarding elections and general assemblies pursuant to the viewpoints held by all vocational

syndicates concerned with the excellent representation of their the general assembly members at board of directors meetings.

With regard to the case of Dr. Ayman Nour, a member of the People's Assembly and Chairman of El-Ghad (Opposition) Party (previously discussed), the NCHR set up a committee including the NCHR Deputy Chairman, Dr. Ahmed Kamal Abul-Magd, Mr. Mohamed Fa'ek, and Counsellor Adel Koura. This committee met with the Public Prosecutor, the MoI and the MoJ. It also met with Dr. Nour during his confinement in order to ensure the soundness of the procedures taken.

The committee reached the following conclusions, which have been officially declared to the public:

First: The NCHR has confidence in the integrity of the Egyptian judicial system and its impartiality. It thereby expresses its confidence that the charges filed against Dr. Ayman Nour are now in the hands of rightful justice.

Second: In light of Dr. Ayman Nour's point about the circumstances regarding his arrest and the unnecessary rough treatment he received in the process, the NCHR reiterates the importance of all State authorities maintaining the dignity and the due humane treatment of every citizen. Furthermore, non-compliance with such treatment has instigated rumours about Dr. Nour's arrest being politically motivated.

Third: In this light, the NCHR believes that current circumstances now call for prompt legislative intervention, which includes, *inter alia*, that the period of such detention may not exceed 15 days, to be extended, if necessary, to a maximum period determined by the legislator.

Fourth: The NCHR calls for finalizing the investigation concerning the allegations against Dr. Ayman Nour as soon as possible so that his release may be contemplated.

### **Enhancement of Economic, Social and Cultural Rights (Right to Healthcare):**

The NCHR held hearing sessions on the right to healthcare. The sessions were attended by: Head of the Health Insurance Authority, Dr. Mostafa Abdel Moety, former head of the Health Insurance Authority, Dr. Hassan Abdel Fattah, Chief of the Doctors Syndicate Dr. Hamdy El-Sayed, and the General Manager of Basic Healthcare at the Health Ministry, Dr. Laila Soliman. The sessions were convened to study the problems set forth and resolutions and proposals thereto.

After discussing a study prepared by NCHR member, Dr. Hossam Badrawy, the following recommendations were made:

- 1- To better monitor the performance of medical institutions and their personnel as well as establish an accounting system in accordance with international standards and indicators on performance monitoring.
- 2- To devote more attention to units that provide preventive and basic healthcare services and refer patients to the next level of healthcare.
- 3- To improve the performance of the Health Insurance Authority, which requires: detaching of the Health Insurance Management from the administration of service provision, decentralization of healthcare services, and the creation of independent entities specialized in financial control and quality control.

### **The Right to Education:**

- 1- The NCHR assigned the NCHR member, Dr. Hossam Badrawy, to conduct a study on the right to education.
- 2- The NCHR studied the preparation of a draft research regarding the status of human rights in Egypt's academic curricula for forthcoming proposals to the Ministry of Education, as well for a forthcoming conference on the freedom of scientific research and academic freedom.
- 3- The NCHR held hearing sessions with officials from the Mol, MoJ, and some experts on the issue of landmines and demining.

The sessions concluded with the following recommendations:

- 1- To consider signing the Ottawa Convention and drafting an annex or protocol thereto to fulfil national interests.
- 2- To contact the UNCHR and the commissions for human rights in the European Union in order to promote the notion of linking human rights conventions with the obligation of removing landmines.
- 3- To contact and cooperate with NGOs that have exerted considerable efforts in this domain.
- 4- To contact the committee chaired by the Minister of State for Foreign Affairs to enhance its role.
- 5- To urge international law specialists to play a more proactive role in bringing up this issue at international conferences.
- 6- To call for an international conference in cooperation with the Mol and MoJ.

The NCHR began preparing for a national conference on landmines to be attended by all concerned parties to discuss a document titled, "El-

Alamein Declaration". It includes the NCHR's proposals for resolving the problem and preparing for an international conference.

The NCHR assigned the preparation of a report on the status of cultural rights in Egypt to a specialized researcher.

Following the agreement reached between the NCHR's Chairman and the Minister of Information, NCHR paved the way to a symposium aiming at the dissemination of the culture of human rights. The symposium should be convened on March 13, 2005, and attended by 60 experts in all fields of education, psychology and the media. It will determine the scope of the paper to be presented to the Minister of Information that will assist in disseminating the culture of human rights indirectly and unconventionally.

The Committee for Cultural Rights held a hearing session on the freedom of literary and artistic creativity and the freedom of thought on November 9, 2004.

Its deliberations revealed the commonalities between these rights and general and political rights, and that the restrictions made on the latter have a negative impact on the freedom of creativity and thought.

In this context, the participants requested immediate and comprehensive constitutional and political reform, including the termination of the state of emergency and exceptional laws which violate human rights principles.

The NCHR is preparing for an extended symposium on academic rights and the freedom of scientific research. The symposium will examine the status of the freedom of scientific research in Egypt and will make the necessary recommendations for its enhancement. The symposium will be held in July 2005.

In countering the campaign which international bodies are directing against Islamic and Arabic culture alongside their international campaign against terrorism, the NCHR issued a statement that denounced all forms of random violence and terrorism, asserting that security measures alone are not sufficient to uproot the causes of terrorism.

The NCHR also denounced acts of violence and terrorism in which men, women, and children get killed and maimed in the name of Islam. It declared the invalidity of the claims promoted by some media centres holding Islamic and Arabic culture responsible. The NCHR asserted that Islam, at its outset, set forth strict controls to protect innocent civilians in times of any armed conflicts.

### **The Relationship between the NCHR and Parliamentary Councils :**

The NCHR's officials met with the Chairman of the People's Assembly and the Shoura Council and agreed to establish committees in both chambers to handle issues concerning human rights.

The People's Assembly actually established a committee for human rights as of January 12, 2003. The Chairman of the Shoura Council declared that the Council intends to expand the functions of its Legislative Committee to include human rights.

### **Cooperation with Human Rights and Women and Children's Rights Organizations:**

The NCHR, since its onset, has been keen on cooperating with these organizations, whether governmental or non-governmental. However, 18 NGOs have conveyed their reservations regarding the NCHR's formation, claiming that it is of a governmental nature. This matter is understandable; since the experience is still rather novel in Egypt. The NCHR is keen on overcoming this, relying on the fact that its

performance shall verify its independence and shall thus draw due trust and cooperation.

The NCHR's officials attended several meetings with competent organization officials aiming to delineate the NCHR's role during the first year of its career. The NCHR also responded to the public issues set forth by civil society institutions for research.

The NCHR participated in several workshops and deliberation circles which discussed various issues, the most prominent being the diversity of monitoring bodies that scrutinize the activities of civil society institutions, and the role of civil society institutions in disseminating the culture of human rights.

NCHR also had a meeting with representatives of civil society and partisan institutions to resolve the issue concerning the violation of the rights of Egyptian prisoners of war.

On January 4, 2005, the NCHR called for a meeting with representatives of NGOs working in the domain of human rights in Egypt. The meeting, which was attended by the NCHR's Chairman and its members, the Chairman of the Union of NGOs, and representatives of 30 NGOs, discussed the NCHR's views, performance, and the means whereby to enhance cooperation between the NCHR and NOGs. During the meeting, the following common points were manifested:

- 1- To involve NGOs in preparing a national plan to bolster human rights already being prepared by NCHR. The NCHR will try to include it in the State's five-year plan as of 2007 through 2012.
- 2- To involve NGOs in preparing the NCHR's annual report as of the coming year in light of the reports and data it is capable of providing.
- 3- To bolster the human rights process using organized and harmonious means .

- 4- To affirm the importance of coordination and cooperation among NGOs on the one hand, and between them and the NCHR on the other hand.
- 5- To look into the proposal for the establishment of ad-hoc committees for reviewing issues between NCHR and NGOs.

### **International Cooperation:**

The NCHR has been keen on strengthening its relationships with governmental and non-governmental international institutions concerned with human rights issues and opening dialogues therewith regarding issues of mutual interest. Understandably, the NCHR first considered the UNO and its concerned institutions and specialized agencies.

Dr. Boutros Ghaly, Chairman of the NCHR, and Mrs. Louise Arbor, the High Commissioner for Human Rights, agreed on cooperation and coordination between the NCHR and the HCHR in every respect.

The NCHR also concluded a three-year agreement with the UNDP on supporting the NCHR's capabilities. The term of the agreement commences in October 2004 and ends in October 2007. The agreement includes programs in three domains:

- Assisting the NCHR in preparing its internal bylaws, including its internal regulations, an accounting system that complies with international standards, the establishment of an information technology system, the setting up of a data base to record complaints. Achieving this requires the provision of consultation services, necessary tools and expertise, and direct institutional support.

- Empowering the NCHR's committees and employees to assist it in supporting the NCHR's capacities in issuing reports and its participation in preparing regular reports to be submitted to international institutions; establishing compiling and categorizing information systems; supporting the NCHR's capacities in researches and studies, and establishing a technical office to prepare and follow up on reports.
- Providing for a foreign dialogue with CSOS organizations as well as other sectors by organizing training activities and workshops with selected organizations while providing direct institutional support.

The NCHR's officials held meetings with ambassadors of several countries and representatives of international groups. They met with the ambassadors of Germany, Italy, France, the Netherlands, as well as an assemblage of ambassadors of the European Union, the representatives of the European Commission, an official delegation from Germany, the Canadian Justice Minister, the United States ambassador, a delegation of the assistants of the United States Congress, and the ambassadors of Algeria, Argentina and Guatemala.

- The NCHR's officials explained during these meetings its functions and responsibilities concerning the enhancement of human rights in Egypt, as well as the NCHR's nature and relationship with the Egyptian Government and society.

The NCHR discussed with representatives of European states the labor issue concerning Arab immigrants, the importance of developing Europe's view of such labor, and the importance of finding a mechanism to develop a balanced dialogue between the two sides of the Mediterranean to establish a reasonable and fair dialogue concerning human rights and the labor rights and obligations of immigrants.

- The NCHR's officials also discussed with representatives of Western states the importance of reconciling the West's advocacy for reform with the reform of the UNO.

Some Western representatives expressed willingness to support the NCHR in carrying out its functions and to organize activities of mutual concern. Some even extended invitations to the NCHR's Chairman to visit their countries and give lectures on particular issues.

- Some expressed concern regarding the integration of immigrants of Arab origin in European communities, as well as the complexity of the problem owing to social, economic, and security pressures which these countries suffer as a result of illegal immigration.

One of the NCHR's main concerns in the domain of international cooperation is the strengthening of relationships with similar national institutions; familiarizing itself with their experiences, and discussing views therewith.

To this end, the NCHR communicated with the French Consultation Council for Human Rights, the Swiss National Institution, the Indian National Committee for Human Rights, the Chinese National Committee for Human Rights, the Tunisian Supreme Consultation Authority for Human Rights, and the Korean National Committee for Human Rights. It also reviewed the annual reports and foreign activities of some of these institutions.

The NCHR also met with a delegation from the Canadian National Committee for Human Rights, the Danish Institution for Human Rights and the Korean Institution for Human Rights. The NCHR studied the channels of cooperation and coordination therewith.

The NCHR participated in the Seventh Meeting for National Institutions for Human Rights held in Seoul, South Korea, from 14 through 17 September, pursuant to an invitation extended by the

Korean National Institution for Human Rights. The NCHR was represented in this meeting by its member Ambassador Noaman Galal.

The focus of the said conference's agenda was the role of national institutions in protecting human rights in case of armed conflicts and in fighting terrorism. The published conclusions of the conference confirmed the importance of the commitment of all states to the principles of the law and human rights during armed conflicts and in combating terrorism.

In the same context, the NCHR participated in the First Meeting for African National Institutions for Human Rights held in Addis Ababa from 18 through 21 October and attended by twenty African national institutions. The NCHR was represented in this meeting by its member Ms. Mona Zulfikar. A major point of discussion was the different models of national institutions and the challenges facing them, specifically the non-availability of trained human resources or financial resources.

The NCHR also showed particular interest in national institutions and committees working in eight other Arab countries. The NCHR communicated and met with the National Institution for Human Rights (Qatar), the National Committee for Human Rights (Djibouti), the Consultation Council for Human Rights (Sudan), the National Consultation Committee for Enhancing and Protecting Human Rights (Algeria), the Consultation Council for Human Rights (Morocco), the National Center for Human Rights (Jordan), the Supreme Authority for Human Rights and Basic Freedoms (Tunisia).

The NCHR called for convening a meeting in Cairo next March, including officials of those institutions and committees as well as the Permanent Arab Parliamentary Committees for Human Rights, the authorized officials concerned with human rights in countries that do not have institutions or committees for this purpose, and international

experts and officials from concerned authorities under the UNO, in cooperation with the HCHR's Office and the UNDP.

The NCHR was also keen on cooperating with international NGOs. It therefore convened with the French Committee for Discrimination against French Nationals of Foreign Origin, the representatives of the Human Rights Watch (HRW), representatives of the International Federation for Human Rights, representatives of the Committee for Religious Freedoms in the United States. These meetings included the exchange of views regarding human rights, the perspectives of each party concerning such rights, and the means for enhancing joint cooperation.

The NCHR's representatives discussed their viewpoints with the Committee for Religious Freedoms regarding the latter's partial approaches in its report. It also discussed with the International Federation, whose visit was alongside its campaign on revoking the death penalty, the inappropriateness of revoking the death penalty in Egypt. The NCHR also noted that this issue has not been laid down before the public or legal or judicial circles as yet. It also added that even internationally it is still a point of controversy.

**The NCHR also participated in the following conferences:**

- 1- The Tenth Conference for Rome's Association for Human Rights organized by the Roman Institution for Human Rights from 5 through 11 September. The conference included workshops on the right to education and educational and human rights. Alongside the conference, a draft agreement for cooperation between the NCHR and the Roman Institute for Human Rights was prepared. Dr. Hossam Hassan Badrawy represented the NCHR in this conference.

- 2- The Conference for Tolerance and the Opposition of Racism and Xenophobia, which was organized by the European Security and Cooperation Organization in Brussels on September 13 and 14. Of its important recommendations is the convening of a conference to oppose discrimination against Islam.
- 3- The Regional Hearing Session for the Middle East and the Mediterranean organized by the World Committee for International Migration and held in Cairo from 13 through 15 September. The Session focused on four central points concerning migration, which are: economic aspects, unorganized migration, immigrants in communities, human rights, and the national, regional and international management of migration.
- 4- A Symposium to confront hostility against Islam - Appraisal for Tolerance & Understanding - organized by the United Nations Organization in New York on December 7<sup>th</sup>.

Dr. Ahmed Kamal Abul-Magd, the NCHR's Deputy Chairman, seized the chance of being in New York to participate in the symposium for confronting hostility against Islam and met with a number of officials of influential research centers, including:

- President of the American Enterprise Organization regarding discrimination against Islam and the importance of a dialogue between the Islamic world and the West.
- Director and officials of the Washington Institute for Near East Policy. The discussions revolved around the events of September 11, and the US's advocacy for cultural and political changes and equitable peace in the region, rejecting violence in all its forms, and the prevalence of democracy.
- Officials of the Center for Studies on Islam and Democracy (CSID). The meeting discussed the fundamentals of democracy in Islam and

the United States' perspective regarding the prevalence of democracy and the execution of political reform.

### **Towards A National Action plan for Enhancing Human Rights:**

The law promulgating the NCHR states that one of the first functions appointed to the NCHR is setting forth a national action plan to enhance and develop human rights in Egypt. It also proposes the means to realize this plan (Article 3-1).

In this context, the NCHR has, in cooperation with the UNDP, prepared a national action plan to enhance human rights in Egypt. A committee was established to include some NCHR members to prepare this plan and conduct studies on similar plans as per the UNO model.

This committee was chaired by the NCHR's Deputy Chairman, Dr. Ahmed Kamal Abul-Magd, Dr. Said El-Dakak, Mr. Mounir Fakhry Abdel Nour, Dr. Mostafa El-Fe'ei, Dr. Georgette Kileeney, Dr. Hossam Badrawy, and the NCHR's Secretary-General, Ambassador Mokhlis Kotb.

The committee held a number of meetings and was assisted by an expert in this field. It also contacted the Ministry of Planning to complete its basic data.

Such a plan is one of the essential mechanisms approved by the international community during the Second International Conference on Human Rights held in mid 1993 in Vienna and attended by Egypt.

The national action plan is based on the concept that the enhancement of human rights should represent an objective goal in the State's general policy, a goal that can be achieved through ordinary planning and the allocation of the State's resources. In this sense, the plan integrates the goals of human rights into the State's main goals.

Several African, Asian, Latin American, and European countries have begun to achieve this goal. Other countries have set out to do the same. In the Arab world, the Palestinian Authority has taken the initiative to develop a national plan to enhance human rights in Palestine. Jordan has also taken that initiative.

In Bahrain, a symposium was held for developing a national plan in the domain of human rights. It was organized by national, regional and NGOs with the support of HCHR.

Based on past international experience, a national action plan for enhancing human rights should go through five stages:

Preliminary Stage: It includes consulting with the Government, NGOs, and concerned parties; preparing an instrument on principles to be authorized by the Government; announcing its contents to the public, and organizing preliminary meetings with concerned parties.

Plan Development Stage: This necessitates a coordination committee to set forth the conceptual framework for the plan; create sectoral work groups; consult with non-governmental organizations and concerned parties; hold public hearing sessions; prepare fundamental studies; determine priorities and issues of specific importance, specify the requirements of vulnerable groups; and develop a draft plan and its time and legal frameworks.

Plan Implementation Phase: This includes publicizing the plan; holding regular meetings by the coordination committee; working with partners on implementing the plan; enhancing consultations and interlocking; laying down informational and educational strategies to increase awareness on human rights, and endeavoring to obtain the Parliament's authorization.

Monitoring Phase: This shall be carried out by developing monitoring modalities; conducting semi-annual evaluations by the coordination committee; following up on the interventions of NGOs; following up on consultations and interlocking; following up on feedback from implementing parties, and preparing reports for the Parliament and public.

Evaluation Phase: It includes the issuance of an annual report; creation of an auditing team; preparation of reports for the Parliament and public, and gathering recommendations for the plan to follow.

Those phases require the proactive participation of the society and the Government. In essence, these phases are part of the auditing operations necessary to enhance human rights.

The NCHR deems the mandate, stated in its incorporation law, a political decision for the commencement of developing a plan. The NCHR has been keen on considering its action plan and programs, and the priorities its committees specified, as preliminary steps in determining the goals and priorities of the plan to be integrated in the State's comprehension plan (2007 – 2012). The NCHR has therefore agreed on the following steps for developing the plan:

**First:**

- determining the requirements and starting points of each phase and the bodies concerned with the execution of the plan, and creating a supreme committee and work groups.
- compiling the information and data required to begin developing the plan and removing the obstacles that impede access to sources of information.
- reviewing some plans already implemented in other countries.

- reviewing national laws and regulations as well as international laws concerning human rights; holding a national conference, and organizing various symposiums.
- Holding referendums to learn about the opinions of civil society bodies regarding the components of the plan.
- holding continuous meetings with concerned civil society bodies to crystallize a common vision, also holding meeting with concerned bodies in the government to find common ground to work as one team.

**Second:**

- conducting a thorough and specialized Christian study on various aspects concerning human rights in Egypt and developing a data base.
- analyzing the results of the study and presenting it to concerned parties for discussion and feedback.
- Ensuring that results comply with juristic, legislative, national and international standards and ensuring the possibility of their implementation.
- determining the specialized cadres capable of following up on the development of the plan and coordinating relevant efforts and activities.
- making use of the media to increase awareness and receive feedback in order to make any necessary amendments.

**Third:**

- setting the general framework for the plan to ensure its clarity to all concerned parties.

- determining material, financial and human resources requirements and making use of resources available to the State's ministries and civil society bodies.
- providing a special and sufficient budget to ensure the plan's independence and success, while benefiting in this domain from public funding and the assistance provided by the UNO.

### **Coordination of Roles for Developing the National Plan for Human Rights:**

A committee was created to prepare for the development of the national plan and the delegation of a specialist in this field pursuant to the work methodology of the UNO, such that the following principles are observed:

- 1- Governmental or non-governmental bodies as well as vulnerable groups shall participate in developing the plan based on just representation.
- 2- The committee's representation shall be pursuant to democratic basics and shall include the participation of active civil society institutions.
- 3- The committee's work shall be based on continuous consulting and coordination with all bodies participating in the development of the plan.
- 4- The coordination committee and its work shall be independent, and the committee shall resort to an expert on human rights, impartiality and integrity.

**The committee's role may be summarized as follows:**

- 1- laying out the strategy and mechanism for the plan;
- 2- studying the priorities of the plan and supervising the Christian study on human rights;
- 3- developing the national plan;
- 4- laying out the informational strategy for the plan;
- 5- determining the evaluation of the plan; following up progress, and studying the impact mechanisms of each phase in the plan;
- 6- creating sub-committees, coordinating between them and evaluating their work;
- 7- coordinating with all various regional and international bodies that may assist in the implementation of the plan.

## **Grievances**

The NCHR decided to create a committee to review complaints, bearing in mind that there are projects currently being reviewed in cooperation with the UNDP. Such projects have been approved by the EU for the establishment of a specialized Grievance Bureau that is both well-equipped and well-staffed, enabling it to better handle the complaints addressed to the NCHR.

## **First: General Classification of Complaints**

**Addressed to the NCHR**

**from February to December 2004**

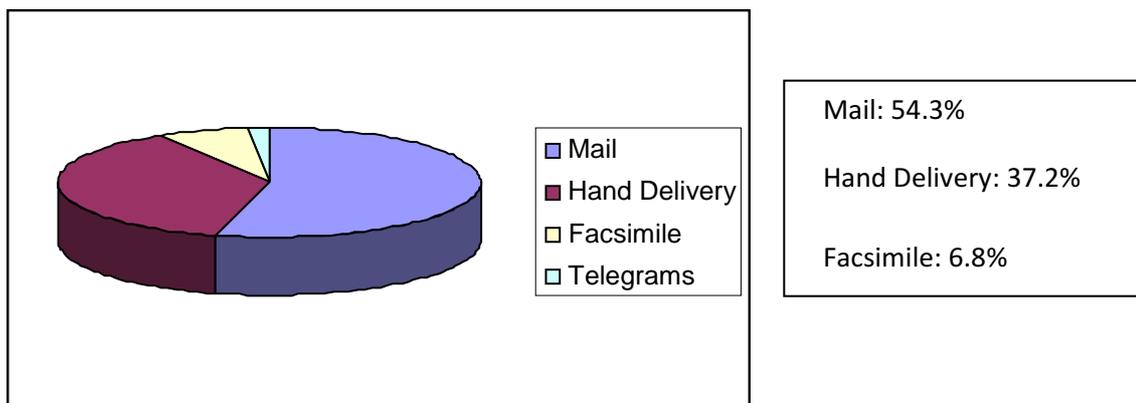
After fulfilling the preconditions for its formation, approved on February 18, the NCHR Grievance Committee received 4,850 complaints from February 25 to December 31, 2004. Below is a review of these complaints, classified according to: the method of their delivery to the NCHR; their geographic distribution according to governorates; their specific distribution according to the rights which complainants claim to have been compromised or violated and the requests for reclaiming such rights and freedoms granted them by international agreements and conventions and national legislations regulating such rights and freedoms, and their chronological distribution according to date of their delivery:

## 1- Classification of Complaints according to their Method of Delivery to the NCHR:

The NCHR has made available several methods whereby individuals and civil society organizations may deliver their complaints concerning the compromising or violation of any of their rights as well as their demand to be granted any of their civil, political, economic, social and cultural rights. Such methods include: mail, hand delivery at NCHR HQ, facsimile, and telegram. The following chart (Figure 1) shows the classification of complaints accordingly:

**Figure 1**

### **Classification of Complaints according to their Means of Delivery to the NCHR**



It is evident from the above figure that mail is the most preferable method used by complainants to deliver their complaints as it represents 54% of the total complaints received. In fact complainants seem unwilling to deliver their complaints by hand to the NCHR owing to: their detention; or the long distance between Cairo and their residence and consequent high travel and transportation expenses; or owing to fear of possible threats or danger against their lives or wellbeing in case of delivering their complaints in person at the NCHR's HQ.

Notwithstanding the previous merits of delivering complaints to the NCHR via mail, this method has its own demerits, e.g.: the delayed delivery experienced. Even the delivery of mail within Cairo takes from 5 to 8 days and from other governorates to Cairo from 7 to 10 days.

Furthermore, some complainants are unaware of the NCHR's accurate postal address, which has resulted in the delivery of some complaints to other organs, such as the Shoura Council, the Arab Organization for Human Rights, the Cairo Center for Human Rights, and the Egyptian Organization for Human Rights. The time consumed for these complaints to be forwarded by such organs to the NCHR may extend the delay period to up to three whole weeks.

In addition, some complainants elaborate on the financial and immaterial effects entailed by what they claim to be violations of their rights, without relating specific details concerning such violations. The NCHR legal researchers receiving such a complaint should thereby contact the complainant in order to complete the missing information and explanations. This prolonged procedure consumes from 10 to 15 days.

Delivering complaints by hand at the NCHR's HQ, comes in second as a method of reporting complaints. The number of complaints hand-

delivered to the NCHR reached 1,803 complaints, which represents 37.2% of the total complaints delivered to the NCHR. Most of the complaints delivered by this method were from individuals residing in Cairo since the distance to the NCHR's HQ is within their reach as well as the low cost of this method in comparison with other methods such as mail, facsimile, and telegram.

This is in addition to the preference of some complainants to visit the NCHR and deliver their complaints orally to the competent legal researcher in order to inquire about the NCHR's capability as to restoring their rights, as well as to inquire about the steps the NCHR will take to review his complaint and deliver due justice; or to learn about the authority the complainant should contact or the legal procedures he should take in case the NCHR does not have jurisdiction.

Furthermore, some illiterate individuals also prefer this method, especially since researchers and legal specialists are available to edit the content of verbal complaints in a direct and succinct manner to the complainant's satisfaction before his required signature.

Delivery of complaints via facsimile ranked third with regard to preference, as it represents 6.8% of the complaints delivered from the end of February to the end of December 2004.

However, despite the merits of this method, owing to the prompt delivery of complaints and accordingly the prompt review and forwarding thereof to the concerned authorities, it is still deemed costly to many.

For this reason, complainants sometimes ignore delivering a copy of relevant and supporting documents and instruments which confirm the seriousness of their complaint. The NCHR therefore has to contact the complainant, whether by telephone or mail, to request a copy of such documents and instruments. This, in turn, leads to further delay.

The delivery of complaints via telegram ranks fourth as it represents 1.7 percent. Those who used this method believed that it was the fastest of them all, which will in turn guarantee prompt action to end their pains

Furthermore, owing to the high cost of this method, complainants are content with just giving a brief account of their trouble, without any details concerning the place or reason behind such trouble or the person/s responsible.

In spite of this, the NCHR promptly contacted the competent authorities concerning most of these complaints, to investigate the reasons behind such complainants claiming the violation or compromising of their rights, whether freedom or personal safety (such as detention, torture, and degradation at police stations), or religious freedom and the practice of religious rituals.

In most cases, the authorities contacted clarify other aspects and perspectives which a complainant may have failed to include in his complaint, such as his involvement in a case regarding the issuance of checks without sufficient funds, or the issuance of several court sentences which should be served by the complainant or any of his relatives. (A copy of such complaints and the reply of the competent officials is attached to the annex.).

These kinds of complaints have embarrassed the NCHR in its contacts with the competent authorities, who now request the NCHR to accurately scrutinize complaints before forwarding them.

## **2- Complaints classified according to the Chronological Order of Their Delivery to the NCHR:**

In spite of the NCHR's resolution to form the grievances committee on February 18, 2004, the said committee did not begin to carry out its function of receiving complaints before the end of February. This was also after the establishment of the committee membership, and the appointment of the committee secretary and members, as well as the assigning of an ad-hoc administrative body to receive complaints from individuals and civil society organizations until the hiring of specialized legal researchers to carry out this function.

Accordingly, the committee did not actually begin to operate before the beginning of March 2004. The NCHR received 4,850 complaints during the period from the beginning of March until the end of December 2004. The following Table (1) and Figure (2) show the distribution of complaints throughout this period as follows:

**Table (1)**

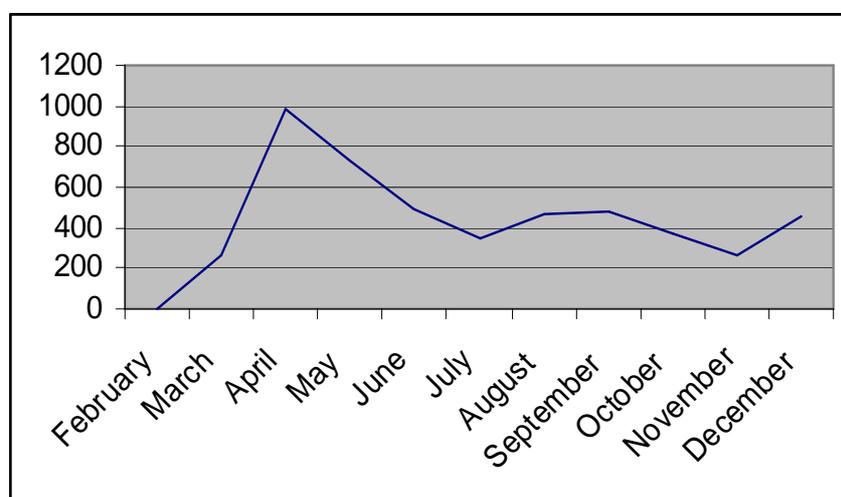
**Distribution of Complaints as per on Date of Receipt**

**(from February until December 2004)**

Month	No. of Complaints	Month	No. of Complaints
February	2	August	465
March	267	September	483
April	982	October	373
May	727	November	263
June	488	December	457
July	343	Total	4,850

**Figure (2)**

**Distribution of Complaints as per their Chronological Delivery to the NCHR:**



From the above table and figure (by excluding the month of February from the time interval and adding the two complaints submitted to the NCHR to those submitted in March), it is evident that

the average number of complaints delivered to the NCHR amounts to 485 complaints per month.

Also obvious from the data in Figure (1), is that there is a clear variance in the number of complaints delivered to the NCHR from the beginning of the specified time period to its end. A great number of complaints were delivered to the NCHR during the months of April and May. This may be attributed to the high hopes which individual had in the NCHR. Such hopes were based on their belief in the broad capacities and authorities of the NCHR in reviewing submitted complaints and the delivery of justice to complainants.

This belief was endorsed by the declarations of political leaders and senior officials, regarding the provision of financial and administrative facilities as well as all legal guarantees necessary for the NCHR to carry out its functions independently, objectively and freely, without being subject to external pressures or directives that may impede its review and investigation of the issues and cases referred to it by individuals and civil society organizations in the form of complaints regarding violations made against their human rights.

Accordingly, many considered the NCHR merely a "Grievance Committee" and not a NCHR concerning the full scope of human rights. Furthermore, the high number of complaints does not necessarily indicate the full awareness of individuals regarding their human rights. It may rather be an indication of the increase of their troubles and problems and the gap between the people and the State's administrative organs.

The number of complaints delivered to the NCHR drastically dropped during the months of October and November. This may be attributed to the fact that a large number of individuals and civil society

organizations came to realize how exaggerated their notion of the NCHR's functions and powers to restore their rights was.

This is due to the fact that a number of executive authorities and governmental institutions abstained from responding to the NCHR's correspondence regarding the violations mentioned in some complaints.

In addition, there have been some articles and interviews in the media as well as the efforts of human rights activists to exploit this abstinence – mostly by the Ministries of Interior and Justice and the Public Prosecutor – to cast doubt among the citizens regarding the NCHR's functions.

They believe that the NCHR is only meant to "adorn" the image of Egypt's political system which is accused of recurrently and flagrantly violating the rights of individuals and civil society organizations, according to reports of the UNO's Commission for Human Rights and international organizations for human rights

Senior NCHR officials have endeavored to correct this false image by declaring, through various media channels and on various occasions and in various meetings, that the NCHR will fully carry out its functions and powers without yielding to or offering any "compromise" of any kind to any authority or institution however powerful.

This will be in complete coordination with all governmental authorities and institutions and in close cooperation with civil society organizations in Egypt and abroad. Furthermore, the NCHR's ability to handle some cases of abstention by some governmental authorities and institutions, or their delay in responding to the NCHR's correspondences regarding complaints delivered by individuals and civil society organizations, is restricted to a certain limit. The NCHR will resort to other means to deliver justice to complainants, such as: (p119)

To include in the NCHR's annual report the stances of such authorities regarding cooperation or non-cooperation with the NCHR in order to deliver justice to complainants, the possibility of forwarding some of the complaints concerning violations against human rights in general and civil and political rights in particular to the human rights committees recently established under the People's Assembly and Shoura Council, as these will be capable of using all their clout, e.g., MP's advise requests, urgent investigations, and fact-finding committees, to deliver due justice .

It is apparent that these declarations - especially since there were initial responses after senior officials in the People's Assembly and Shoura NCHR had declared their intention and desire to fully cooperate with the NCHR – has had a great impact on the response of a number of authorities and institutions that, at first, had refused to respond or delayed response to the correspondences of the NCHR regarding complaints concerning the violation of the rights of individuals and civil society organizations.

This led individuals and civil society organizations to resume delivering their complaints to the NCHR. This is evident from the number of complaints delivered to the NCHR in December, which amounts to 457 complaints, representing an increase of 194 complaints compared to November.

### **3- Classification of Complaints according to Governorates:**

Table (2) shows the distribution of complaints delivered to the NCHR from individuals and civil society organizations according to the governorates from which they were sent:

**Table (2)****Classification of Complaints according to Governorates**

<b>N o</b>	<b>Governor ate</b>	<b>No. of Complai nts</b>	<b>Perce nt %</b>	<b>N o</b>	<b>Governor ate</b>	<b>No. of Complai nts</b>	<b>Perce nt</b>
1	Cairo	1,015	20.6	1 4	Sohag	148	3.05
2	Giza	450	9.27	1 5	Qina	111	2.28
3	Minia	348	7.17	1 6	Kafr El- Sheik	99	2.04
4	Assyut	308	6.35	1 7	Ismailia	88	1.81
5	Monofia	283	5.83	1 8	Aswan	63	1.29
6	Benu Suef	270	5.56	1 9	Suez	37	0.76
7	Qalubia	260	5.36	2 0	N.&S. Sinai	29	0.59
8	Alexandri a	256	5.27	2 1	Port Said	22	0.45
9	Sharqia	247	5.09	2	Dimyatta	22	0.45

				2			
10	Fayoum	207	4.26	2	New Valley	21	0.43
11	Gharbia	205	4.22	2	Luxor	19	0.39
12	Dakahlia	171	3.52	2	Red Sea	18	0.37
13	Beheira	149	3.07	2	From Abroad	4	0.08

The above table shows that the greatest number of complaints delivered to the NCHR were from Cairo, as they reached 1,015 complaints, representing 20.6% of the total of 4,850 complaints delivered to the NCHR during the period from March until December 2004.

The great number of complaints delivered from Greater Cairo which encompasses parts of Giza and Qalubia can be attributed to the following reasons in light of the contents of these complaints and the areas and districts they were delivered from:

Of the total number of complainants, 78 live in slums and graveyards. These areas are characterized by high unemployment rates and their residents are usually involved in illegal activities and trade (i.e. narcotics, prostitution, smuggling, etc.). Most dwellers are apathetic or hostile towards the State and its various organs. A majority of their complaints include claims that their residential areas do not benefit from public spending, whether in the form of infrastructure projects, services, or housing facilities. These slums are hideouts for many extremist groups, thieves, and outlaws selling narcotics and weapons. These areas also foster political violence and extremist ideologies. Academic studies

show that 14% of extremist group members in the early nineties were from El-Sahel District, 9.1% members were from El-Sharabia District, 9.1% from El-Waily District, 7.3% from El-Mataria District, 31% from Imbaba District, and 24.2% from Bulak El-Dakrour District. Accordingly, the residents 75 slums in Greater Cairo are continuously subject to police raids. As a result, they feel insecure, and this gives rise to feelings of hostility and disdain toward the State and society. Such feelings are conveyed in their complaints, in which they claim that security and police authorities detain, torture and beat them.

In their efforts to uproot extremism and violence, security forces have resorted to imprisoning, detaining and torturing the members of such extremist groups in a random and sometimes exaggerated manner, resorting to the provisions of the Emergency Law. It is therefore understandable that a great number of those subject to detention and torture should submit complaints to the NCHR regarding the unrestrained and abusive measures taken by security forces in these areas.

Furthermore, approximately 172 complaints convey how the residents of slums have been gravely affected by the State's increased rapid withdrawal from providing economic and social services, especially with the privatization of the public work sector, shrinking of social spending and commodity subsidies, and the reduction of public spending on education, healthcare, and housing. This, in turn, has led to the deterioration of living standards in these slums, prompting its residents to demand that the NCHR grant them their basic rights in healthcare, housing, education, and a fixed source of income to provide the vital needs of their families.

Besides, Greater Cairo is the biggest source of complaints regarding prisoners' rights, as Abu Zabal, Tora and El-Marg prisons are located in this region. According to 486 complaints, violations are committed

against the human rights of prisoners on a daily basis, whether regarding healthcare, education opportunities, the type and quality of meals, the application of conditional pardons and releases, moral and physical torture, and the deprivation of visitation rights and solitary confinement for long intervals.

Moreover, Greater Cairo is congested with the main chairman quarters of many public and private institutions and organizations in which violations against workers are committed. Complaints in this regard amount to 17% of the total number of complaints from residents of this region. Greater Cairo also includes three major universities (Cairo, Ain Shams and Helwan) at which 65% of college students are enrolled. During student union elections.

These universities witness many forms of violations and compromising of electoral and voting rights which have led in many cases, based on the claims of several complainants, to the interference of State security forces. During these elections, dozens of students are usually detained, such as in the elections of November 2004. In addition, some administrative bodies that do not have jurisdiction over these elections sometimes appoint individuals and students that are not involved in student activities, on the basis that they are trustworthy and are not inclined to particular political movements.

Furthermore, most human rights organizations are based in Cairo. Therefore, the residents of the Greater Cairo region are more familiar with the activities of these organizations.

It is evident from the above table that most complaints from Upper Egypt including the governorates of Fayoum, Beni Suef, Minia, Assyut concern a certain type of violation to civil and political rights, particularly regarding imprisonment, forcible disappearance, beating, and torture by security authorities. Upper Egypt, since the early eighties until the turn

of the century, has been known to foster religious extremist groups that have used the insufficiency of State services to incite a great number of youths to join them and adopt their hostile attitude toward the State and government officials.

Security forces have therefore endeavored to uproot these extremist groups by arresting their members and the supporters of their ideologies. As a precaution, they also tend to arrest those likely to join such groups in the future.

The actions taken by security forces to face extremist groups do not comply with the regulations and legal procedures stipulated by international agreements and conventions and by the Egyptian Constitution and laws. In other words, security forces do not respect the human rights and freedoms of individuals in their strenuous endeavor to maintain security and stability to better protect citizens from the violence of extremists.

The above table also indicates that the least number of complaints delivered to the NCHR were from coastal and border governorates, including Aswan, North and South Sinai, New Valley, Luxor, Red Sea, Port Said and Damietta governorates. The total number of complaints from these governorates amounts to 231 complaints, representing 4.7% of the total number of complaints. Most of these complaints concern the compromising or violation of complainants' rights, whether by imprisonment, torture or religious intolerance. However, 31% of these complaints include requests to be granted the right of administrative transfer and health care for complainants' families, or include complaints regarding the abuse of some local governmental officials of the powers and administrative authorities vested in them.

#### **4- Classification of Complaints according to Violated Rights:**

The complaints delivered to the NCHR from March through end of December 2004 have also been categorized according to the rights claimed to have been compromised or violated such as civil, political, economic, social and cultural rights. The NCHR has also received a number of complaints in which complainants discuss public issues and include their viewpoints, proposals and recommendations to curb or resolve them. Such issues include the prohibition of traveling, environmental pollution, the non-execution of court judgments, and the abuse of powers and authorities by civil servants.

A number of other complaints received by the NCHR do not fall under the NCHR's jurisdiction. For example, some complainants request legal assistance in their disputes reviewed by Egyptian courts. Other complaints include requests for the NCHR to publish poetry and short stories or requests for jobs. Besides, there are still a number of complaints under study, such as requests for court appeals or retrials.

Table (3) shows the classification of complaints according the rights that individuals and civil society organizations claim to have been violated:

**Table (3)**

**Classification of Complaints according to Violated Rights**

<b>No</b>	<b>Violated Rights</b>	<b>No. of Complaints</b>	<b>Percentage</b>
1	Civil and Political Rights	1,418	27.5%
2	Economic Rights	498	10.25%
3	Social Rights	280	6.5%
4	Cultural Rights	11	0.5%
5	Public Issues	123	2.75%
6	Complaints Under Study	752	8.5%
7	Complaints outside the NCHR's Jurisdiction	1,646	35%

From the above table, it is evident that the complaints which do not fall under the NCHR's jurisdiction outnumber the total of all other complaints, as they amount to 1,646 complaints, representing 35% of the total number of complaints.

Similarly evident is the fact that complaints regarding cultural rights are the least in number. This may be attributed to the fact that complaints concerning civil and political rights are more comprehensive. Furthermore, cultural rights concern only a small group of people, who do not believe that the NCHR is the most expedient channel to deliver them justice. Furthermore, other groups believe that cultural rights are only "supplementary" rights when compared to other essential rights being violated on a daily basis. This point will be further discussed in the following part of the report.

## **Second: General Aspects of Violated Rights** **and Sources of Violation**

This section aims at revealing the general trends of complaints delivered to the NCHR in order to identify the types of violations complainants believe to have been committed against their rights, as well as the sources of and reasons behind such violations. This section will also delineate the methods and mechanisms by which such violations have been violated or compromised.

This analysis follows a number of controls. It is based on the contents of complaints without interpretations which may contravene with set scientific restrictions or may ignore well-known international rules regarding the study of complaints.

Complaints are examined to verify their soundness and seriousness. This is vital according to the NCHR because of the lack of field and legal investigation tools and procedures which verify the seriousness of complaints and the accuracy of the information included therein. In addition, this analysis shows the common aspects in the methods and mechanisms by which rights and freedoms have been violated without going into marginal details concerning social stature and personal circumstances.

Furthermore, it specifies each of the rights that have been compromised or violated, and presents the guarantees and evidence that support such rights in international agreements and conventions as well as in the Egyptian Constitution, laws, executive regulations, and ministerial decrees governing such rights.

In analyzing violated rights, the following considerations were made: the number of complaints regarding a violation or compromising

of a right or freedom, the extent of such violation, and the bodies and authorities committing such violation. Violations are categorized as follows:

## **1- Complaints on the Violation of Freedoms and Personal Safety:**

### **a) Imprisonment:**

From the beginning of March through the end of December 2004, the NCHR received 425 complaints in which complainants claim their freedoms and safety rights, or those of their relatives, have been violated and that their imprisonment is an infringement on the "scarce" regulations stipulated by the legislature in the Emergency Law. This is not to mention the violation of their rights to decent treatment in prisons as provided by the Egyptian Prison Law.

Other violations include those committed by the SSIS and prison administrations, such as the non-release of prisoners even though they have served their sentences and several court judgments have been issued by state security supreme courts – emergency circuit, annulling their imprisonment sentences and ordering their prompt release.

Violations committed against the freedom and personal safety of individuals represent 9.7% of the total 4,850 complaints. Below are some remarks and the delineation of the general trends of these complaints:

- Complainants claim that their right to personal safety has been violated by their arrest. Political arrest is carried out pursuant to administrative decisions in accordance with Article 3 of the Emergency Law. There are 382 complaints in this regard. This large number indicates that security forces consider imprisonment the easiest means to maintain security and stability.

- Other complaints concern the continued imprisonment of individuals who have served their sentences for military and civil offenses and are therefore entitled to release. Their release is hindered by the Interior Affairs Ministry, which issues subsequent orders to keep prisoners entitled to release in custody. Furthermore, some suspects are imprisoned for long intervals without being tried. There are 43 complaints in this regard, representing 10.5% of the total number of complaints on imprisonment.
- There are 87 complaints concerning imprisonment in the form of collective complaints including the names of 2 to 25 prisoners. Complaints of single prisoners amount to 338. The total number of prisoners whose names are inscribed on all such complaints amounts to 721. Because the Interior Affairs Ministry does not issue statistics or official statements regarding the number of prisoners, their sentence terms, and their distribution in Egyptian prisons, we are obligated to rely on the estimations of Egyptian and international human rights organizations that indicate that the total number of prisoners in Egypt lies between 20,000 to 25,000 prisoners. .
- As for the categorization of complaints according to their submitters and the method of submission, the complaints of individuals ranked first, as they have submitted 385 complaints. As for complaints submitted by human rights organizations, they ranked second, amounting to 35 complaints of which: 27 were from the Egyptian Organization for Human Rights, 7 from Hisham Mobarak Centre for Law, and 1 from the Arab Organization for Human Rights. There are also 2 complaints from the Doctors Syndicate, and 3 from the Bar Association. It is worth mentioning that 390 of these complaints were delivered to the NCHR via mail; 25 via facsimile, and 10 via hand-delivery. Since most of the complainants are residents of Upper Egypt (especially from Minia, Beni Suef and Assuit) or of Lower

Egypt, sending complaints via mail was the easiest and cheapest means.

- As for imprisonment methods and imprisonment procedures carried out by the Interior Affairs Ministry against complainants, a common point stressed in relevant complaints is that imprisonment was carried out in violation of the "scarce" guarantees provided by Article 3 of the Emergency Law, which necessitates the issuance of a written arrest warrant stating the reason for arrest, and the suspect's right to make a telephone call and contact a lawyer. Complainants state that their arrests were according to verbal orders without warrants. According to 402 complaints, some complainants have been detained for up to one month in illegal detention facilities, including the buildings and headquarters of the SSIS, police stations, and the camps of security forces under the Interior Affairs Ministry. They have been deprived of visitation rights and have been tortured and beaten for sometimes up to one month prior to the issuance of warrants for their arrest and before their transfer to detention facilities.
- Another 297 complainants claim that court judgments had been issued for their release by state security supreme courts – emergency circuit, but they were denied release. In fact, a prisoner remained detained in spite of the issuance of 15 court judgments for his release. In such cases, the Interior Affairs Ministry only technically releases prisoners on paper, and then issues new orders for their detention. This may lead to their imprisonment for long intervals that may reach 16 years. This phenomenon is referred to by those concerned with human rights issues as "repetitive imprisonment", which violates the principles of the supremacy of the law and permits the non-execution of court judgments by certain authorities.

- In addition, the Interior Affairs Minister has abused the powers vested in him by the Emergency Law in repeatedly challenging release judgments issued by state security supreme courts – emergency circuit, which represents a serious violation and delay in applying Article 72 of the Constitution; which provides that: "judgments are issued and executed in the name of the people. Abstaining from or deferring the execution of a judgment by any civil servant is considered a crime punishable by law. The person to whom a judgment is awarded has the right to file a direct lawsuit at the competent court."
- The analysis of the contents of complaints shows that the reasons and justifications for imprisonment are as follows:

- belonging to an extreme Islamic group which poses a threat to State security and stability:

There are 183 complaints from members of extreme Islamic groups. In most of these complaints, complainants declare they are now dissociated with such groups and abandoned their beliefs. They also refer to the affirmations of security forces that they no longer pose a threat to security, which justifies their entitlement to release from prison. Accordingly, complainants have requested their release on the basis of poor health conditions and their penance, in addition to the long years of imprisonment they have served and the issuance of judgments for their release.

- participating in demonstrations and student protest marches inside university and college campuses

Most of these demonstrations and protests were against Israel's suppressive policies against Palestinians, America's support to

Israel, and America's policies regarding certain Islamic countries. There are 38 complaints regarding detention for participation in such demonstrations and protest marches. Detention periods range between one and five years. All complainants in these cases have been awarded judgments for their release by state security supreme courts – emergency circuit. However, the Interior Affairs Minister has recurrently ordered the extension of their imprisonment after technically releasing them on paper.

- unknown reasons and justifications:

There are 204 complaints, representing 48% of the total complaints on imprisonment, filed by individuals and civil society organizations to inquire about the reasons and justifications behind the imprisonment of their relatives, as they were not specified in their arrest warrants. As pointed out by 52 complainants, their relatives were arrested because they "regularly attended prayers in mosques", or because a large group of people visited them to cure them by reading verses from the Koran. Another 82 complainants claimed that imprisonment was carried out within the scope of precautionary security measures taken by the Interior Affairs Ministry prior to the elections of the People's Assembly, Shura Council, vocational syndicates and university student unions. This action is a means to prevent them from seeking election candidacy or providing electoral support or assistance to candidates that advocate Islamic political movements. In spite of the lapse of over ten years of imprisonment in some cases, some prisoners remain detained although they have been awarded court sentences for their release.

Three complainants claim they were arrested for having sent telegraphs written in an "inappropriate manner" to the President and

the Interior Affairs Minister. They included sentences such as "Fear God and rule by His legislations". Accordingly, the complainants were imprisoned from 5 and 10 years.

Another five complainants claim that they were arrested when the police widened their scope of suspects after the terrorist bombs in Taba in October 2004. Hundreds of individuals were detained in Arish City. In some cases, women and children were detained and abused at the premises of the SSIS. Most of the detainees were transferred to security camps and maximum-security prisons without the issuance of written arrest warrants and without notifying their relatives of their whereabouts or the reasons for their detention. The detainees were thus deprived of their visitation rights even after the lapse of 60 days from their detention.

Another 397 complainants claim that their basic rights granted by international agreements and conventions and the Egyptian Prison Law were violated during their temporary detention. They were deprived of visitation rights, healthcare, the completion of studies, and the provision of appropriate income. The violation of these rights is detailed as follows:

1- Visitation Rights: There are 193 complaints in which the relatives of detainees relate the difficulty of obtaining visitation permits with a validity period of only six days. In all of Egypt, visitation permits can only be obtained from the Prisoners Affairs Office under the Assistant Public Prosecutor located at the Galaa Court Complex in Cairo. To obtain a visitation permit, a grievance request must be submitted, the serial number thereof must be obtained and recorded on a visitation application form to which a photocopy of the last visitation permit issued must be attached, and a statement indicating the relationship between the prisoner and visitor, such as the birth certificate of parents, siblings and children and marriage certificates

of spouses must be attached. After these documents are made available, the competent civil servant records the permit and reviews all the data. He then sends the form to the Assistant Public Prosecutor for its approval or rejection. In case the form is approved, it is forwarded to the Prisoners Affairs Office to be sealed by the State stamp and then delivered to the applicant the following day in the afternoon after his identity is verified. There are 76 complaints from prisoners who claim that after their relatives arrived at the prison in which they were detained, with visitation permits in hand, they were informed that the prisoners were deprived of visitation rights for intervals between two to three months.

Another 26 complainants claim that they were transferred to other prisons without the notification of their relatives of their new location. This is deemed a violation of visitation rights and an explicate violation of Article 3 *bis* of the Emergency Law, which states that, " A detainee shall have the right to contact those whom he wishes to inform of is arrest and to request a lawyer. Such detainee shall be treated as if under temporary custody." It is also deemed a violation of Article 37 of Prison Law No. 396 of 1956, which grants those convicted and under temporary custody both correspondence and visitation rights once a week on any week day (except on official holidays), as specified under Article 60 of the Law's Executive Regulations.

2- Right to Healthcare: The provisions of Article 16 of Prison Law No. 396 of 1956 stipulate the right of prisoners and temporary detainees to receive food and medicine from outside the prison. They also have the right to receive the food and medical care provided for them by the prison in which they are detained. Decree No. 9 of 1961 adopted by the Minister of Interior stipulates that healthcare should be provided to all prisoners and temporary detainees.

Officials in the MOI have issued statements declaring that various infirmaries had been established to the latest standards and furnished with the most modern medical equipment to provide healthcare services inside prisons.

Nonetheless, 123 complainants assert that prisoners are suffering from poor medical care. According to them, prison infirmaries are insufficiently furnished with the necessary equipment and medical supplies, not to mention the lack of specialized doctors. Add to that the lack of cleanliness and the contamination of potable water and food.

All of this has caused the complainants' imprisoned relatives to contract serious illnesses, such as: hepatitis, epilepsy, blindness, severe pulmonary tuberculosis, cardiac diseases, renal failure, coronary insufficiency, rheumatic fever, asthma, circulatory disorder, as well as the spread of a number of dermatological diseases.

3- Right to Resume Studies: Article 13 of the Prison Law and Rule No. 77 on the minimum rights of prisoners stipulate that prisoners and temporary detainees have the right to resume their studies and to sit for examinations at relevant centers of education.

However, 47 complaints claim that they have faced a number of difficulties in resuming their studies for various reasons, such as: the long distance between their prison location and examination centers; the ban on academic books, and the absence of the right atmosphere for studying.

4- Right to Adequate Income: The Grievance Committee received 53 complaints from prisoners claiming that their employers, whether from public or private sectors, have ceased to pay their financial

dues, which are the only source of income for their families. This worsens their already pathetic financial situation.

Another 17 complainants requested that prisoners of the same family be detained in the same prison instead of various ones. Their families would then find it easier to visit all of them at once and would thus save on the transportation expenses they incur.

The release of an only son from prison was requested by 11 families whose imprisoned sons are the sole source of income and caretaking for them, especially in cases of senile parents.

Another 8 complainants claim that children have stopped attending school in order to take up manual labor that provides for their families instead of their imprisoned fathers.

The above complaints and requests for the release of prisoners mention that, according to the SSIS, security restrictions on the release of such prisoners no longer exist.

b) Illegal Detention:

The NCHR received 27 complaints claiming that suspects had been terrorized at the time of arrest. Five of these complainants claim that their residences were searched without search warrants. One of the complainants states that police forces released teargas at their residence while arresting one of his relatives.

By reviewing various complaints, it was noted that detention is sometimes carried out by police officers only to settle scores with civilians (detainees) or to pressure them into working as informers. Illegal detention may also be carried out in case of suspicions regarding the political and intellectual inclinations of any citizen.

Illegal detention denies temporary detainees and suspects under investigation such guarantees and rights as the right to contact relatives or appoint a legal counsel.

Complaints from detainees state that they were held in deplorable conditions in police stations and the offices of the SSIS neither of which provides food or medication. Besides, detention areas in police stations are usually so overcrowded that detainees have space enough for standing up only. Hygiene, ventilation and clean potable water are in short supply, which makes detainees more susceptible to contracting diseases.

Some complainants claim that they have been subjected to cruel treatment, and even deadly torture. It should be noted however that police stations and the offices of the SSIS are established pursuant to Article 1 *bis* of Law No. 396 of 1956, granting the MOI the authority to determine the places at which individuals are to be detained. Therefore, the Public Prosecutor never inspects their premises unless notified of a legal detention thereat.

c) Coercive Disappearance:

The NCHR received seven complaints in which complainants claim one of their relatives had disappeared. Of these complainants, six believe that security forces are responsible for such disappearances. The complaints highlight the inefficient means of following up on disappearance cases. It is limited to filing a report at the police station and submitting a grievance to the Prisoners Affairs Department to inquire if the missing person was detained or imprisoned.

The Department is not obligated to respond to the inquiry or to investigate the matter. The relatives of the missing person must thus inquire at the offices of SSIS, prisons and detention camps.

One complainant received a telephone call from his brother informing him that he had been detained but could not identify the place of his detention. Another complainant stated that although the release of his missing relative had been issued, officers denied that he had been detained at their premises at all.

The Yemeni Organization for Defending Human Rights complained that a Yemeni residing in Cairo had disappeared. There were allegations that he had been deported to Yemen. This is considered a violation of the United Nations Declaration issued in December 1992 on protecting individuals from coercive disappearance. Article 8 of the Declaration states that, "A country may not deport, refute or hand over any individual to another country if there is serious belief that that individual may be subject to coercive disappearance."

## **2- Violation of the Right to Physical and Moral Safety (Torture):**

The Grievance Committee received 74 complaints on torture. In discussing whether such complaints concern cruel treatment or torture – as defined according to international standards – the statistics and analysis in this report have resorted to the statements given by the complainants regarding blatant torture. Seven complaints in this regard were filed by the EOHR, a civil society organization.

The majority of these complaints relate to police stations, as 30 complainants claim that they or their relatives had been subjected to torture during their detention there.

Complainants do not only refer to the verbal abuse they were subjected to, but also to the various kinds of physical torture practiced at police stations, including the tying of hands to feet backwards, the

hanging by arms or feet to the ceiling or doors, the opening of cold water currents on detainees and posing them in the nude for long hours in winter, striking, electrocuting, battery by fists, rods, belts, guns and rifles butts, electric cords, and whips.

Ten complainants claim that almost all police stations possess these torture items. One complainant stated that a police officer was inspecting the police station, whip in hand, and decided to lash all those whose "looks" he did not like. Furthermore, the search for perpetrators in criminal cases still depends on the random arrest of suspects in the vicinity of the crime scene and their torture to extract information. Although torture is a blatant violation of the Egyptian Constitution and the Law, it is still ongoing.

Three complainants claim that they or their relatives had been subjected to illegal detention and torture to force a suspect to surrender. If validated, these claims mean that those individuals were treated as hostages, which is a violation of all human rights. Some complainants state that they were tortured to force a suspect to confess to his crime. In other words, the innocent are subjected to torture for crimes they did not commit.

Another five complainants state that they or their relatives were tortured to pressure them to work, against their will, as informers for the police force since they had been previously convicted.

Torture in police stations is not inflicted on suspects alone, but is sometimes a mean whereby citizens "disciplined". Five complainants state that they or their relatives had entered police stations to inquire about or report certain incidences but were detained or tortured. One complainant claims that he was stamped under the feet of an officer.

Four other complainants claim that their torture was meant by police officers to settle scores between them or to pressure them in

their disputes with influential persons. Two complainants claim that police officers incited detainees with criminal records to torture them.

It is worth noting that those with criminal records are kept in custody with suspects in the same cell at police stations, in violation of the decree adopted by the Minister of the Interior in December 2002, which stipulates that a room should be allocated in every police station in Cairo for the detention of citizens who do not have criminal records. Such detention room should be located far away from temporary detention cells where criminals are held.

Sometimes the severity of torture inflicted on detainees leads to their death, as indicated in three complaints. Two of the complainants assert that there are signs of torture on the bodies of their relatives who had died while in police custody. The third complainant requests a full investigation of her husband's death during his detention at a police station.

The SSIS is not legally authorized to hold citizens in custody at its premises. The representative of the Public Prosecution stated in "Wafd Misr" Newspaper before an anti-torture committee that such premises do not include prison cells but only administrative offices.

The NCHR received nine complaints reporting that the complainants or their relatives had been tortured at the premises of the SSIS. They were allegedly electrocuted, or hung from their arms or legs for long intervals, or their hands were tied throughout their detention period, during which they were isolated from the outside world. One of the complainants states that this kind of torture led to the death of his detained son.

All covenants of the International Organization for Human Rights and the Egyptian Constitution and Law stipulate that the human dignity of prisoners must be maintained. The International Treaty for Civil and

Political Rights states that all those deprived of their freedom should receive humane treatment which maintains their dignity (Article 10/10). Also stipulated is that prison systems must be established with the main aim of rehabilitation of prisoners.

In addition, the Treaty asserts the basic principles for treating prisoners, which has been approved by the United Nations General Assembly by Resolution No. 45/111, concerning the treatment of prisoners with due respect to maintain their personal dignity as human beings.

On these grounds, 14 complaints were delivered to the Council in which complainants claim that they were tortured in prison and committed to solitary confinement for long intervals in violation of Article 43 of Law No. 396 of 1956, which prohibits solitary confinement for intervals exceeding 15 days. These complainants also claim they were subjected to verbal assault, battery, and electrocution.

To protect temporary detainees from the measures taken by some officers to influence or coerce them into confession or to affect the progress of investigations, the law does not allow officers to contact temporary detainees as specified in Article 79 of Law No. 396 of 1956.

However, complaints concerning torture during detention at police stations are more numerous than reports of torture during imprisonment.

Six complainants claim that they were subjected to a great deal of pressure and hindrance as they tried to file complaints regarding their torture, especially since they were in detention and unprotected. Some complainants claim that they were refused transfer to hospitals for their injuries from torture. Others claim that they were flogged as a means of pressuring them to withdraw their requests to be examined by a forensic doctor to confirm their injuries.

Another three complainants claim that police officers conspired to conceal the reports of forensic doctors evidencing that the victims had been injured due to torture.

Furthermore, two other complainants stated that some police officers conspired to conceal the evidence regarding the death of a detainee during torture. The officers moved the corpse outside the detention area and staged the death of the deceased as suicide. Other officers sometimes force paramedics and hospitals to accept corpses as if the deceased were alive.

### **3- Violation of Prisoners' Rights:**

Complaints from prisoners may be categorized according to the rights that they claim, have been violated or the requests they wish to be granted as follows:

- One hundred and twenty-five complainants claim that they were deprived of their right to medical care provided by disciplinary institutions and prison administrations owing to the small number of doctors; the lack of sufficient medical and technical equipment and supplies necessary for handling serious illnesses, and the lack of vaccines, such as vaccines against smallpox and typhoid.
- Furthermore, prison cells lack sufficient ventilation owing to the limited number of windows in cells, thus hindering the flow of fresh air and sunlight. Furthermore, prison cells are congested with more prisoners than their design capacity. Lavatories are filthy and drainage is usually clogged.
- Regular medical checkups on prisoners are rarely carried out. Prisoners ill with contagious diseases, such as: smallpox, typhoid, scabies, pulmonary tuberculosis and hepatitis are not isolated from other prisoners promptly enough.

- The prison administrations of Tora, Abu Zaabal, El-Marg and El-Gharbaniat Prisons do not allow prisoners to receive medicine from their relatives in case prison infirmaries lack them.
- Meals served to prisoners are appalling and do not conform to health specifications. For this reason, the prisoners of Abu Zaabal Prison went on a hunger strike for a week requesting that the medical care and meals offered them be improved. Furthermore, five complainants ill with diabetes, hepatitis, renal failure and tuberculosis stated that although their health conditions required special meals, prison administrations have refused to comply with their requests.
- Three complainants claim that strict oversight inside prisons is in short supply despite of its importance in curbing the spread of narcotics among prisoners. This has led to drug addiction and deteriorating health of some prisoners. Moreover, there is no specified time limit for solitary confinement during which only one meal is served and lavatories are lacking.
- Forty-eight complainants claim they have contracted life-threatening diseases at prison due to the insufficiency of proper medical care or the reluctance of prison administrations to transfer them to outside specialized hospitals promptly.

Such life-threatening diseases include: neck and gastric tumors, retinal detachment, coronary insufficiency and thrombosis, cardiac failure, disc prolapses in lumber vertebrae, Marfan's syndrome (general weakness of tissues), paraplegia, severe bronchial asthma, limb gangrene due to medical negligence, chronic pulmonary tuberculosis, hemiplegia, anal sphincter incompetence, and splenomegaly.

These complainants request their transfer to specialized medical centers, institutes and hospitals to receive proper treatment or undergo critical surgery unavailable at prison infirmaries.

Another 22 complainants demand the implementation of Articles 36 and 37 of Prison Law No. 396 of 1956 regarding the release of critically ill prisoners. These Articles state that in case a doctor diagnoses a prisoner for a life-threatening disease or a disease which may cause his absolute impairment, such doctor shall notify the Head of the Prison Medical Department of the matter for the reexamination of the prisoner by a forensic doctor who should determine the urgency of his release.

An order for a prisoner's release is issued by Head of Prisons Department and approved by the Public Prosecutor. The police station lying in the vicinity of the released prisoner's residence is responsible for ensuring that such prisoner is medically examined on a regular basis.

The released prisoner is returned to prison upon his full recovery and the duration spent by him outside prison during treatment is deducted from the term of his sentence. Requests for release have been submitted from a number of patients suffering from total blindness, hepatic coma, or renal failure requiring dialysis.

- Besides, 10 complainants claim that they or their imprisoned relatives had been denied their right to resume studies, which is a violation of Articles 28 through 31 of Prison Law 396 of 1956 which stipulate that punitive administrations should by all means encourage prisoners to learn and resume studies and should establish a library inside prisons.

Complainants have specified some of the hurdles they face in resuming their studies, which include: the lack of halls equipped for studying and training; detaining prisoners in prisons far away from their universities which prevents them from sitting for their examinations, the refusal of administrations of maximum security prisons to let in academic books. In addition, prisoners resuming their education are kept in cells with uneducated prisoners and are therefore denied the proper atmosphere required for studying.

Besides, the Prisons Department refuses to bear their tuition fees in spite of their completion of all relevant application forms. This has prevented some students from receiving school and university education.

On another plane, 47 complainants request their transfer to other prisons owing to: the long distance between the current prisons and their residence, which makes it difficult for their relatives to visit them; the deplorable conditions in the prisons leading to the deterioration of their health; the abusiveness of prison administrations that deprive prisoners of visitation rights and of contacting their relatives; the neglect or slackness of prison administrations to better control and supervise prison cells at night during which dangerous prisoners attack newly admitted prisoners.

- The NCHR received 103 complaints from prisoners requesting conditional release having served three quarters of their sentence term in fulfillment of substantive conditions stipulated in Articles 52 and 53 of the Prison Law.

They claim that their behavior during their imprisonment substantiates that they have been rehabilitated and that their release will not pose a threat to public security. Besides, some of them have settled their financial obligations arising from their crimes, such as fines, judicial expenses, and indemnity.

- Another 13 complainants from various prisons request the NCHR under the MOJ to shorten the period given for their contestation of judgments in the Court of Cassation, since such periods sometimes exceed three years, which violates the conditions and guarantees of delivering justice promptly as stipulated in international declarations, conventions and agreements and the Egyptian Constitution and Law.

In addition, 15 prisoners seek the NCHR's legal assistance in their objections, contestations, appeals or appeals by means of cassation concerning court judgments issued against them, as they and their relatives do not have the financial means to pay for such legal procedures.

- The NCHR also received five complaints from prisoners complaining that prison administrations have denied them their visitation rights, which has added to the deterioration of their health since, as a result of such denial, they are unable to receive food or medicine from outside the prison.

Two prisoners in Abu Zaabal Prison claim that they have gone on a hunger strike for an indefinite period until they are granted visitation rights and healthcare services are improved in the prison.

- The Head of a Coptic Institution for Juvenile Care submitted a complaint to the NCHR requesting the equal treatment of prisoners, since the MOI has approved special visitation rights for Coptic prisoners at Christmas time.

Five complainants from Abu Zaabal, El-Natrone, and Tora Prisons complain that they had been subjected to battery and torture at the hands of prison guards or other dangerous inmates with criminal records while prison guards looked on. One prisoner claims that bribery is a common practice. Guards, he claims, are bribed by some inmates to turn a blind eye to their violations of the law including assaulting other inmates.

The NCHR received a complaint from someone who is wrongly arrested and imprisoned to serve the sentence of another person owing to the close similarity between their names. He therefore requests an immediate investigation so that he may be promptly released.

#### **4- Alleged Violations against Freedom of Speech and Expression:**

In Dec. 1991, and based on a report from the Islamic Research Center (IRC), an author was tried before the State Emergency Court (SEC) on charges brought up by IRC that his book "A Distance in the Mind of a Man" contained contempt for religion and posed a threat to national unity and social stability. He was sentenced to 8 years of prison and LE 25, 000 fine.

In June 1997, the same author was sentenced to 1 year of imprisonment with labor by the Matareyya Court of Appeal for publishing another objectionable book "The Bed".

In June 1998, the Supreme Court upheld the Disciplinary Court ruling against him, firing him from his job as a legal advisor at the Tax and Excise Department for publishing the same a/m book "The Bed".

As a result, the Department's Social Care Fund apprehended sums of money that he was entitled to.

In a further case, he was interrogated by the Supreme Prosecution Office (SPO): Case No. 737 of year 2001 for publishing another book "Frogs' Sorrows". As a result, the book was banned and its copies confiscated.

In a complaint submitted to the HRC he claims that on the grounds of the above charges and sentences, he was blacklisted by publishing houses, the press and the State Radio and TV. He appeals for the HRC's intervention to lift the ban on his literary works.

In another instance, a UK-licensed newspaper was banned and editions of it were confiscated by the Publications and Newspapers Monitoring Authority.

In a complain to the HRC, the owner of the above newspaper claims that as a result of the ban and confiscation, he sustained a great deal of damages for failure to publish previously contracted advertisements.

This owner requests that HRC take up the matter with the a/m Authority and help reveal the reasons behind its detrimental decision in defence of his right to free speech.

In a third instance, Al-Shaab (The People) Newspaper, the mouthpiece of the opposition Labor Party was shut down by three successive orders from the Party Affairs Committee (PAC).

The said paper's owners, editor and staff filed a suit against the closure before the Administrative Court, which overturned the closure decision on 25 July, 23 Sept., 3 Oct. 2000, and 20 March 2001, respectively.

However, the ban persisted as the PAC declined to implement the above rulings on the grounds that resumption of the paper's publication is not possible until the overall ban on the Labor Party activities is lifted.

In a complaint presented to HRC, the Al-Shaab editor that subsequent to the above events, attempts were made to obligate the chairman of PAC to comply with the court rulings but to no avail because of the chairman's parliamentary immunity.

In reaction, the Labor Party took the matter further to the Supreme Administrative Court (SAC), whose commissioner decided that the closure of the newspaper was in violation of the law of the country.

The complainant affirms that such closure was also in violation of the general principle laid down by the Supreme Constitutional Court (SCS) in its case No. 77 of July 19 in definition of the term "constructive criticism" in the press.

According to the a/m case, the SCS stated that "the nature of constructive criticism does not necessarily mean interpreting each sentence used in a publication and evaluating it independently from the overall context via rigorous measure. This is because what one man may deem as correct in a certain part may be deemed very incorrect by others. Undoubtedly those in defence of their own views and beliefs usually resort to exaggeration. Therefore, if the indispensable freedom of the media is to be upheld, there must be some tolerance for exaggeration. In conclusion, it is not acceptable that excesses of expression lead to the prohibition of such expression and of its circulation.

Finally, the complainant requests that HRC take all possible measures towards the execution of the court's judgement overturning the decisions adopted by the PAC against the said paper.

#### **5- Alleged Violations of the Right to Participate in Elections and Public Affairs Administration:**

A number of elections have taken place in Egypt during 2004, the most important of which include the following:

Student union elections in universities, elections for filling the vacancies in the People's Assembly or the Shura Council, in addition to the Labour Syndicate elections, all of which have been claimed to manifest violations against electoral procedures and the administration of public affairs, according to complaints submitted to the Council in this regard:

##### **a- Student Union Elections in Universities:**

Student union elections were conducted in November 2004. Such elections are deemed of great importance, not only due to the fact that universities are considered one of the most important institutions teaching political development in society, but also due to the fact that such elections also reflect the degree of the participation process in politics and society. They are deemed as an indicator of the application of democratic practice and spread of a democratic culture in society as a whole.

The purpose of forming student unions, as indicated in the Regulations thereof, is to develop spiritual and moral values as well as domestic and national awareness among students. Also to render students accustomed to the idea of leadership, to give them the opportunity of expressing their views, to provide them with a healthy university atmosphere, to allow them to discover their gifts, capabilities, skills and to enhance and encourage same.

There was a wave of optimism before the conduction of such elections since the Minister of Higher Education Dr. Amr Salama had ensured the conduction of fair student elections and applying the amendments to the Student Union Regulations issued in 1979 in order to increase student participation and to enable them to choose their own representatives in the student elections, especially that such amendments are aimed at reorganizing student unions throughout all universities in Egypt.

He had also pointed out that such amendments would take place after conducting a poll indicating the desires of both students and student unions members. This has provided student movements with a glimpse of hope as the amendments of the Regulations of 1979- which lay restrictions on students' rights to run for elections and on electoral procedures as a whole- are a fundamental demand in this quarter of the century.

At the same time, statements by different university officials had been flowing in successively in different kinds of media in assuring the conduction of fair student elections free from any administrative interventions. Dr. Saleh Hashem of Ain Shams University confirmed that elections would be conducted in accordance with principles of transparency and neutrality.

Dr. Abd El-Hai Ebeid of Helwan University assured that there would be fair opportunities for all candidates and that the ballot would be the distinctive means of determining the success or failure of any candidate.

Despite this atmosphere of optimism and the promises that have been made, the Council received complaints from fifteen students from the Universities of Cairo, Ain Shams, Alexandria and Zagazig, in which they claimed the violation of their rights to run for student union elections in these Universities. They also complained that they faced pressures owing to administrative and security interventions which committed violations in the electoral processes.

According to the received complaints, elections were conducted under the Executive Regulations of the Student Affairs' Organization issued in 1979 which included conditions violating the rights of students to run for elections. Such conditions include a stipulation that a candidate should be a student with recognized activities in the field of the activities of the committee for which he nominates himself.

Students claim that administrative bodies applied this condition to first year students who logically cannot have had time to exercise any recognizable activities since student elections take place at the beginning of the academic year.

Administrative bodies also stipulate that a candidate should exercise an outstanding activity in the committee for which he nominates himself and not only a recognized one as stipulated in the

Regulations. However, administrative bodies used this stipulation to exclude the nomination of numerous students despite the fact that some of them had various activities in the fields of the committees for which they nominated themselves.

Various university administrations manipulated these special conditions regulating the acceptance of student nominations, relying on the fact that some of such conditions are flexible and not restrictive or based on any specific or fixed criteria. Hence, decisions made in this regard, depend on the sole discretion of the university administration. One of these special conditions is one stipulating that a candidate must enjoy good morals and a sound reputation without specifying in the Regulations what is meant by this and how to determine it.

Therefore, administrative bodies came to impose penalties most of which were preliminary steps before conducting elections, such as prohibiting a student from exercising his activities or serving him a dismissal notice, in order to render such students unfit for candidacy.

Sometimes, an administrative body would transfer tens of students to be interrogated for trivial reasons in order to have penalties imposed on them, thus depriving them from nomination in the elections, as has been stated in the complaints.

It was also stated in these complaints that the names of their submitters were struck out from the nominees list despite the fact that they satisfied all the required conditions for nomination.

The complaints refer to a number of violations in the electoral process, including depriving many students from drawing nomination applications and using all kinds of obstructions to prevent them from nominating themselves. For instance, the administration of the Faculty of Dentistry stipulated that some students should produce a recent

certificate on their military service status, which is not mentioned in the Regulations governing elections.

The students prevented from nominating themselves in the student elections have resorted to Court in order to challenge the resolution adopted by the university administration by which they were excluded from the nominees list.

The ASC issued judgments in favour of some of these students, deciding that their universities "were in violation of the law since universities should provide the greatest possible number of students with considerable activities, with the opportunity to exercise their rights to run for elections, as such are deemed constitutional rights to which all those fulfilling the necessary conditions are entitled. Otherwise, this would be in contradiction with the principles of democracy regarding participation in public affairs and strengthening the principles of equality during students' formative years..."

Moreover, university administrations, as indicated to in the complaints, did not abide by such conditions and excluded many students from the final nominees list. The submitters of these complaints also claimed that university administrative bodies tried to intimidate the nominees.

For instance, Cairo University referred 20 students in the Faculty of Commerce, 13 in the Faculty of Science, 13 in the Faculty of Medicine and Physiotherapy, and six in the Faculty of Engineering to interrogators. Such a measure was probably taken by the administrative bodies in order to exclude candidates from participating in the electoral process.

The complaints submitted to the HRC state that these pressures did not come from administrative bodies alone but also from security bodies, especially State Security Detectives Office. For instance, a candidate and his supporter from the Faculty of Arts, Cairo University,

were both arrested and locked up for a whole night in the State Security Detectives Office in Dokki, and were not released until they had made an undertaking not to participate in the electoral process.

As for those who escaped the guillotine prohibiting them from nominating themselves- as expressed by the submitters of the complaints- they were deprived of holding any electoral campaigns despite the legal soundness of this act.

Such violations led to the success of nominees who had the official backing in most faculties of universities against which the complaints were made. In Cairo University, the nominees of eight faculties won elections because they had the official backing.

The same occurred in many committees in other faculties. The nominees of five faculties in Ain Shams University also won due to being officially backed up. Moreover, the Faculty of Nursing Union- to which only five nominees ran for elections- were granted forty eight seats in the students union!

On the other hand, in the University of Helwan, elections were restricted to the faculties of Applied Arts, Engineering and Education, whereas the remaining nominees won in the rest of the faculties through back up sources. This has been interpreted by some of the submitters of the complaints to be the result of prohibiting students from participating in the electoral process, whether as candidates or voters.

Such acts of prohibition- as the submitters of the complaints see it- occur due to the violating nature of the electoral process, which has led to a sense of futility among students regarding the electoral process, and has made them lose confidence in expressing their views via electoral ballots. In the end, this is deemed a violation of the basic right of participation in one's social affairs.

## **b- Elections in the Labour Syndicate:**

Despite the fact that it has been over two years since the conduction of labour syndicate elections, which took place in September 2001 for the session from 2001 to 2006, the HRC received nine complaints in this regard.

In six of these complaints, the submitters claimed that the Minister of Labor Force- by issuing Decree No. 148 of 2001 regulating the electoral process- outlawed judicial supervision on the electoral process. Article 41 of the Law on Labor Syndicates states that nominations and electoral processes must be supervised by committees presided by a judicial body member. However, the Ministerial Decree restricted judicial supervision to general committees, only one of which exists in each Governorate. As for secondary committees, amounting to 1897, they are supervised by employees of the Ministry of Labor Force. Such secondary committees supervise the electoral process and act as scrutineers, after which they send the results over to be ratified by the general committee. This reveals that such secondary committees form the backbone of the electoral process.

Prior to the conduction of these elections, the submitters of these complaints resorted to the **Administrative Court of the State Council (Ombudsman)** to challenge this Ministerial Decree. This Court issued judgments in their favour, stating the hindrance of the execution of the Ministerial Decree which overlooked judicial supervision, and the execution of the judgment immediately without any need for notification.

However, the Minister of Labor Force filed for an obstruction to execution before the **SAC**, which, in turn, issued a unanimous judgment, rejecting the obstruction to execution filed by the Minister and

obligating the administrative authority to bear the court expenses. The submitters of the complaints have attached copies of these judgments, requesting the cancellation of the aforementioned elections and re-conducting same under full judicial supervision on all syndicate levels, including secondary committees and general ones, which is sustained by the judgment issued by the **SAC** in this regard.

Moreover, three other complaints were submitted claiming that the supervisory bodies on the electoral process prevented them for nominating themselves in these elections and stroke out the names of others from the nominees list.

This drove them to resorting to **the Administrative Court of the State Council (Ombudsman)**, which issued judgments deciding their entitlement to nominate themselves in the elections. Nonetheless, the supervisory bodies on the elections refrained from executing such judgments due to the finalization of the voting process, the counting of votes and the announcement of the final outcome of the elections of the labor syndicates.

#### **c- Complementary Elections for the People's Assembly and the Shura Council:**

Three complaints have been submitted in this regard, in which their submitters claimed that they were persecuted by the **State Security Detective Office** which conducted repeated interrogations and detentions or by their own workplaces, which imposed unfair penalties on them for nominating themselves against the candidates of the NDP in the elections of the People's Assembly and the Shoura Council, which is deemed a violation of their right of participation.

## **6- Alleged Violation of Rights of Freedom of Organizing and Forming NGOs:**

The Council received five complaints from NGOs, four of which are in their establishment phases. They claim the violation of the aforementioned right since the **NGO Department** at the Ministry of Social Affairs refrained from adopting a resolution for their official registration. A complaint submitted by one of these NGOs indicates that the necessary steps for its establishment were already taken.

However, over 60 days lapsed following the submission of the registration application to the Ministry of Social Affairs, and none of the founders were notified of any objections by the said Ministry. This indicated the Ministry's approval of the registration of the NGO as per the **Law on NGOs**. Nonetheless, the NGO received a notice from the NGO Department, stating the exclusion of two of its **entities** based on the objection of security bodies.

When the NGO submitted a request to the Dispute Resolution Committee to resolve the dispute between the NGO and the **NGO Department** in accordance with Article 7 of the Law on NGO's, the session to be held by said Committee was successively postponed, which is deemed an obstacle in the way of the registration of the NGO.

The other three complaints claimed the impediment of the registration applications submitted by the NGO's. This is sometimes due to the **Subordinate Social Department's** refusal to hand over documents evidencing its receipt of the NGO's corporate documents, which were to be submitted to the NGO Department for finalizing the registration procedures or due to the Social Affairs Department's abuse of its application of the conditions stipulated by the Law for the establishment of NGOs, as stated in the complaints. Sometimes the impediment would be due to its intervention by demanding the amendment of the NGO's statutes, then refusing to register same due to the introduction of such

amendments! The submitters of the complaints see that this leads to a sense of depression among the activists attempting to form NGOs, thus restricting the role of NGO's in the development process.

## **7- Alleged Violations of Freedom of Religion:**

The HRC received 42 complaints in which their submitters claimed the violation of their freedom to practice religious rituals in groups, in public or at workplaces. They also complained of the administrative employees' abuse of their authorities in order to restrain the means of expressing their faiths and exercising their religious rituals. This took place either directly by preventing them from going to **worship places**, studying religion or exercising any religious rituals, or indirectly by impeding their way to exercising such rituals, whether by stalling the procedures to renovate worship places or placing obstacles before them with regard to constructing new worship places. Such complaints have been submitted by both Christians and Moslems from different Governorates as further detailed below:

In 35 complaints submitted to the Council, there have been claims of the violation committed by public officials in the **Ministries of Interior** and Mass **Media** against the rights of the submitters of such complaints- who are Moslems- to exercise their rituals, their freedom of expression of their faith by prayer and following the principles stated in Holy Koran and **Suna**. Twenty eight of the submitters of such complaints claimed that a number of individuals were arrested- who are most likely their sons- by the SCDO for the mere fact that they prayed regularly in groups in mosques or gathered regularly in study groups specialized in religious studies of **Doctrine, Interpretation and Sharia**, or merely as a result of their jobs as mosque preachers or speakers, and their religious sermons in mosques of which they are in charge.

On the other hand, the submitters of three complaints stated that the SSDO put them on the travelling prohibition list without any reason, thus preventing them from travelling to Saudi Arabia for pilgrimage (Hajj and Omra) although Hajj is one of the pillars of Islam.

The HRC has also received three complaints from women who used to work for Channel 5, (Alexandria Television), for a period ranging between ten to fifteen years. They were prevented by the Channel administration from working as programme presenters and announcers who may appear before TV viewers. This resulted in their deprivation of all their financial and moral benefits and rights, which they used to enjoy when working as TV announcers.

According to the submitters of the complaints this was due to their wearing of veils (hijab) although such an act is in violation of Article 13 of the Constitution which states that it is not possible to impose any act by force on any citizen, as well as Article 18 that states, “The State guarantees equal opportunities to all citizens”. Article 40 thereof ensures equality between citizens in public rights and duties and non-discrimination against any of them based on race, ethnicity, language, religion or faith, while Article 46 thereof ensures the freedom of faith and practicing religious rituals.

In one complaint, the submitter thereof claimed being prevented from building and decorating a mosque which he was in the process of constructing and that this task was assigned to another entity despite the fact that he had obtained all the necessary permits and licenses prior to initiating construction.

On the other hand, the number of complaints submitted by Christians amounted to seven.

Four of these complaints were collective complaints, each signed by between 80 to 150 individuals. Further, a **clergyman** and three civilians

submitted three complaints in which they claimed that public authorities had violated their rights of freedom of faith and worship.

The submitters of three of these complaints complained that the competent authorities- whether in their Governorate or their Security circle- refused to issue resolutions for the renovation of three churches in Assyt and Sohag despite the fact that the Egyptian President delegated the Governors of each Governorate the authority to grant the necessary permits and licenses for the renovation of churches.

Nonetheless, the Governors- according to the complaints- referred the relevant applications to competent security bodies in addition to local authorities concerned with housing and utilities. The restrictions and obstacles to building churches- according to the submitters of the complaints- were usually imposed by such authorities, which refused to grant such permits for undisclosed security reasons. On the other hand, such authorities may linger for long periods of three to four years in order to grant such licenses despite the deteriorating conditions of the church buildings that jeopardize the safety of their visitors.

The group complaint submitted by 17 individuals from Beni Maghagha, Minia Governorate, complained that they were not allowed to exercise their rituals at the branch of the Religious Association to which they were members in that town, due to the negligence of the Association's head office in carrying out the necessary procedures for registering the Association branch and enabling them to exercise their rituals there.

Moreover, Priest (Qummus) of Koseya Town in Assyut Governorate complained that the security authorities, namely the Security Circuit of the Governorate and the Mol, refused to renovate a church-owned old people home, a matter which prevented the church, thus depriving this group of citizens in that town of vital services.

Another similar complaint was submitted, where Shobra Educational Department changed the name of the “Copts Primary School” after being renovated, which is believed to be a sort of persecution against Copts.

As regards enabling Christians to build churches and worship-places for exercising their rituals, a complaint was delivered to the HRC signed by 80 inhabitants of Rehab City in which they requested the establishment of a church for them in that City. They complained that the contractors in charge of the City violated their previous undertaking to construct a church in the City at the time of concluding contracts for their housing units, thus forcing them to travel 10 kilometres to the nearest church.

The HRC only received a complaint from an Armenian Christian from Port Said Governorate, claiming that he was discriminated against by security officials there. However, the complaint did not specify on reasons or motives for such discrimination nor the manner in which it was manifested. The submitter of the complaint requested remedying such violation and allowing him freedom of religious practice. Upon investigation the HRC was told by the Governorate and the Mol that the submitter of the complaint was convicted for his non-settlement of dues to banks.

On 4 Jan. 2005 a meeting between the HRC and the NGOs recommended to form a joint committee for a thorough study of such issues as the above-mentioned.

#### **8- Alleged Violations of the Right to Enjoy the Egyptian Nationality:**

Complaints submitted by those who were denied the Egyptian Nationality or whose Egyptian Nationality was withdrawn from them amounted to 15. Thirteen of them were submitted by women who

claimed that they were Egyptians residing in Egypt, each married to a Palestinian for a period ranging between 5 to 15 years, and each had two to five children.

However, despite the fact that a period of around six months had passed since the publication of the new Nationality Law in the Official Gazette, as stated in some of these complaints, the MoI Department of Immigration Passports and Nationality would not accept the claimants' application for Egyptian Nationality.

On the other hand, nine of the submitters of the complaints claimed that the employees of the concerned administrative body told them they had verbal instructions not to accept applications from Egyptian women married to Palestinians whose children had been born prior to the issuance of the Law on basis of the Resolution issued by the Arab League in 1959.

This Resolution had appealed to Arab countries not to grant Palestinians living in their territories their nationality in order to preserve their identities and their rights of return after the establishment of the Palestinian State.

Some of the submitters of the aforementioned complaints attempted to get an explanation from the Arab League regarding this Resolution, as well as from the Palestinian Plenipotentiary at the Arab League. Such explanations -attached to the complaints, refer to the fact that neither the Immigration Passports and Nationality Department nor the Ministry of Interior had consulted with the Palestinian Plenipotentiary at the Arab League.

The Plenipotentiary revealed that it had no objections to granting the Egyptian Nationality to the children of the aforementioned women married to Palestinians. It moreover urged that these mothers be treated equally to women of other nationalities in similar situations.

The letter issued by the Palestinian Plenipotentiary at the Arab League states: "Time and events have surpassed this stage. For at the time of the issuance of this Resolution, Palestine had not fully developed its entity. By virtue of Egyptian support and assistance, Palestine has been able to develop its entity on its lands and to reach its current position at the United Nations. Palestine, in its attempt to alleviate the suffering of Egyptian wives married to Palestinians, as is the case with other Egyptian women married to non-Egyptians, reiterates its belief in equal treatment between the children of Egyptian women married to Palestinians and other children of women married to non-Egyptians."

At the end of the letter the Plenipotentiary expressed its wish that the Secretariat of the Arab League would contact the competent authorities in Egypt to deem the Resolution of 1959 null and void as well as outdated.

However, a whole year has lapsed between the date of the aforementioned clarifications and the date of submitting these complaints to the HRC. This demonstrates how adamant public officials are in rejecting such applications.

In addition to the above, the New Law referred to all Egyptian mothers without any discrimination based on the nationality of their husbands or their date of marriage. Therefore the Executive Regulations of the Law may not make such discrimination which would be in contradiction with the Law, as the submitters of the complaints see it.

What further confirms the discrimination carried out by the aforementioned public officials, is the claim made by one woman, stating that her application for granting the Egyptian Nationality to her children from a Yemeni father, was rejected when the competent official found out that he was originally born on Palestinian Territory. This official believed that this was an ample excuse for not granting her

children the Egyptian Nationality despite the fact that her husband had held a Yemeni Nationality for twenty years and a Yemeni passport on which all their children were inscribed.

Seven of the submitters of such complaints have abundantly expounded their moral and material suffering from such double standards, whether in the form of wording, acts or treatment by the public officials. This also caused them difficulties in providing for their children since they were treated as foreigners by their schools and universities and were required to pay relevant fees in foreign currency, besides the fees that must be paid annually for renewing their residence. Such mothers also suffered psychologically due to their feeling of discrimination and instability.

There are two other complaints in which the submitters complained of not being granted the Egyptian Nationality though they had resided in Egypt and had not left the Country ever since they were born in the 1950's. The one has an identity card from Mosky Police Station where he was born and has graduated from a Cairo university. He also did his military service in the Egyptian Armed Forces in 1982/83.

## **Chapter Five**

### **Human Rights Practices in Egypt For 2004**

The present report shares with other numerous reports, published on the national arena by government and NGO's, their terms of reference, which have been founded on constitutional principles, the international conventions for human rights, the values derived from religions and the legal liabilities emanating from Egypt's ratification of the Universal Declaration for Human Rights and other international conventions.

Yet, it outshines such reports by two distinctive features emanating from NCHR's law and the nature of its mission as outlined under its Articles of Association. NCHR is not an instrument for interpreting the performance of the executive authority towards the existing policies and defending them, which is carried out by the competent official authorities.

Neither is it a protesting expression of errors or abuses which occurred in one field or another, similar to the publications issued by a number of NGO's that do not possess authorities similar to those provided by the Articles of Association to NCHR.

Rather, it incorporates critical reading with both its positive and negative aspects, as well as analyzing events and defining responsibilities. It does not stop at proposing policies, but strives - as well- to affect them.

The present report covers its subject - matter in the field of civil, political, economic, social and cultural rights for the period commencing with NHRC's first meeting held by the end of February 2004 till the end of February 2005.

## **First: Civil and Political Rights:**

### **1- Fundamental Rights:**

#### **The Right to Life:**

The year 2004 witnessed a number of regretful abuses of the right to life, of which a number occurred to individuals while in the authorities' custody. Other abuses were committed by an extremist group which blew up three locations in south Sinai on 8 October 2004.

That regretful terrorist act was the first of its kind to devastate the country since the Luxor massacre by end of 1997 that left five Egyptians and approximately 30 foreigners mostly Israelis, dead.

Furthermore, Israeli soldiers committed manslaughter against three Egyptian security men, namely "Hani Ali Sobhi Al Naggar" (21 years), "Mohammed Abdul Fatah" (22 years and) "Aamer Abu Baker Aamer" (22 years). The manslaughter occurred when an Israeli tanker opened its heavy fires which crossed the borders towards the Egyptian city of Rafah. The incident was condemned by the Egyptian public opinion and denounced by the government.

Abuses of the right to life which occurred under the liability of the public authorities included two prominent types:

**The first and most perilous** type was the death of a number of citizens due to suspected torture while they were being detained and interrogated. The year witnessed several incidents of this type.

By the beginning of January 2004, Mohammed Hassan Ismail (a peddler - 55 years) died during detention at Al Azbakiya Police Station in Cairo.

On 7 January, Mohammed El Sayed Nigm (30 years- handicapped) died a few hours after being released in a state of coma from the State Security Investigations Services (SSIS) HQ in the city of Banha, Qaliwbiya, where he was detained for eight days without a judicial warrant or official charges.

On 13 March, Khaled Abdulnabbi Hassan (19 years) died in detention at Fayed Police Station in Ismailiya Governorate.

On 20 March, El Sayed Moustafa Mousa died during detention at Ausim Police Station in Giza Governorate. On 13 April, Mohammed Moursi Saleh died following a quarrel between him and a policeman, during which the latter fired at him in a public road.

On 11 June 2004, the naked body of Nasser Mohammed Hussien was found in an extremely swollen state amidst the farms, after less than 36 hours of his arrest in the early morning of 9 June by the police from his residence in Medoum Village, Al Wasta Markaz in Beni Seuf Governorate. His family submitted a report to the Public Prosecutor in which it accused the police forces of assaulting him which caused his death and then attempted to dispose of his corpse to evade the liability (2).

On 12 September 2004, Amr Atrees Hassan (31 years) died in Imbaba Police Station in Giza Governorate, after ten days of detention on account of theft. His family informed the Public Prosecutor that he died of torture (report No.12008 of year 2004/Imbaba) (3).

On 23 September, Abdultawab Yousef Salah Eddin, died while in custody at Nasr City Police 1<sup>st</sup> Station in Cairo, after detention on account of a theft case. The initial report of Zenhum Health Office confirmed the existence of clotted wounds shortly prior to his death (4).

On 20 October, Ali Mohammed Al Masli died while in custody at Beyala Detention Center in Kafr El Sheikh Governorate, two days after detaining him. His family said his death occurred as a result of torture. They submitted a report to the Minister of Interior and the Public Prosecutor. The Public Prosecutor decided to investigate the case and appointed a forensic doctor to conduct an autopsy on the body. The report was recorded under No.1903 for year 2004 – administrative investigation- Beyala Center (5).

On 20 December 2004, Saddam Hussien Hafez Ali (17 years), a juvenile, died in custody at Al Warraq Police Station in Giza, where he had been detained on account of investigations in a theft case since 13 December along with other adult detainees. The police station officers said he sustained skull hemorrhage when a number of detainees fell on him while he was asleep and that rescue attempts after transferring him to a public hospital were futile. However, distrustful of this statement, the victim's family informed the Human Rights Association for Assistance of Prisoners (HRAAP) that it had observed several wounds on his face and feet, as well as hemorrhage in the skull and ears (6).

**The second type** of the right to life abuses, which occurred under the responsibility of the public authorities, included the death of detainees as a result of gross negligence or lack of health care.

The most prominent cases followed up by the NCHR in this respect was the death case of engineer Akram Zuhairi (40 years) on 9 June 2004, after less than one month of his detention in a campaign launched for detaining Muslim Brotherhood (Al Ikhwan Al Muslimeen) members. Despite the deterioration of his health condition since his detention, he was not provided with the necessary medical care. Further, he sustained head hemorrhage after he collided with the beam of the security extradition vehicle which was returning him, along with other detainees to prison, after they were presented to the prosecutor. The guards'

response to his colleagues' calls for rescue was late. He was transferred by the prison management to the university hospital, but it was too late as he died a few hours later. (7).

Following senior level communications between the People's Assembly and the Ministry of Interior, the People's Assembly's National Security Committee, mandated a delegation to visit Tora Prison to investigate the cause of the death and examine the conditions of detainees as well as ensure the implementation of the prison regulations. After the visit, committee members said the reason for engineer Zuhairi's death was neglecting his treatment rather than torture. (8)

The public opinion's concern was also raised by the death of three young men and injury of 17 others by asphyxiation as a result of packing them in a security extradition vehicle in August 2004. The victims were among 80 youths who were arrested by the Libyan authorities on allegation of entering Libya and trying to travel to Italy illegally.

After handing them over to the Egyptian authorities, they were transferred to Cairo inside two security extradition vehicles packed with double their capacity, without adequate ventilation, under high temperature and humidity. Guarding officers and soldiers did not pay any attention to the prisoners' repeated calls for rescue and complaints of asphyxiation.

After opening the doors of both vehicles within the periphery of Khalifa Police Station after 12 hours, the pathetic situation was revealed. The cases were transferred to an adjacent hospital in extremely fatigued condition. While first aid was administered, each of Ahmad Ibrahim, Ashraf Abdulghafar Attiya and Mohammed Ibrahim Al Bendari died of blood circulation failure (9).

On 26 December, Ashraf Zaki Mahran died in custody at Shobra El Khima 2<sup>nd</sup> police Station in Qaliwbya governorate, as a result of wounds sustained during a squabble. Although he received first aid treatment, he remained detained for ten days without adequate medical care despite the Public Prosecution's decision to release him on 16 December. Following his death, the officers said they had continued detaining him because of his evasion of military service. (10).

Though the Public Prosecution investigates these cases and refers the criminals to the criminal courts, yet this process consumes a long time. Among the a/m death cases caused by alleged torture at the detention centres which occurred in 2004, a decision was taken on only one case, i.e. Mohammed Hussien Hassan Ismail who was killed while severely beaten at Azbakiya Police Station on 3 January 2004. On 11 October 2004 Cairo Criminal Court sentenced Ashraf Fathi El Ganzory, the police officer found guilty of this felony, to five years of prison. (11)

On the other hand, the courts continued looking into cases pending from previous years. The Cassation Court decided on 25 January 2004 to uphold the verdict passed for the imprisonment of the policemen accused of torturing prisoner Ahmad Mohammed Eissa to death inside Wadi El Natron Prison on 10 February 2000.(12)

On 4 April 2004 the Cassation Court upheld the verdict passed by Cairo Criminal Court against Nasr City investigation assistant on charge of torturing two citizens in January 2002, which led to the death of one of them (13.)

On 17/1/2005 Cairo Criminal Court delivered a verdict for the imprisonment of Bab El Shaa'riya police station police officer for five years after re-trying him on charge of torturing Mohammed El Hussien Imam to death by lashing and connecting an electrical source to his body (14).

Meanwhile, on 22 April 2004 Giza Criminal Court exonerated all suspects accused of torturing Qenawi Saleem Al Sagheer to death at Imbaba Police Station on 7 January 2000 (15).

Courts are examining these as well as several other death cases of torture which allegedly took place over the past years, including the trial of two police officers and four detainees before Alexandria Criminal Court on 31 March in the case of Ahmad Khalid Ibrahim who was tortured to death at El Gomrak Police Station on October 2002 (16).

It is worth noting that the NCHR has submitted on 1 August 2004 a proposal for amending the definition of the "torture offence" according to article 126 of the Penal Code, in order to expand its scope and reinforce the punishment for this crime, in the manner stated in detail under the last part of this report.

The NCHR appreciates the decisions and measures adopted by the Ministry of Interior to prosecute a number of individuals who committed such acts, as well as the Public Prosecution's interrogation with a number of them, which ended in some instances by referring them to criminal trial and imposing punishment upon them.

However, the NCHR expresses its concern at the continuation of a large number of such practices.

It also expresses its fears that such practices signify the ill treatment received by suspects and detainees. NCHR reiterates the necessity of taking more stringent measures and actions, as well as constant guidance and training in an attempt to deter those who believe that their job in the security field bestows upon them an immunity against the constitutional rights of citizens.

In light of the foregoing, the NCHR is interested in reconsidering some provisions of the Penal Code which implicate torture, in an

attempt to increase their efficiency and expand the scope of their implementation.

**Right to liberty and security of person:**

Both the Constitution and the law warrant this right, and lay down the guarantees required for its protection and preventing its abuse. Further, national legislations are meant to conform with the international principles, derived from Egypt's obligations with the international agreements incorporating such principles, including controlling the use of protective custody as a measure followed during criminal interrogations, as well as expanding conditional release.

However, the continuation of the emergency state under the framework of the Emergency Law, reflects a big gap which prevents a number of citizens from enjoying this right, in a manner which hampers many of the guarantees warranted by the Criminal Procedures Law.

Throughout the year, security authorities launched several detention campaigns, one of which targeted Muslim Brotherhood members in May, and continued renewing their protective custody for a period of six months till their release in November.

It launched another detention campaign in the aftermath of the terrorist explosions which targeted tourist sites in Taba and Nuwaiba'a. This has included the detention of big numbers of Sinai residents, among whom were women from the families of person not on the wanted list, who were detained as hostages (17).

The NCHR fully appreciates the gravity of terrorist crimes and their ultimate effect on the citizens' feeling of security, as well as their devastating effects on the tourism industry in Egypt.

Nevertheless, the vast expansion in the implementation of the protective custody system – in the absence of controlled and strict criteria to comply with- transformed this system into a flagrant abuse of the fundamentals and principles of the legal procedures in criminal matters.

Furthermore, thousands of detainees affiliated with Islamic groups who were detained during the 90's within the framework of security confrontation with the fundamentalist groups, are still in custody. Although, having served their sentences, some of them have not been released pursuant to the Emergency Law.

Meanwhile, the detention of others is renewed consecutively after each grievance. Some of them were released according to the records when the maximum periods determined by the law have lapsed, till a new arrest warrant is issued against them. This includes 65 lawyers who were detained during the period from 1989 to 2003.

Several of them are considered as being detained repressively, according to the international criteria which consider deprivation of freedom as abusive under the following cases (18):

- a- If it is evident that no legal basis may be used for justifying it (e.g. keeping a person in custody after expiration of his sentence period.)
- b- If the deprivation of freedom resulted from a verdict or punishment related to the practice of the rights and freedoms stated under articles 12,18,19,22,25,26,27 of the International Covenant on Civil and Political Rights.
- c- If the complete or partial noncompliance stated under the relevant international covenants is serious to an extent which adds to the deprivation from freedom of whatever kind an abusive type.

Security authorities released a few thousands of such detainees in batches over the past few years, according to security criteria which

were taken as a protective measure Hence, it was not possible to put an end to this unfortunate phenomenon.

A number of them, which may reach up to thousands, are still under detention. Regardless of the statements made about the dangerousness of these individuals to public security, nevertheless this is an unfounded allegation and insufficient to breach the constitutional rule determined to implement the fundamental principle of innocence.

To this end, the NCHR submitted to the Ministry of Interior lists of 600 detainees in order to examine their cases. The Ministry of Interior furnished the NCHR with responses covering 265 cases, of whom 51 cases were released. The NCHR conducts daily follow-up with the Ministry of Interior. Nevertheless, it puts to record the relative paucity of the number of those released, and appeal for adopting more transparent criteria conforming with the international principles upon addressing this matter.

### **Treatment of prisoners and other detainees in prisons:**

The government continued its efforts to enhance the conditions of prisoners and other detainees, as well as combating torture. This has included a number of positive measures, led by the Ministry of Interior which conducted administrative investigations in torture complaints, the Public Prosecutor who referred suspects in torture crimes to the courts and organizing training courses for police officers and prosecution attorneys in the field of human rights. The Ministry of Interior complied with the court verdict for removal of the grid fence between prisoners and their families during the visit.

However, complaints continued due to the persistence of mistreatment of prisoners and other detainees in the jails, which led in

some instances to an open hunger strike, as happened in Algharbaniyat Prison in Alexandria by the beginning of May 2004 (19) and Abu Zabal Prison starting the 1<sup>st</sup> of November (20).

Meanwhile, calls have risen for ending these practices once and for all. For such practices infringe upon the constitutional and legal rights of the citizens, and damage the reputation of the country. They eventually transform millions of citizens into terrified individuals who avoid public work, preferring safety to the risks of public participation in shaping the future of political reform as a whole.

This phenomenon, considered by the competent authorities as mere individual cases, included several cases, some of which are individuaistic such as the treatment to which the family of a prisoner who escaped from Al Mansoura Prison was exposed. Scores of members of the family were arrested and some were beaten up and hung upside down, which inflicted injuries on most of them, including a young girl who sustained a fracture in her arm.

All this was for the purpose of extracting information on the hideout of the run-away prisoner in order to arrest him.(21)

Although over-enthusiasm in combating crime and apprehending the criminals may be the overt motive for such illegal behaviour, nevertheless safeguarding human rights and freedoms should supersede any other consideration.

Some of such cases are collective cases as happened during the random detentions in North Sinai when many of the detainees and their families were exposed to torture. This is in addition to the allegations of the torture of seven suspects in Case No.462 of year 2004- State Supreme Security, known as "Muslim Brotherhood Organization", causing them to sustain several injuries.

One of the suspects suffers from uncontrolled urination as a result of electrocuting his genital organ. Another sustained a fracture in his hand and loss of balance as a result of continuous slapping on the ear. A third person sustained a fracture in the right arm, while another sustained a fracture in the ribs.

Lawyers of the Egyptian Organization for Human Rights (EOHR) testified to the existence of numerous aspects of oppression and abuse practised on suspects. This includes the Prosecution chief's refusal to have the injuries of one of the detainees examined and the existence of state security officers in the prosecution building, which constitutes a violation of the law. (22)

Exercising torture does not only lead to violating the constitution, breaking the law, causing pain to the victims, and abusing their dignity, but it also results in misleading the justice. The year 2004 witnessed the continued and frequent cases when a number of suspects indicted in some crimes proved to be innocent, following the appearance of the true perpetrators and their admission of committing the crime.

One of these cases, was the discovery of the innocence of four suspects from "Tukh" in the homicide case of Khalid Abdul Tawab Younes in 2000. Under torture, they confessed of committing the crime. After serving three years of their sentence, the real criminal confessed of the crime by coincidence while in prison. The Public Prosecutor ordered the submission of a copy of the case documents to the Cassation Court to review the contestation of the falsely indicated individuals whose innocence was revealed. Further, five police officers involved in torturing the suspects in this case were put on trial (23.)

In another incident, the Public Prosecutor decided before the end of January to refer a police officer to trial on charges of torture and the attempt to extract a coerced confession as well as forging official

reports, to force the actress "Habeeba" to confess to killing her Qatari husband, five years ago. The decision was made after the discovery that the crime was committed by other persons. (24)

In a third incident, the Public Prosecution ruled to reopen investigations in Case No.6750/2004 Al Raml Crimes, and released Ibrahim Ibrahim El Sayed, who had under the threat of torture, confessed to killing his grandmother. The Public Prosecution's decision came after arresting the real killer who confessed to having committed the crime. (25)

In a fourth incident, an accused confessed before the Public Prosecution to the burglary of a car. During the trial, it was revealed from the facts that he was detained for interrogation in another case on the same date the burglary was being committed. (26)

Furthermore, allegations continued throughout the year, of extraditing Islamic fundamentalists suspected of being related to the El Qa'eda organization or of being terrorists, to Egypt for the purpose of extracting information from them under torture (27).

Amnesty International mentioned in a letter forwarded to the US President at the beginning of his second term, which it publicized on 19 January 2005, the incident of extraditing an Australian detainee under the name of "Mamdooh Habeeb" secretly from Pakistan to Egypt, where he spent six months. He was then transferred to the Guantanamo detention camp in May 2002 where he was detained without charge or trial for two and half years.

Habeeb told the federal court in November 2004 that during his detention in Egypt he was exposed to various kinds of torture, including electrocution, hanging down, severe beating and threatening with dogs.

American and international newspapers have constantly referred to the extradition of Islamic fundamentalists to Egypt and some other Arab countries under of a US presidential executive order passed in August 2002, which remained the target of severe criticism within the USA, until it was replaced on 30 December 2004.

Some of these sources mentioned specific incidents, including the extradition of Mamdooh Saad Iqbal Madani, a Pakistani who was detained in Indonesia in January 2002, to Egypt on board a CIA plane.

Revealing these details in its report, the NCHR seeks to inform the various authorities of such incidents and the related allegations stated in this respect, and that it has not received any replies from such authorities while in some cases it received vague replies that do not rebut the strong suspicions upon which these allegations were founded.

Furthermore, there are allegations that the Islamic activists Ahmad Agizah and Mohammed Al Zari who were expelled by Sweden to Egypt in an international extradition deal, had their human rights violated first in Sweden as asylum seekers, since the law there prohibits handing them over to an authority where they may be exposed to torture.

Secondly, they were transported on board an airplane chartered by the USA to Egypt. Thirdly Agiza was tried and indicted by a military court.

Following a television program on 17 May 2004 which uncovered the aspects of mistreatment on part of parties from the three countries, the government of Sweden called for "the conduction of an international investigation."(28). The UNHCHR said the Human Rights and Torture Panels are currently investigating this case. (29).

In the sphere of confronting torture in prisons and detention centres, the NCHR records the internal investigations carried out by the Ministry of Interior. It also records the establishment of disciplinary

panels for complaints about exercising austerity and torture by some policemen, which are not announced in most cases.

Further, the Public Prosecution refers the cases it verifies to the courts, including the Public Prosecutor's approval on 24 April 2004 to refer a police officer of Kafr Shokr Centre and a guard to the Penal Court on charges of torturing an elderly woman to force her to reveal the whereabouts of her son, wanted on account of a case in October 2003.(30)

However, the investigations in these cases are very time-consuming. The families of the complainants or human rights organizations who file their reports to the Public Prosecution may not even know the fate of such reports.

The Egyptian Organization for Human Rights (EOHR), submitted a memorandum to the Public Prosecutor on 6 December 2004, in which it requested him to disclose the results of the investigations on 25 torture cases covered by the Organization's reports to the Public Prosecution in 2004. Its periodical follow-ups of such reports revealed that some of them were kept on file while no legal actions were taken in other cases (31.)

Courts of competent jurisdiction are looking into the torture cases referred to them. During the year, they convicted a number of suspects in these cases, including the verdict passed by the Criminal Court in Alexandria in Case No.623- Supreme Court- Alexandria for year 2001, imprison two police officers on charges of torturing a citizen to admit killing his daughter who had disappeared (32).

This is in addition to the verdict of Helwan Misdemeanours Court handed down on 25 November 2004 to imprison three police officers who have physically and verbally abused a lawyer on 3 October 2003

and inflicted injuries on him that required more than 20 days treatment (33).

Further, the Cairo Criminal Court on 24 October 2004 initiated the trial of five officers at the Helwan Police State on charges of apprehending nine citizens inside the station and torturing them, as well as inflicting severe physical injuries on them, as revealed by the medical reports (34).

The Egyptian courts handed down a number of compensation verdicts in torture cases (35), including the verdict of the South Cairo Court on 19 July in Case No.15358/2003 for Mustafa Ameen Ibrahim to be paid LE 14,000 as a compensation for torture inflicted upon him during his detention from 7/7/1993 to 6/7/1995.

Such verdicts also include the verdict delivered by the South Cairo Court on 29 January in Case No. 24245/2003 for Tareq Abdul Sattar Ahmad Murad to be paid LE 15,000 as a compensation for torture inflicted upon him.

They further include the verdict of South Cairo Court for Hamdi Mahmood Abdulmotaleb Ummara to be paid the amount of LE 14,000 as a compensation for torture inflicted upon him during his detention from 11/2/1996 to 11/7/1998.

On the other hand, a number of MPs posed questions to the Ministers of Justice and Interior in connection with a number of cases, by the end of November 2004. The Minister of Justice reiterated Egypt's compliance with the Universal Declaration for Human Rights and the International Convention for the Prohibition of Torture and reaffirmed that the death cases which occurred within detention locations are dealt with by the Public Prosecutor who will decide what disciplinary or penal measures to be taken once the occurrence of any violation or acts which are punishable by the law are confirmed.

Further, the Minister of Interior denied in his response to a question that citizens are exposed to any mistreatment at police stations. He pointed to the existence of a permanent committee on human rights at the Ministry of Interior and a dedicated section at the office of the Public Prosecutor, responsible for any complaints in connection with these matters.

While the NCHR appreciates all this, nevertheless it still notes a gap between official statements and daily practices, which needs to be bridged.

### **The right to fair trial :**

The 1971 Constitution stipulates the principles of fair trial and, therefore, independent and impartial judiciary, and that no punishment is imposed except after a fair trial in which one has the right to defend oneself. The judiciary authority Law No.48 of 1971 regulates guarantees for the independence of the judiciary.

Courts are accustomed to following fair trial procedures. In many of its verdicts, the Cassation Court calls attention to consideration of fair trial of cases referred to all courts.

However, there are instances which represent non-compliance with the basic elements of fair trial:

- 1- Trial of civilians before military courts, with panels constituted of military judges, subject to the leadership hierarchy of the armed forces.
- 2- Trial of citizens before the State Security Courts which are established by decree from the President of the Republic, pursuant to the Emergency Law.

The Public Prosecutor has, however, announced in a press conference held by the end of July 2004, that the use of the emergency law in litigation procedures will be limited, except in cases related to state security, and that the Public Prosecution is narrowing down the scope of referring cases to the State Security Courts.

3- Protective custody in the penal procedures law, as part of the investigation measures and trial of criminal issues which can turn into a punishment by itself.

The NCHR recommends laying down strict controls on protective custody, as well as determining its scope and the compensation claims in case of abusing it or prolonging its period.

4- Procrastination of litigation procedures, the constant rise in the number of cases being heard by the courts, the shortage in the number of judges, the shortage in the organs assisting the judiciary, and the absence of alternatives to solve disputes outside the courts.

At the level of extraordinary trials before the State Security "Emergency" Courts:

a- On 25 March the State Supreme Security "Emergency" Court convicted 26 persons, of whom 3 were British nationals, accused of belonging to the Islamic Liberation Party and punished them by imprisonment sentences ranging from one to five years.(36)

b- On 11 March 2004 and after the lapse of almost 11 months since the detention of the political activist Ashraf Ibrahim on 19 April 2003, the State Security "Emergency" Court exonerated him of the charges attributed to him, as well as four others: Nasser Al Buhairi, Yehya Ameen, Moustafa Al Basiouni and Reymond Edward Gindi, who were detained by mid 2003 on charge of forming an illegal leftist political organization for the purpose of overthrowing the political regime of the country. (37)

At the level of military trials, the year 2004 witnessed a remarkable positive development, as no new decrees were passed for referring civilians to trial before military courts, despite continuous expectations of referring Islamic activities who were arrested on account of several cases in 2003 and 2004 and are facing charges related to infringement on the state security. The decisions to refer civilians to military trials were resumed following the September 11 2001 events, after a discontinuation which lasted for twenty months.

However, trial of the Islamic activist, Ahmad Hussien Agizah, was resumed in 2004 before a military court. He was sentenced in absentia to life sentence in 1999 along with 106 others on charges of his affiliation with "El Jihad Organization." He was extradited from Sweden by the end of 2001. The retrial was carried following the approval of the President of the Republic of his appeal. However, the military court convicted him once again on 27 April 2004 and renewed his punishment with life imprisonment. (38)

Further, the military court has renewed the imprisonment of 15 suspects in the case known as "God's Soldiers Organization", which is considered one of the cells of "Al Jihad Islamic Organization" on account of investigation. These 15 suspects have been detained since their apprehension in 2001 and the period of their detention has been repeatedly renewed. (39)

By the middle of the year the military governor ratified the verdict for the life imprisonment of "Anwar Abbas", referred to as the commander of the military wing of the Islamic Group Organization in Qena Governorate.

Sentenced to death by a military court "in absentia" in January 2004, he was handed over by the US Administration to the Egyptian authorities by the end of 2003. The military governor approved his

petition for retrial before another military court chamber, which as outlined above punished him with life imprisonment. (40)

### **Compulsory disappearance:**

On 18 February 2004, Brigadier Ahmed Salem Ebeid, the former Yemeni Minister of Information, who had resided in Egypt since the 1994 war, disappeared. Both authorities in Egypt and Yemen denied having any information regarding his fate. The Yemeni Embassy in Cairo advised members of his family to search for him in the hospitals and police stations and publish an announcement about him in the Egyptian newspapers as "missing".

However, the former Yemeni opposition member surfaced in Yemen after three months of his disappearance in Cairo. It was revealed that the Egyptian authorities apprehended Ebeid and extradited him after eight days to the Yemeni authorities in a security deal, in return for handing over a number of wanted Islamists in Yemen's custody to Egypt. It was also revealed that the Yemeni opposition member stayed three months at one of the detention centers in Sanaa under strict security.(41)

This type of practices indicates the prevalence of security considerations over legal considerations, especially that Brigadier Ebeid was not convicted of breaching the Egyptian law and had neither been convicted by any court in his country. Nor had he been convicted in any specific case.

This practice also points to the need for immediate control on the compulsory disappearance phenomenon in Egypt, which has increased over the last one and a half decades at a regretful rate. The Egyptian

human rights organizations documented tens of cases whose fate it has been pressing hard to reveal.

The Egyptian Organization for Human Rights (EOHR) documented 53 cases during the period from 1992 to 2003, the fate of 17 persons of whom was revealed (42.)

The Human Rights Association for the Assistance of Prisoners (HRAAP) submitted reports to the Public Prosecutor, Minister of Interior and the director of the Prisons Authority, in connection with 11 compulsory disappearance cases during the period from 1992 to 1996 . However, it did not receive any response indicating investigations were underway.(43)

The year 2002 witnessed the first court verdict for compensation against the Minister of Interior at the amount of LE 100,000 in the case of a missing Mustafa Mohammed Abdulhameed Othman, following his arrest in 1989 after the attempt on the life of ex-Minister of Interior (Zaki Bader). The Ministry of Interior was unable to reveal his fate.

At the level of citizenship, the protestation of Christian citizens surfaced before the end of the year, which started with what they described as "the kidnapping of the wife of a Christian clergyman" in El Behira Governorate and forcing her to convert to Islam.

Observers considered the State's treatment of the issue lacking in transparency despite the danger it poses to national unity and social peace, as the protestor's demands exceeded the limits of the case towards other issues related to citizenship rights.

The authorities answered the demand of the Christian citizens who gathered at the Orthodox Copts Cathedral in Abbasiya area in Cairo and the demand of Shenodha III, Pope of Alexandria's for the right of the church to debate with the Christian woman regarding the truth of her

conversion to Islam. Further, the authorities complied with the Pope's demand in connection with releasing some followers of the church who were detained during the protests.

### **Protecting the rights of Egyptian citizens abroad:**

Egyptian diplomacy succeeded in protecting the rights of a number of Egyptian citizens abroad. It helped achieve the release of an Egyptian diplomat as well as six Orascom Company personnel, all of whom were kidnapped in Iraq. Further, it succeeded in releasing the six students who were detained by Israel.

However, many other cases remained unclear despite the requests of members of the People's Assembly and the appeals of non-governmental organizations to reveal their legal status and ensure their protection. This has forced a number of non-government authorities to file lawsuits in the State NCHR (Ombudsman) in this regard.

Among the most prominent compulsory detention cases were the case of the disappearance of eleven Egyptian citizens in Libya since 2002 after being exposed to a fraudulent attempt at facilitating their entry into Italy through Libyan territories.

By mid-March 2004, the Administrative Court ruled on the case filed by HRAAP against the Ministries of Interior and Foreign Affairs and the Libyan Embassy in Cairo for obliging the Ministry of Interior to submit certificates on the movement of the Egyptian missing citizens. Further, it obliged it to submit their passports which were handed over to it by an Egyptian citizen residing in Libya, to be reviewed by the court.

In its follow-up of the case, the same court indicated in July the slackness of the Ministry of Interior in performing its role and not checking on the investigations conducted in connection with the

disappearance of the 11 Egyptians. It urged the Ministry of Foreign Affairs to take immediate action to uncover their fate. (44)

Furthermore, the detention of five Egyptian citizens by the US forces in Guatenamo camp continued without accusation or trial, under circumstances indicating exposure to torture and ambiguity of legal status.

Unlike the UK and French authorities, the Egyptian authorities do not seem to have exerted any effort to have them released, or have their status clarified.

Further, the conditions of more than 600 citizens detained in Lebanon as illegitimate labor remained in question. A representative in the People's Assembly has earlier raised their case through an advice request which he submitted by mid May.

In his request, he pointed to their detention a few months earlier on charge of working without a permit. Many of them were exposed to torture and ill treatment, while three died of torture.

However, the Foreign Ministry's Undersecretary for Consular Affairs has confirmed before the Arab Affairs Committee in the NCHR that only two death cases took place. One of them committed suicide out of frustration after being given a life sentence. The other died of cancer in 2002.

It was decided that a government committee representing the Ministries of Interior and Foreign Affairs should go to Lebanon to investigate the files of the Egyptian citizens detained in Lebanese prisons. (45) Up till the date of writing this report, we have no knowledge of any legal committee visiting Lebanon for this purpose.

## **2- Public freedoms:**

The ruling NDP adopted the call for developing laws regulating freedoms, first by the cancellation of freedom-deprivation punishments in publication crimes, and then by developing the laws regulating the practice of political rights, the National Assembly, political parties and professional associations.

### **Freedom of speech and the press:**

Freedom of speech and the Journalists witnessed several positive developments throughout the year, whereby the Higher Journalists Council (HPC) approved to resume publishing "Al Mawqef Al Arabi Magazine", following more than 17 years of shut-down in compliance with an administrative order of the Government, and after repeated failure to implement court verdicts in its favor. Such decision was widely welcomed by the political powers and civil society in the country.

On 25 December HPC approved the resumption of Al Dostoor "weekly" independent newspaper, in implementation of a final court verdict after a halt for six years.

Furthermore, the HPC approved the publishing of "Al Ghad" (Tomorrow) newspaper as a daily newspaper representing Al Ghad Party, incorporated pursuant to the approval of the Parties Committee .

On 22 February, a Presidential decree was announced, canceling freedom deprivation penalties in Journalists cases. However, as enactment of this decree was not forthcoming, the current law remained effective and journalists were punished by imprisonment in several cases related to publication, the most prominent of which being:

- The verdict handed down by the Misdemeanors Court – Section II – Tanta, for imprisoning the journalist Ahmad Attwan, the editor in chief of "Sout Al Gharbiya" newspaper and Ismail Mohammed Ahmad,

a journalist in the same newspaper for six months with labor and bail of LE 1000, and a fine of LE 5000 for each of them, on charge of publishing materials falling under the jurisdiction of the Penal Code. Human rights organizations were concerned due to the fact that the first was convicted in his capacity as the editor in chief of the newspaper on the assumption of his responsibility for everything published in his newspaper, which the Supreme Constitutional Court (SCC) had ruled earlier in 1997 to be unconstitutional (46).

- The verdict handed down by Cairo Criminal Court for the imprisonment of Ahmad Ezz Eddin, a journalist in Al Osbou newspaper for two years with labor, on charge of defaming and slandering the Deputy Premier and Minister of Agriculture in Al Osbou Newspaper. The Journalists Syndicate Board (PSB) expressed its solidarity with the journalist and appealed to the President of the Republic to apply his constitutional authorities to freeze of the verdict.
- Another journalist, Ahmad Ezz Eddine El Ghoul of Al Sha'ab newspaper remained in detention for almost three months on charge of a case of possessing printed matters and papers related to the Muslim Brotherhood Group. The Public Prosecutor decided to discharge him by the beginning of 2005, following intervention of the chairman of the Arab Journalists Association with the MoI and Public Prosecutor (48).

Nevertheless, the most flagrant abuse of the freedom of speech and the Journalists was the incident of assaulting the journalist Abdulhaleem Qandeel, the executive editor in chief of Al Arabi Newspaper, the mouthpiece of the Arab Nasserist Party, who was kidnapped by unknown assailants while returning to his home at night. He was severely beaten up, stripped out of his clothes and abandoned at Al Mokattam City, one of the suburbs of Cairo (49). This opposition journalist, known for his sharp criticism of the government's

performance, accused the Ministry of Interior of gravely declining to protect him.

As for the incident of the journalist Redda Hilal, a regretful issue which raises concern, it is still shrouded by vagueness from several aspects. The HRC is still collecting more data to enable it to take a stand or an action in this case.

It is worth noting that this assault is the third of its kind to take place during the last decade, as there had been an earlier similar assault against journalist Gamal Badawi, the editor in chief of Al Wafd (opposition) newspaper in August 1995 (50).

A similar assault ensued, involving Mr. Magdi Ahmad Hussien, the editor in chief of Al Sha'ab Newspaper, the mouthpiece of the Labor "opposition" party on 1 July 1996, a few steps away from the premises of his newspaper in El Sayeda Zeinab district, prior to its shutdown.

Furthermore, the concern of human rights organizations was raised by the decree of the Minister of Justice to bestow the judicial apprehension capacity to members of the Islamic Research Center (IRC). The organizations appealed for adherence to the text of the decree, and avoidance of any crooked interpretation of the Holy Book or Prophetic traditions (Hadith).

### **Right to Peaceful Assembly :**

The implementation of this right faced several difficulties throughout the year. The political powers considered the intensive security presence on the occasion of the peaceful demonstration organized in downtown Cairo on the first anniversary of the US-led invasion of Iraq, has prevented the participation of large numbers, especially those who came from the outer governorates.

Furthermore, the Egyptian Organization for Human Rights (EOHR) has denounced the decision of Assyut University President for suspending fifteen university students for periods ranging from two weeks to one month, and referring about 20 students to the "Legal Affairs Department" in preparation for interrogating them, following the university students' organization of several peaceful demonstrations to denounce the Israeli assassinations of the Palestinian resistance leaders in the occupied territories, as well as condemning the US occupation of Iraq (52).

On 9 April 2004, the authorities banned hundreds from demonstrating in Al Areesh City, to protest the practices of the occupying forces in Iraq and Palestine on the occasion of the anniversary of the occupation of Baghdad and the Deer Yaseen massacre. Organizers of the demonstration said the police used electrified sticks and detained about 12 persons from Al Tagammu Party in Al Areesh, who were, nonetheless, released afterwards. The police also confiscated a videotape from Al Jazirah satellite channel's reporter (53).

Moreover, the opposition parties forming the coalition by the end of October denounced security forces' refusal to permit them to organize a public assembly in Abdeen Square in central Cairo on 4 November to announce their vision on the political reform in the country. Failing to reach an understanding with the security authorities, the coalition announced by mid-November their intention to go to court to challenge the security rejection decision. (54)

An argument erupted between the Coalition and the Mol, as the opposition parties accused the security authorities of interfering to prevent a public convention on 30 December in "Aga" City in El Dakahliya Governorate.

The MoI confirmed that the Coalition had not submitted an official application to any authority within the Ministry to organize a public conference in Aga City and that the MoI did not practice any pressures on the citizens to force them to withdraw from holding the conference (55).

### **The right to organize parties unions and societies:**

On the scale of the freedom to organize parties, the PC approved the formation of two new parties; the liberalist "Al Ghad" party and the "Liberal Socialist Constitutional" party, hence the number of official parties in Egypt amounted to nineteen. However, abrupt measures were taken against Dr. Ayman Nour, a member of the People's Assembly and chairman of "Al Ghad" party, on 28 January 2005, after only three months of the incorporation of his party on charge of forging the powers of attorney of some founders of the party.

His immunity as MP was revoked in 24 hours in a swifter manner than had been done before with other MPs of more serious charges. Another cause for concern was the published news on physically assaulting him during his detention and interrogation by the SSIS before the Public Prosecution.

In the meantime, the Parties Committee sustained its trend of restricting the incorporation of new parties, including the Committee's rejection to establish Al Wasat (Islamic) Party for the third time, while the incorporation of Al Karama (national) Party was rejected for the second time. Hence, the number of rejected parties amounted to 64, in addition to freezing 7 of the existing authorized parties.(56)

In the field of the freedom of organization of unions, the negative effects of law No.100 on the "democracy of union organizations" for

1993 and its amendments in 1995, continued, as did the abnormal conditions of a number of unions which deprived an entire generation of unionists from practicing their union election rights.

This was the result of freezing elections in (11) professional associations for periods ranging between four to eleven years, as well as imposing custody on the Engineers Association nine years ago and the Physicians Sub-Association in Alexandria, and interrupting the elections of the Bars Sub-Association in Cairo.

Associations such as the businessmen, practitioners and veterinarians associations remained without chairmen. Further, boards of associations are existing without representatives of youths, which is a violation of their laws, following the interruption of the elections since 1990. This case applies to the physicians, businessmen and dentists associations (57).

In the field of the right to form associations, the argument on the implementation of the Private Associations Organization Law No.84 of 2002 continued, especially in connection with freedom deprivation penalties for those who violate its articles, and the right of the administrative authority, represented by the Ministry of Social Affairs and Labor to dissolve associations automatically by an administrative decision, and burden the societies with the responsibility of referring to the court in connection with the effective decisions of the administrative authority for dissolving them.

Private societies and human rights organizations continued to call for conducting a legislative amendment of the disputed articles in the law, to guarantee the freedom of forming associations and ensure the freedom of practicing their activities. Concerned authorities called for negotiations on the required amendments prior to the approval of the current law.

Throughout the year, appeals were raised on part of human rights organizations in particular to discontinue the restrictions imposed on them. The organizations launched a joint campaign, in solidarity with Al Nadeem Center for the Rehabilitation of Torture Victims, which is active on the national and regional scales in the field of health rehabilitation of victims of physical and psychological torture, after receiving a closure notice on 20 July from Cairo Health Affairs Directorate, as a result of alleged violations. Organizations participating in the campaign considered it as an unacceptable attempt to shut-down the Center and discontinue its activity, on very ill-defined allegations "a violation of the law"(58.)

On the other hand, the administrative judiciary continued throughout the year looking into the case filed by the cofounders of the Egyptian Anti Torture Association against the Ministry of Social Affairs, as the latter rejected in 2003 to approve the incorporation of the association although it has satisfied all the required legal conditions.

The association cofounders considered the rejection as an unjustified decision, according to the provision of the law within a grace period of 60 days, and that the reasons upon which the administrative authority based its rejection as notified to them later, which included the rejection of the attempt to amend Egyptian legislations in conformity with the Universal Declaration of Human Rights, are both illegal and unconstitutional (59)

### **The right to participate in the administration of public affairs:**

The argument continued throughout the year on political and democratic reform priorities. The Ruling NDP continued development of its approaches raised in September 2003 to amend the political rights practice and organization of political parties laws, in order to promote

the participation of citizens in political and public life, as well as remove the restrictions on the right to association and peaceful assembly.

Nevertheless, the year 2004 did not see the translation of these directions into reality. Further, the Party excluded the performance of any constitutional amendment, or the amendment of the method of electing the President of the Republic.

However, the President of the Republic astounded the public opinion and political parties with his invitation to the People's Assembly and Shura Council to consider the amendment of article 76 of the Constitution which regulates the method of electing the President of the Republic, by allowing election by direct voting between more than one candidate, and to abolish the referendum system determined under this article of the 1971 Constitution.

Both opposition parties and NDP joined ranks in connection with withdrawal of its bill to conduct legislative amendments on the elections systems which allow a return to the relative list system, which the Supreme Constitutional Court had earlier ruled to be unconstitutional.

Press sources said studies conducted by NDP on the amendments aim basically at preventing the predominance of capitals on the election process, elimination of thuggery and violent acts, as well as laying down the rules for filtering the election lists and motivating people to participate in the elections.(60)

However, heads of the opposition parties considered the news leaked on the discussions of the ruling NDP as preventing them from presenting their election programs in the official mass media.

Further, the Supreme Constitutional Court ruled for considering each of the Administrative Prosecution Authority and the State Lawsuits Authority, as two judicial authorities, which allow them to participate in

supervising the public elections in the country according to the law. This has raised the concern of political powers in the country which insist that both bodies fall directly under the executive authority.(62)

At year's end, supplementary elections of the People's Assembly were held in Nasr City constituency in Cairo and Markaz Qatoor in Al Gharbiya, whereby NDP candidates in both constituencies won.

Al-Ghad Party fired sharp criticisms at what it described as backing by government bodies of the NDP candidate in Nasr City constituency. Through its chairman, it raised accusations of the intervention of government bodies in the elections against its candidates, by tampering with the candidates lists in Qatoor constituency. (63)

In May and June, the midterm renewal elections of Shura Council's 264 seats were held, amidst the abstention of the majority of political opposition parties from participating, except Al-Wafd Party, and Al Tagammau Party which participated in a limited scope. Both the Muslim Brotherhoods and Arab Nasserist Parties had earlier announced their boycott of the elections, condemning the government's absolute support to the ruling NDP candidates through the official mass media and the local ruling departments, and also condemning the shrinking role of the judiciary in the full supervision over the elections.

The elections were held in three rounds, in which approximately 330 participating candidates competed for 88 seats (64). Among the candidates were twelve women, but not a single one of them was a winner. The results revealed the running NDP's achievement of 70 seats, ten of which were achieved as they were uncontested. Independent members harvested for the first time ever 17 seats in the Shura Council. Meanwhile, Al Tagammau opposition party achieved only one seat. The participation in the voting process was characterized by being weak, although it was better than the participation percentage in the previous

midterm elections in 2001, which were the first Shura Council elections to be conducted under judicial supervision.

The elections were not devoid of the occurrence of turbulences and there were accusations to the authorities for siding with the ruling party's candidates, especially in Al Fayuum, Aswan and Qena Governorates in Upper Egypt. This reached the extent of imposing actual curfew without official announcement in Naga'a Hamadi in Qena for more than 48 hours, following security forces' besiegement of the assembly centers of the proponents of the independent candidate, after they gathered and denounced the announcement of the victory of the ruling party's candidate.(65)

Further, opposition newspapers criticized the performance of government bodies, particularly security authorities and local departments, on allegation of siding with the ruling party's candidates, and mobilizing their capabilities for them. Local private organizations have also complained of being forced to host signboards on their premises to support the ruling party candidates.

Following completion of the elections, the President of the Republic issued a list of the names selected to hold the seats of the forty four appointed candidates. The list included the appointment of Moslem clergymen, intellectuals, writers, academics, legal professionals, current and previous executive senior officials, chairman of Al Geel opposition party, as well as representatives of the Copts and women.

On the scale of preparation for the parliamentary elections scheduled to be held by the end of 2005, two appeals from human rights organizations emerged to form extensive committees to control the election process. The EOHR announced its intention to form an extensive coalition with the political organizations in order to form a control committee all over the electoral constituencies in the country.(66)

On the level of unions, the crisis of unionist work continued to take a new accelerated trend. While a number of professional unions have been under custody since the mid 90's, the issue of amending the election system inside the unions emerged prior to the end of the year , following the ruling NDP's finalization of the preparation of the bill for amending the unions democracy law, which provides for conducting elections through the electoral complex system, especially that those who prepared the amendment bill did not negotiate with them in connection with the features of such amendments.

The Bars Association board has announced that it absolutely rejects this amendment and appealed to other associations to coordinate with it. Meanwhile, the chairman of the lawyers threatened to hold an emergency general assembly in the event the amendment is passed by the parliament. Further, the 'Anti Custody' Committee at the Engineers Syndicate, which is similarly under custody, threatened to declare its rejection of the amendment and formation of a new board of the syndicate, as well as removal of the custody by the emergency assembly.  
(67)

The People's Assembly witnessed contention on the political activity in the universities, educational institutes and youths centers. Opposing MPs accused the State bodies of restricting the opposition party activity in the universities, at a time when the ruling party was allowed to expand its activity among the students and youths to dominate their political directions. The government responded by stating that the activities practiced at the universities and youth centers are not party activities, but are aimed at motivating the youths to address attention to participae in the forthcoming elections of the country, in view of their abstention from participation in the elections according to statistics which indicated that only 8% of the youths participate in voting in the elections.(68)

In this regard, the argument concerned with the continuation of work with the 1979 regulation restricting the freedom of student activity and work continued at the universities, especially the restrictions on the elections of student unions boards and the authorities granted to the management authority in the formation and subordination of such boards.(69) "The Council recommends rewording the regulation regulating student work in the universities, to tally with the respect of student rights, developing their abilities, emphasizing their responsibilities to manage their affairs, participation and representation in the board of directors of educational institutions."

The Egyptian Society for the Support of Democratic Development, a private organization operating in the human rights field, has indicated in its report published by the end of the year, the intervention of security authorities in students elections by employing management authorities to restrict the freedom of elections. It tracked down interventions which included deleting the names of students affiliated with certain political trends from the election lists of candidates, and offered full support to certain candidates, as well as working for non completion of the election voting quorum which grants the management the right to appoint members of students boards.

The report recommended – pursuant to questionnaires conducted among students- to cancel the 1979 regulations and place a new student regulation, which comprise the cancellation of the management's authorities to delete candidates, banning the referral of students to disciplinary councils as a result of their student activities, guaranteeing the freedom and independence of student councils in managing their own affairs financially and administratively, ensuring the freedom of opinion and expression, the right to form student societies. The Council observes that answering these legitimate claims would allow for training students on practicing democracy under an organized framework, in

addition to ending the state of apathy and noninvolvement which leads to marginalizing the role of the unions in the institutions and universities.

### **Second: economic, social and cultural rights:**

The Constitution guarantees several economic, social and cultural rights, while the law protects a number of these rights. Further, the government shoulders the burden of the liabilities emanating from its ratification of a number of international conventions, headed by the International Covenant on Economic, Social and Cultural Rights and the Labor Organization agreement. The government programs assert its commitment to human development and governance principles: dominance of the rule of law, transparency, accountability and independence of the judiciary.

International criteria have determined the principles of graduation and capability, as a foundation for the implementation of the acknowledged rights. However, a consensus exists on the understanding of this principle, that there are rights such as guaranteeing the non discrimination principle or the principle of equality between the male and female, which require immediate implementation and may not be postponed or carried out gradually. As for the other liabilities related to the allocation of resources, the State is under obligation to initiate this matter without delay by taking the measures to ensure gradual enjoyment of the rights.(1)

### **Poverty Alleviation:**

Liberation from poverty is considered one of the basic human rights. This concept agrees with the right to adequate living standards for the individual and the family, promoted by international conventions. The state of poverty affects a vast group of the individuals' economic, social and cultural rights, as well as civil and political rights. The spread of poverty leads to serious social phenomena and creates a favorable environment for the spread of crimes, deviation and extremism.

Human rights literature distinguishes between two types of poverty. First, temporary poverty, such as the unemployment of academically qualified persons and skilled laborers; and, secondly, the state of chronic poverty due to structural reasons such as illiteracy or lower academic levels, absence of any professional skills or ill-health.

Additionally, the anthology warns that the harmful effects of poverty are not limited to the present generation. Rather, they flow over to the next generation affecting the children of poor families who constitute the workforce in the future. It points to what is known as "poverty duplicator" which leads to transfer of the poverty limit from generation to generation.

The studies note that poverty is an international phenomenon which is not limited only to developing countries. They also note the sensitivity of the governments of developing countries towards the poverty phenomenon, as they consider it an accusation leveled against them, and not as a feature of the underdevelopment suffered by the country, and hence the need for admitting it and taking the appropriate policies to eliminate it.(2)

The examination of the phenomenon on the national level suffers from confusion in defining the term, as well as shortage of in-depth field studies. However, since the mid 70's, the government has provided such

studies and provide researchers with the available data, to assist in confronting poverty and its features. Till the end of the 90's, several in-depth studies emerged, based on urban and rural populations, which used international definitions, scientific methodologies and approved a line for poverty ranging between 1332 pounds and 1500 pounds per capita annually.(3)

These studies indicated that poverty features in Egypt affect a percentage of the population ranging between 27 and 48%. They estimated that abject poverty amounts to 8.6% of the population and revealed that the poor and very poor are focused in the countryside. A study explained that the number of people living below poverty line amounts to 15.7 million citizens, while another study said they amounted to 26.8 million persons.

The studies revealed as well serious suffering on part of the poor as a result of reducing food subsidy due to the implementation of the structural conditioning program, while the compensatory means adopted by the government were not adequate.

The results of such studies revealed a serious gap between the poor and non poor, particularly in the educational and health services.

The government initiated a joint study with the World Bank to lay down a comprehensive strategy to combat poverty in Egypt. The World Bank announced on 9 January 2005 the initial results of these studies, covering the period from 1996 to 2000 of the report, which revealed the following (4) :

- The alleviation of poverty is still one of the most persistent challenges, with the income of the individual reaching 1530 dollars in the year 2000-2001. Meanwhile, an extensive agreement was reached that the severity of poverty was reduced in the past decade. However, in the absence of a careful and

organized evaluation of poverty, there were sharp objections to the correct evaluation of the extent of occurrence of poverty.

- Poverty declined in Egypt from 19.4% in 1995/1996 to 16.7% in 1999/2000. However, despite its decline in urban cities and lower Egypt, it is increasing in upper Egypt, while the slowdown of the Egyptian economy since 1999/2000 raises concern on the potential of the increase of poverty.
- Poverty in Egypt, according to indicators which are unrelated to income such as education, represents a serious challenge. Although the net enrollment rate at primary schools amounts to 8%, yet the illiteracy of adults is still high as it amounts to approximately 35%.

Official estimates indicate that unemployment amounts to 9.9% (although widely purported to be much higher) and the growth of new job-seekers at the rate of approximately 5.5%-6% annually, i.e. around 550,000 persons. Egypt needs a real and sustainable growth rate of its GDP to amount to 7% annually in order to reduce unemployment to controllable levels.

Among the most prominent findings of the study conducted by the government with the World Bank is that the geographical and regional variations are more significant in fact than the traditional decisive factors of poverty, such as the gap between urban and rural populations. The report reveals that poverty has indeed declined in the four major Egyptian cities of Cairo, Alexandria, Suez and Port Said, in addition to the Nile delta region. However, it is accelerating in Upper Egypt during the concerned five years (1996-2000) and as a result, the government has increased its emphasis on bridging the gap between the areas.

Further, one of the significant results of the research was also to determine a direct link between education and poverty, as it is revealed that 46% of the poor are illiterates, while the academic level of 40% of them stops at the primary education or less. This evidence is considered as a second basis which assists the government much more than focusing on some dimensions of poverty which are unrelated to income, such as illiteracy, mortality rate and health care.

### **Education:**

The government exerted serious efforts to reform education in Egypt over the past decade. Such efforts yield their fruits, manifested in the increase of admission to schools among groups who were deprived from education previously such as girls and children in the rural areas in general and Upper Egypt in particular. Deprivation of education reduced by almost one half, leaving behind currently 15% of marginalized groups outside the system.

There is another achievement, which is the increase in the rates of continuing education among the marginalized groups, especially girls.

Further, the government issued the National Criteria for Education, aimed at upgrading the quality of education and reducing manifestations of inequality to the minimum limit.

Nonetheless, inequality indications have persisted, as school enrollment on part of the poor continued to be less, their academic achievement levels lower, as well as their weak acquisition of the skills required in the labor market, which undermines their chances of moving up the social ladder. In addition, a gap still exists between males and females in having access to education.

“The NCHR records the decline in the quality of education at the various schools, universities and academic institutions in general, and the drop in the competitive ability of the education outputs in Egypt, a matter which does not agree with the right of the citizen to have access to quality education. The NCHR recommends expediting the establishment of an authority to ensure the quality and reliability of education, which it has announced repeatedly, provided it is independent from the educational service providers, neutral and announces its reports with transparency to the entire society.

The Human Development Report on Egypt, published in 2004, recorded five manifestations of inequality in education.(5)

- The net rate of admission in primary education in Upper Egypt among children of low socio-economic status families reached 84% compared to 97% in the urban governorates and among families of higher socio-economic status.. In urban areas, the rate of joining primary education amounted to 88% for the poor and 96% for the non poor. As for rural areas, the figure amounts to 72% compared to 85%. Half of the number of children unregistered in schools (7:11 years) come from low income categories.(5)
- General spending on higher education was biased, as one third of the expenses are directed for higher education which constitutes only 6% of the overall admissions to schools. In the meantime, basic education which constitutes almost 80% of the overall admission to schools, only received 36% of the public education budget for the year 2002-2003 (5).
- General spending on educational inputs (i.e. schools, systems and new classrooms) for the interest of schools in urban areas and upper and middle class communities. This had led to the drop in

performance of schools serving poor communities in rural and remote areas.(5)

- Variation in educational product : the majority of the poor only receive basic education or do not receive any education (86.2% only receive basic education only or less, while 1.1% obtain university education.) (5)

Among all the children registered in the first primary grade, 97% of them reach the end of the basic education, against 82% in the rural area of lower Egypt and the urban area of upper Egypt, and 72% only in the rural area of upper Egypt. Over the past two years, the differences between the rates of admission between males and females narrowed, but are still present.

- The variation in transferring to the general secondary education and the university education: the drop in the quality of education prevents poor students from continuing their higher education. One third of the children go to the general secondary education, while the remaining two thirds, who are basically poor, ended up joining technical secondary education (agricultural, commercial and industrial). Moreover, the opportunities of higher education for graduates of technical schools (Workers University, Open University, Higher Technical Institutes, etc.) are limited and costly. Further, there is a big question mark on the standard of their quality.

“The Council records that higher education is now available only to approximately 30% of the youths in the age category from 18 to 23 years (as per the reports of the Ministry of Higher Education and the Peoples’ Assembly Committee on Education). Such availability is inconsistent with the rights of the youths in obtaining higher education. The Council recommends the increase of this percentage to 50% of the youth in this

age group, over a specific time period with which the government is committed and announced by the State.”

### **Work:**

The right to work and productive employment is regarded as one of the most significant socio-economic human rights. It is a dual socio-economic right, as productive work does not only assist in generating income, but protects the person as well from the state of idleness which affects his social status and morale.

The unemployment problem is considered one of the most dangerous challenges confronting the country. Official statistics indicate that the rate of unemployment declined from 11.1% in 1986 to 9% in 1996, then dropped to a fixed rate of 8% during the years (1997/1998) (1999/2000) (as per the Council of Ministers figures), nevertheless some believe that these official statistics are incorrect.

They argue for the amendment of the unemployment definition of the Central Agency for Mobilization and Statistics excluding from the unemployment statistics any potential member of the workforce who receives any income from any source, even if he is not holding a job. This interprets the unrealistic declining trend of unemployment (6).

However, the latest sample survey of workforce reveals the rise of unemployment to 9.2% and 10.2% in 2001 and 2002 respectively. Due to the economic slowdown over the past three years, this problem is widely believed to be more serious than expressed by official statistics.

Studies indicate that the nature of the employment problem in Egypt is structural as a result of the existence of a severe gap between supply and demand at present, with future forecasts even more serious. They indicate that successive cabinets have not had independent

employment policies, but rather relied on the assumption that achievement of economic growth and investment would lead to employment, side by side with emergency programs and temporary solutions.(7)

Studies indicate that unemployment is basically related to the newly graduated youths who enter the labor market for the first time, while relative significance varies for the other age groups. Further, we would like to explain that unemployment has gradually transformed into a rural phenomenon since the mid 90's. The percentage of the unemployed in rural areas in 2002 amounted to 52.4% of the overall unemployed population. Moreover, in the period from 1976 - 1996 the number of unemployed women exceeded much more the unemployment levels among males. Unemployment rates among females is threefold the unemployment rates among males.

The inability of the Egyptian economy to provide employment opportunities to the new comers in the labor market has led to the appearance of a chaotic giant private economic sector, of a volume equivalent to that of the public official and private economy. In addition, the irregular employment in the regulated and unregulated private sector increased, and started in the government department units and public institutions at much higher rate than comparable rates in regular employment.

A number of studies on employment policies do not hold a completely negative view of the unregulated sector in view of the employment opportunities it offers (8). Meanwhile, other studies observe that irregular work of females should not be looked at always as being an indignation, as it allows them – as a result of its flexibility- to satisfy their household and work obligations in the same time, and does not require a high standard of education or skills(9). Nevertheless, from the human rights perspective, it continues to lack several suitable

conditions such as work stability, social insurance protection, and occupational safety and health.

On another level, the problems of Egyptian work force abroad continued as one of the problems annoying the Egyptian community, particularly that Egypt is one of the biggest countries exporting manpower in the region. The problem of this work force are aggravated in the Arabian Gulf countries, where they are subjected to the oppression of the sponsor “kafeel” system with all its serious effects on their financial dues.

There is another issue infuriating tens of thousands of Egyptian workers who returned from Iraq before July 1990, as their financial transfers were not reimbursed to them upon their return to the country since this time. This issue differs from the compensations of those damaged from the Gulf War which were reimbursed to those entitled to them from the United Nations Compensations Fund.

The statements of the Minister of Manpower and Immigration indicate that these transfers amount to 647 thousands, of a total value estimated at approximately 406 million dollars, and that they were frozen as part of the Iraqi financial assets as a result of its war with Kuwait (August 1990.) The government decided by mid 2003 to form a committee of the Ministries of Manpower, Foreign Affairs, the Central Bank and the Peoples’ Assembly ‘s Work Force Committee to follow up this issue with the United Nations, in light of the economic conditions of Iraq. (10)

A number of the owners of these drafts complain that their drafts precede this freeze, while some of them submitted documents indicating that their drafts were completed in 1989.

Another problem related to the illegitimate immigration of work force to a number of Arab and European countries surfaced. This has led

these countries to extradite big numbers of Egyptian workers who reached their borders illegally, as well as causing numerous overland and marine accidents while these workers were traveling in inappropriate transport means.

### **Insurance and Retirement Rights:**

Insurance rights are considered among the most significant socio-economic rights. The extent of social progress is measured by the extent of the scope of these rights in terms of volume and coverage. Insurance and social security funds play a significant role in implementing these rights.

Several gaps stain the insurance conditions in Egypt, among the most significant of which is the absence of unemployment insurance system, and not covering the vast majority of workers in the unofficial sector and their families, as they are not subject to any institutional arrangements for retirement rights. The indexation system which automatically links between retirement pensions and annual inflation rates on timely basis is not in use (11), as an annual increase within the range of 10%, provided it does not exceed 60 pounds monthly is sufficed with.

The worries of citizens and their objections emerged during the year as a result of the constant increase of the government's borrowing from the Social Securities Public Authority's funds, and the statements said on the government's direction to repay its loans to the Authority through assets in kind including the "railway." The government rebutted this allegation, and both the Government and the Public Authority for Social Securities have reiterated the Government's commitment to guarantee retirement pensions.

The state treasury's debts to the Social Securities Fund (up to June 2004) amounted to 23.8 billion pounds, as per the statements of the Minister of Insurance and Social Affairs, delivered before the People's Assembly's work force committee (12). Members from the committee criticized the fact that no interests were calculated on the state treasury's debt. They questioned the extent of the constitutionality of this matter, while interests are continuously being calculated on the debts of other authorities.

### **Health:**

Health care is regarded as one of the fundamental human rights. The constitution guarantees this right in articles 16 and 17. It is also guaranteed by the country's legal liabilities emanating from joining the concerned international conventions, especially the International Covenant on Economic, Social and Cultural Rights (articles 9,12.)

A study prepared by the National Council for Human Rights pointed to "the right of citizens to adequate health care". However, such right should depend on the citizens' needs and not on their ability to pay the costs of this care.(13)

The World Health Organization defines the term "health" as being the physical, mental and social well being, and not merely the existence of a disease or disability. Hence, health becomes the result of overlapped socio-economic factors concerned with a certain society, and involve several environmental, educational and economic conditions. Therefore, obtaining better health results is associated with multiple factors.

The health system in Egypt comprises more than 29 various public authorities operating in the health services field. The Ministry of Health

and Population is responsible for all the health and population policies. Other public authorities contribute in offering direct health care services, the most prominent of which is the Public Authority for Health Insurance, The Educational Hospitals Authority and Treatment Institute. The private sector offers private health services. The country has a wide network of public services for basic health care which allows all the population to be near to the health services centers.

The extensive health care system was assisted to achieve health gains nationwide over the past two decades, the effect of which was manifested in the decline in mortality rates of children below the age of 5 years, enhancement of nutritional indications and drop in the mortality rates of mothers. However, the same report records the continued existence of an apparent gap between the regions and the various economic and social categories. It records - as well - that the use of such services is weak in all the geographical areas, with patients preferring to use private health services over government or public health services (14.)

According to the report of the People's Assembly Committee on Health and Environmental Affairs (15), the Assembly held sessions to hear the concerned officials in the Ministry of Health for this purpose. However, despite the achievements made and the increase in the number of beneficiaries of the health insurance system to almost 35 million beneficiaries since the inception of this system in 1964, nevertheless the Public Authority for Health Insurance is confronting problems and hurdles. These problems, raised by the Committee, may be summarized in the following points:

- Increase in the number of beneficiaries and increase of the cost of service, without increasing the health insurance resources with the same percentage, which affected the level of service offered, and became a source of permanent complaint from beneficiaries.

This is in addition to limiting the State's ability to extend the insurance umbrella to large categories who are currently uncovered by the insurance system.

- The Authority has not developed and expanded the control system of performance and the implementation of the quality criteria, as the Authority plays the role of service provider and financier at the same time, knowing that modern insurance systems dictate the necessity of segregating between financing and providing the service.
- Low wages, incentives and rewards to the staff, including physicians and support staff, in addition to not developing the training systems and upgrading efficiency, which led to the weak level of the service offered.
- As a result of the health insurance's default in absorbing new categories and the inability of free treatment to provide a suitable service to the citizens, big sectors of beneficiaries of the health insurance system resorted to treatment at the State's cost, which amounted to one billion and three hundred million pounds annually. This has led to the occurrence of great distortion and confusion in the treatment system.
- The multiplicity of laws governing the health insurance system led to the diversity and difference of the discount rates determined for beneficiaries and their contributions in the treatment costs, which casts doubts on the constitutionality of such laws as a result of the inequality in the burdens among beneficiaries. Further, the non contribution of beneficiaries of the law No.79 for 1975 in the medications fees led to the abuse and unjustified increase in the use of medicines.

On the other hand, several other factors affect the health care efforts. Their effects do not end at hindering development only, but endangers the achievements accomplished in the health field.

The poor sewerage facilities and disposal of human wastes come at the forefront of these factors, which implies the contamination of fresh water and ground water, as well as the creation of an environment infested with flies and other disease-carrying insects, in addition to the impact of pollution on the food chain.

In this context, the studies pointed to the persistent need to take immediate action to stop the continuous pollution of water and soil, as the damages caused are irreparable. Further, it exposes the living standard of the next generation to danger.

The year has also witnessed several discussions as a result of the continuation of the black cloud in the sky of Cairo for the sixth consecutive year, as well as the overall air pollution problems. The Peoples' Assembly's Committee on Health and Environmental Affairs prepared a comprehensive report on the phenomenon of the black cloud, which concluded that the responsibility lies with all sectors of society, government and non government institutions, as they should all work seriously in order to create a clean health environment, free from such a black cloud.(16)

The Ministry of Environment's report to the NCHR reflects a deep awareness of the dimensions of the environmental problem faced by the country, and its programs in connection with the management of hazardous materials and hazardous wastes. The report details the Ministry's efforts in connection with the environmental inspection and the achievements accomplished. This is in addition to the government's program to control harmful emissions by using natural gas, controlling the emissions of cement factories, preparing plans and policies for

enhancing the quality of air, protection against noise and the Ministry's efforts in connection with the enhancement of the quality of water.

Further, the MoI initiated the implementation of a program to detect the percentage of lead and carbon dioxide emitted from car exhaust systems, in order to prevent granting licenses to them in a number of governorates.

However- as expected in the environmental work field- the Ministry is facing numerous challenges and difficulties, the most significant of which is the difficulty of conformity between the development plans requirements and compliance with the environmental criteria determined to maintain human rights, as well as poor cooperation and coordination with the institutional structures in the country to implement the environmental policy and not effecting the incentives system for companies and factories to dispose of wastes and fumes.

## **Recommendations**

### **First: Recommendations on the protection of the right to life and personal integrity:**

- 1- The NCHR renews its recommendation to end the emergency state, extending till end of May 2006. Any further extension of the said state would implant in citizens a feeling of estrangement and lure them away from involving in public work, in terms of its political, economic and social aspects. Such alienation will produce a negative and harmful effect on the development opportunities of the society and achievement of its progress.
- 2- The NCHR proposes that a decree should be delivered by the President of the Republic for settling the status of detainees, particularly those who received verdicts for releasing them either from the Supreme State Security (Emergency) Courts, or any other judicial authority, as well as detainees of deteriorating health conditions.

The need to expedite the passing of this decree is manifested by forthcoming referendum on amending Article 76 of the Constitution, followed by the elections of the People's Assembly during the last quarter of 2005.

- 3- Enactment of a legislation which defines the procedural and objective rules for the protective custody system, to prevent it from being transformed into a system which infringes upon the original principle stipulating the innocence of a suspect until proven otherwise or an encroachment upon his right to a fair compensation if necessary.

## Second: Recommendations on the Development of the Egyptian Punitive System (Prisons):

The NCHR notes, as a result of the visits of its members to a number of prisons, as well as the numerous discussions held between them and prisoners and detainees, that progress has been achieved in certain aspects in these prisons. This includes the removal of the grid which used to separate prisoners from their visitors, as well as increasing the volume and type of social, sports and productive activities provided to the prisoners.

However, there are still reports of conditions lower than the required humanitarian treatment or that which is dictated by the Constitution and law in Egypt, as well as Egypt's international obligations. No less than maltreatment in its severity is overcrowding in some cells.

Therefore, the Council recommends the following:

- 1- To appoint a special judge, for monitoring the implementation of the punishment ruled, the extent of its conformity with the laws, regulations and the minimum principles for the treatment of prisoners, and ensuring that the punishment achieves its reformatory objective, i.e., the rehabilitation of the prisoner in order to return to the community as a good and productive member.

In performing his task, he should constantly follow up on the rehabilitation programs and any complaints or reports on the status of the prisons and prisoners.

2- Article (42) of the criminal procedures law authorized members of the Public Prosecution, as well as heads and deputies of first instance courts, to visit general and central prisons located within their jurisdictions, to ensure that no prisoner is detained illegally, review the prison records and hear the prisoners' complaints.

Further, Article (43) stipulates the right of every prisoner to submit at any time a written or oral complaint, to be notified immediately to the Public Prosecution.

However, the realities revealed the inefficiency of the provision of articles (42,43) of the Criminal Procedures Law. The visit of the Public Prosecution members to the prisons has become a mere routine formality which does not realize its true objective.

On the other hand, prisoners dare not submit a complaint to the prisoner commissioner, in order to be forwarded to the Public Prosecution.

3- To activate articles (42,43) of the above said Criminal Procedures Law, pending the passing of a legislation to organize the terms of the implementation supervision judge. This should be carried by having members of the Public Prosecution conduct regular and random inspection of the prisoners, listening to the prisoners' complaints, as well as inviting the general assemblies of first instance courts to dedicate a number of their judges to supervise the implementation of freedom deprivation penalties, within the limits stated under the above said articles.

4- Ensuring full compliance to open the prisons without exception to the visit of the prisoners' families and exact implementation of the court verdicts handed down for illegality of the Ministry of Interior's decrees for shutting down a number of prisons to visits (which was a

repeated subject in numerous complaints of the prisoners and their families.)

- 5- The Public Prosecution's authority should extend to inspecting and visiting the detention places which the law authorized the Minister of Interior to determine (such as the premises of the State Security Investigations and security forces camps) periodically or pursuant to a complaint, without the need to issue a warrant from the Public Prosecutor.
- 6- It is visible that numerous punitive institutions are no longer appropriate for accommodating humans. Hence, the infrastructure of such institutions should be repaired in compliance with the international standards in this respect.
- 7- The nutritional system should be reconsidered, in terms of the quantity and quality of food. So should medical care as well as prisoners' rights to education and access to textbooks stationery.

### **Third: Recommendations for Prohibition of Torture:**

- 1- To amend the provision of Article (126) of the Penalties Law, to conform with the provision of the first article of the Anti-Torture International Convention, ratified by Egypt in 1986 and enforced in 1987, whereby the scope of torture includes:
  - Torturing a suspect to drive him into confession or for another objective such as revenge, settlement of accounts or favor for a number of influential persons and other objectives.
  - Torturing others than the suspect in order give information on the suspect or to drive the suspect to confess.
  - Any physical or moral assault.

- Any torture is punishable whether carried out by the perpetrator himself or directed with his acquiescence or support.
- 2- To seek to design a legislation to acknowledge the civil plaintiff's right for direct litigation before the Criminal Courts in the crimes of assaulting personal freedom or the private life of citizens, or torture crimes, as well as repeal Law 121 of year 1956 amending Article 63 of the Criminal Procedures Law, which restricts the right to file a public suit against civil servants and those equal to them, including police officers in the Public Prosecution, and to revert to the old system which granted the victims the right to direct litigation.
- 3- To call for the Egyptian Government's ratification of the two declarations stated under articles (21,22) of the International Anti-Torture Convention, according to which the United Nations Anti-Terror Commission may decide on the complaints submitted by countries and persons in connection with Egypt's violation of its obligations stated under the convention.

Ratifying both declarations would prove that the Egyptian Government has nothing to fear in the future in terms of its obligation to criminalize torture and ill-treatment at the prisons and the various detention centers.

A number of neighboring Arab countries such as Bahrain, Lebanon, Tunis and Jordan are ahead of Egypt in this respect.

- 4- To amend the Criminal Procedures Law to grant the suspect the right to employ an attorney in the crimes and misdemeanors punishable by imprisonment, while being interrogated in the police stations.

Preventive measures should be adopted to reduce potential torture incidents within the Egyptian detention centers, including: ending the isolation of detainees or the ban on their communication with the outside world, by maintaining the detainee's right to be detained

only in a location specialized for this purpose and officially acknowledged according to a valid detention warrant, provided this location is near his residence, if possible.

- 5- To promote cooperation between the NCHR and the Ministry of Interior in connection with the complaints of Egyptian human rights organizations. This may be carried out through cooperation with them and investigating the reports they submit to the Public Prosecutor and the Minister of Interior, as well as furnishing them with information and investigation results, enabling their representatives to check on the conditions of prisons and the various detention centers, as well as visit police stations.

**Fourth: Recommendations on compulsory disappearance cases:**

- To propose a legislation comprising the principles and goals stated under the General Assembly's Resolution No.47/133, approved on 18/12/1992, in connection with protecting all persons against compulsory disappearance.
- To amend Law No.157 of 1968 and its executive decrees, concerned with the authority of the Minister of Interior to determine the locations of prisons and detention for detainees and individuals. Suspects are now believed to be detained on the premises of the offices and buildings of the State Security Investigations and security forces in the governorates, which are not subjected to inspection or control. Further, there are no records on the detainees there, as well as their detention periods.

**Fifth: Recommendations to Regulate Travel Ban:**

- 1- The Public Prosecution alone should be concerned with issuing the travel ban orders for suspects in crimes and felonies.
- 2- The travel ban order should be passed by the Public Prosecutor, Assistant Public Prosecutor or attorney generals, each in his area of jurisdiction, and the traveller should be informed of the ban order.
- 3- The order should be subject to judiciary control, such as presenting the travel ban order and its reasons within a specific period to the Appealed Misdemeanors Court, held in the chambers, otherwise the order shall be considered as null and void. The court should pass a decree either to cancel the order with or without bail, or to continue or amend it, after hearing the Public Prosecution statements and the statement of the travel-banned person.

**Sixth: recommendations to deliver maximum justice:**

- 1- The most significant reasons for slowdown of litigation is the amount of cases accumulated at the courts. It has become visible that the number of judges is incompatible with the number of cases before them.

Therefore, the NCHR recommends the appointment of an adequate number of judges to cope with the rising number of cases. In addition, judges have to be better trained and qualified and thus more capable of deciding on the cases before them, without either procrastination or haste. Consequently, the National Center for Judicial Studies has a major role to play in this connection.

- 2- To reform support bodies to the judiciary as a significant factor in establishing perfect justice, whether this is related to the Department of Experts, the secretaries or the process servers, who should be well-qualified to better their job performance and impose a tight control on their work.

- 3- To consider the creation of judicial police to be specialized in implementing verdicts, maintaining order at the courts, completing the requirements of the Public Prosecution in terms of the reports presented to it, as well as supervising the locations of implementing preventative custody decisions.
- 4- As for the legislative treatment, the NCHR recommends the following:
  - a- Facilitating notification procedures of court papers and limiting the reasons of the discontinuation of litigation, and resuming it through simplified procedures.
  - b- Increasing cases of final verdicts which may not be appealed in view of their low value or nature of dispute.
  - c- Adopting an adequate system for preparing the case, arranging the litigants' documents and aspects of their defense prior to their submittal to the court, so as to avoid postponing the hearing of cases merely for preparing them for decision.

This may require the restoration of the "preparation judge" system after remedying the causes for this system's inefficiency in the past.

- d- Finding alternative means to resolve disputes, such as expanding the criminal orders system- in criminal cases- and adopting the mediation system as well as effecting the arbitration system in civil disputes.

In this respect, treatment of the aspects of defense should be considered in order to prepare the work of committees for settlement of disputes which may erupt between the ministries and citizens, and lay down a judicial system for civil and commercial procedures of small value, whereby such disputes are

considered and decided through simplified and low cost procedures.

- e- Addressing the implementation problems, so that, one court should look into all implementation objections, whether in terms of their subject matter or form.

### **Seventh: Recommendations to Address the Violations of the Rights of Egyptians Abroad:**

In light of the recent repeated exposure of a number of Egyptians to flagrant violations of their rights and freedoms while staying in foreign countries in contradiction to the national laws or international bilateral and multilateral agreements.

The Egyptian citizen residing abroad has developed a feeling of being deprived of adequate and efficient protection. Therefore, the NCHR cites the following recommendation:

- 1- To organize travel and immigration processes through concluding bilateral agreements with the countries receiving manpower, which comprise the terms and conditions reserving the rights of the Egyptian workers in such countries.

This calls upon the concerned ministries, i.e. the Ministry of Work Force, Foreign Trade, Industry and Foreign Affairs, to provide information and data base on surplus and deficit cases in the field of recruitment and traveling of Egyptian manpower abroad, as well as concluding work contracts in such a manner which secures the rights of the Egyptian worker.

- 2- To coordinate with representatives of such governments and permit representatives of the civil society organizations and institutions to

delegate fact-finding missions on the work and living conditions of Egyptian workers in those countries.

- 3- To reactivate Egyptian labor offices in the Gulf countries and other countries to guarantee performance of their role and deal with violations of Egyptian workers' rights in the Gulf countries.
- 4- To standardize laws and decrees concerned with the establishments operating in the field of sending Egyptian manpower to work abroad.
- 5- To conclude unified Arab work agreements to regulate temporary immigration to the Arab countries and guarantee the rights of foreign workers in each country.
- 6- To establish an integrated system for caring for Egyptians abroad, to act as security network or strong support to care and protect them as well as defend them when necessary, similar to the integrated care systems applied by most Asian countries to their citizens abroad.
- 7- To establish a special fund for caring for Egyptians abroad.

Such fund should aim at providing more care to citizens abroad, for which no sources or fund exist in the following cases:

- Providing legal care when necessary for noncommercial cases, which are directly linked with the issues emanating from living and working in a foreign country.
  - Meeting the fundamental and necessary requirements resulting from accidents and unforeseen crises to which a number of estranged Egyptians are exposed (civil wars, extensive political disorders, etc.).
- 8- To provide temporary accommodation to Egyptians being extradited from the countries of their abode, if not available.
  - 9- To provide coffins for bodies of the deceased and have them transferred back home for burial. In the event of local burial, the fund

will shoulder the relevant costs, provided it gets repaid later by the deceased persons's employers, if employment contracts so warrant.

10-To make citizens working abroad aware of the necessity of registering themselves with the concerned consulates in order to achieve assistance, guidance and care whenever needed.

**Eighth: Recommendations to improve the treatment of citizens dealing with State bodies:**

- 1- To update the regulations of bodies dealing with the public, whereby every regulation is clear and integrated in a document which comprises all the instructions in such a manner that may not cause confusion, provided the time period required for the department to perform the services is specified. A simplified guide of the work procedures should be prepared by each authority and posting guiding stickers at visible locations of the work halls to illustrate steps of the work flow in the facility, and the required timing for performing them.
- 2- To inform the citizens through the media of the service system, by explaining the procedures for completing the services offered to the citizens, their costs, the required documents and their alternatives.
- 3- To review performance evaluation systems at the various administrative bodies and determine the criteria in light of which the performance of every employee is measured according to the nature of activity of each authority.
- 4- To guarantee that employees do not default on completion of the formalities at the specified dates. A special department for follow up must be laid down in order to verify speedy and accurate performance, as well as submit periodical reports to the head of the work.

- 5- To insert an item in the annual competency report to assess employee's speedy performance of the citizens' applications and solving their problems.
- 6- To promote the media role in spreading awareness of the individuals' rights to submit complaints, and announce names of the authorities which may receive such complaints.

**Ninth: Recommendations for enabling individuals to receive their socio-economic rights:**

- 1- To facilitate the procedures of reimbursing pensions or assistance to maintain the dignity of entitled citizens.
- 2- To extend all the five social securities chains (insurance against senility, disability and death- workmen injury insurance- insurance of sickness- unemployment insurance- honoring pensioners) to cover all those insured on the level of all the insurance systems.
- 3- To constantly reconsider the minimum limit of the pension in order to be equivalent to the minimum wage limit, as well as reconsider the wage for subscribing in the insurance, and therefore the maximum limit for the pension, in light of the changes, with full conservation of the financial equilibrium of the social security funds.
- 4- To achieve consistency between the legislations caring for the poor, i.e. : social security pension and assistances, El Sadat pension and comprehensive insurance pension, while achieving justice and equality among the poor categories in terms of financial treatment.
- 5- To encourage businessmen who are capable of performing charity, social, health and educational projects by honoring and exempting them from a certain amount of taxes.

- 6- To increase frozen social assistances which are reimbursed in one payment, in order to be utilized in economic projects which increase the standard of the family, whereby it covers the basic costs of the project.
- 7- To expand the training of entitled citizens who are capable of working in the various crafts and professions and referring them to the training centers, as well as assisting them to carry out income yielding productive projects.
- 8- To support and develop the institutions which offer childhood services, technically and financially, whether governmental institutions or those falling under private associations.
- 9- To introduce a new pattern of social care in the form of productive communities system in order to supplement the productive families system, and generalize this system gradually at the villages, random and impoverished areas.
- 10- To lay down a strategy for housing limited incomers in light of the market economy, based on encouraging migration to the new areas, provided the houses in the new cities are aimed for populating them.
- 11- To encourage the establishment of small productive and service projects to address unemployment problem, leasing housing units provided the rent value does not exceed 25% of the individual's income, develop housing funds in the governorates to act as the financial pool which undertakes offering support to the beneficiaries, and will have its own resources.
- 12- To refrain from removing farmers from the houses in which they live and act to make them the owners of these houses, as well discontinue the attachments and the depletion reports issued against a number of government authorities which leads to the imprisonment of farmers, as a result of living in these houses. To discontinue compulsory eviction of farmers from their houses for

whatever reason, unless through court verdicts providing an alternative housing to them or rewarding compensations.

- 13- To developing water and sewerage plants for the purpose of increasing their efficiency, along with the development of the control method in the various treatment phases, provided it is focused on high efficiency plants which do not require vast areas or extensive manpower.
- 14- To develop public hospital as well as the treatment units in the villages and markaz in connection with the facilities and treatment staff, while laying down an actual control to protect patients against corruption, providing suitable wages to workers in such units to prevent them from exploiting the patients.
- 15- To expand health insurance services to cover with its protection all citizens, provided the insurance umbrella covers in particular the overall workers and farmers, especially small farmers, tenants and agriculture workers, while not adding new burdens on citizens covered by the health insurance umbrella.

#### **Tenth: Recommendations for Promoting Women's Rights:**

- 1- To lay down and implement a national plan for positive intervention to promote the political participation of women, including political rehabilitation and education, inviting political parties to intensify their role in this field, as well as allocating seats for women in the parliamentary and local councils for a temporary period, through which women can acquire political experience and prove their merit.
- 2- To amend a number of legislations which still incorporate discrimination against women in violation of the provisions of the Constitution, including a number of the Penal Code provisions

concerned with adultery and the social securities law which deprive the husband from the right to his wife's pension.

- 3- To pass a new and comprehensive legislation for objective personal status, instead of the applicable laws which were enacted more than 80 years ago, including Law No.25 of 1920, Law No.25 of 1929, and the amendment passed by Law No.100 of 1985, in keeping with the development in the status and role of women in the modern society and guarantee the rights of all members, under the umbrella of the Islamic Shari'a.
- 4- To prepare a comprehensive study nationwide on the phenomenon of violence against women, including spousal violence, laying down policies and programs to deal with this phenomenon, taking the required measures to provide means of protection and care for the victims of such violence.
- 5- To intensify programs dedicated to the elimination of the inequality in education, work, training, increasing women's skills to join the labor market, obtain small loans and have access to work in the judicial field in all the common and higher administrative courts, as well as family courts.

#### **Eleventh: recommendations for promoting childhood rights:**

- 1- To consider raising the minimum age for the criminal responsibility of the child to 15 years.
- 2- To stop incriminating street-children but rather consider them victims for whom the family, the school or social institutions, are accountable.
- 3- To criminalize employment of children in hazardous jobs, including child labor in the quarries, dry-cleaners and agriculture where they

are exposed to health hazardous pesticides and to regulate the work of female house maids.

- 4- To develop policies and programs which care for the rights of the handicapped children, and guarantee for such children their right to education and all social services.
- 5- To lay down a legislation which explicitly indicts female genital mutilation (FGM) and promotes awareness of the serious impact of this custom which is being practiced by both Muslim and Christian Egyptians.
- 6- To consider raising a girl's marriage age from 16 to 18 years in order to protect girls' reproductive health and educational progress.

#### **Twelfth: Recommendations to promote human rights education in**

##### **Egypt :**

Including:

- 1- To introduce human rights education according to its international concept in the primary level, as it is the most influential in forming the fundamental directions of the next generations. This should reflect on the overall policies of the ministries, particularly those related to teacher-trainers and school-curriculum developers:
  - A- As for the content of school curricula or textbooks used in primary education, it is proposed to address concern to the following :
    - Dedicating a course which addresses human rights, its components and significance for the overall development of the community on one hand, and cooperation among nations and peoples and promote peaceful orientation in international dealings on the other hand.

- Asserting the compatibility between international reference points and Arabic and religious points of reference, indicating that any disagreement between them is to do with the interpretation of the rights or the method of implementing them, and not with the content of these rights.
  - Using interesting methods and aids for teaching human rights, whether inside classrooms or in the form of intensive discussion sessions on this subject, which will help achieve the principle of the students' participation in the educational process in avoidance of lecturing and rote-learning.
  - Providing students with a comparative perspective, through involving civil society agents in teaching these subjects, or even organizing meetings with a number of concerned institutions.
- B- As regards preparing teachers and evaluating their performance in the field of teaching human rights, it is proposed to address attention to the following:
- Introducing human rights courses within the academic curricula of faculties of education, including technical education faculties and kindergartens.
  - Organizing courses for directors and senior teachers to evaluate the performance of teachers with respect to teaching the observance of human rights. The training program should include familiarization with the teaching methods of human rights in advanced countries.

To improve the school environment to support the practice of human rights through the development of sound nationalism among school students, through the organization and intensification of school activities in which educators, both Muslim and Christian clergymen, and opinion leaders of all denominations and inclinations. Among the

activities through which this can be effected are parties, sporting competitions, bulletin boards and activity societies

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